

STATE OF NORTH CAROLINA

SESSION LAWS AND RESOLUTIONS

PASSED BY THE

2009 GENERAL ASSEMBLY

AT ITS

REGULAR SESSION 2010

BEGINNING ON

**WEDNESDAY, THE TWELFTH DAY OF
MAY, A.D. 2010**

HELD IN THE CITY OF RALEIGH

**ISSUED BY
SECRETARY OF STATE ELAINE F. MARSHALL**

PUBLISHED BY AUTHORITY

This publication is printed on permanent, acid-free paper in compliance with the
General Statutes of North Carolina.

839 copies of this public document were printed
at a cost of \$13.55 each.

TABLE OF CONTENTS

Presiding Officers of the 2010 General Assembly	v
Executive Branch	v
Officers and Members of the Senate	vi
Officers and Members of the House	vii
Legislative Services Commission	ix
Legislative Services Staff Directors	ix
Constitution of North Carolina	See 2009 Session Laws, Volume 1
Session Laws of the 2010 Regular Session	1
Resolutions of the 2010 Regular Session	771
Executive Orders	803
Certification	906
Joint Conference Committee Report on the Continuation, Expansion, and Capital Budgets	908
Numerical Index	1084
2010 Regular Session Index	
Session Laws	1087
Resolutions	1201

STATE OF NORTH CAROLINA

PRESIDING OFFICERS OF THE 2009 GENERAL ASSEMBLY

WALTER H. DALTON (D).....President of the Senate..... Rutherford
JOE HACKNEY (D)Speaker of the House Orange

EXECUTIVE BRANCH

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

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WALTER H. DALTON (D).....Lieutenant Governor Rutherford
ELAINE F. MARSHALL (D).....Secretary of State Harnett
BETH A. WOOD (D).Auditor Wake
JANET COWELL (D).....Treasurer Wake
JUNE S. ATKINSON (D)Superintendent of Public Instruction Wake
ROY A. COOPER, III (D)Attorney General.....Nash
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CHERIE K. BERRY (R).....Commissioner of Labor Catawba
WAYNE GOODWIN (D)Commissioner of Insurance Richmond

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

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

SENATE OFFICERS

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

SENATORS

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

* Resigned September 30, 2009

** Resigned December 31, 2009

+ Appointed November 3, 2009

++ Appointed January 21, 2010

HOUSE OFFICERS

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

REPRESENTATIVES

District	Name	Party	County	Address
1	BILL OWENS.....	D.....	Pasquotank.....	Elizabeth City
2	TIMOTHY L. SPEAR.....	D.....	Washington.....	Creswell
3	ALICE GRAHAM UNDERHILL.....	D.....	Craven.....	New Bern
4	RUSSELL E. TUCKER.....	D.....	Duplin.....	Pink Hill
5	ANNIE W. MOBLEY.....	D.....	Hertford.....	Ahoskie
6	ARTHUR WILLIAMS.....	D.....	Beaufort.....	Washington
7	ANGELA R. BRYANT.....	D.....	Nash.....	Rocky Mount
8	EDITH D. WARREN.....	D.....	Pitt.....	Farmville
9	MARIAN N. MCLAWHORN.....	D.....	Pitt.....	Grifton
10	R. VAN BRAXTON.....	D.....	Lenoir.....	Kinston
11	EFTON M. SAGER.....	R.....	Wayne.....	Goldsboro
12	WILLIAM L. WAINWRIGHT.....	D.....	Craven.....	Havelock
13	PAT MCELRAFT.....	R.....	Carteret.....	Emerald Isle
14	GEORGE G. CLEVELAND.....	R.....	Onslow.....	Jacksonville
15	W. ROBERT GRADY.....	R.....	Onslow.....	Jacksonville
16	CAROLYN H. JUSTICE.....	R.....	Pender.....	Hampstead
17	FRANK ILER.....	R.....	Brunswick.....	Oak Island
18	SANDRA SPAULDING HUGHES.....	D.....	New Hanover.....	Wilmington
19	DANIEL F. MCCOMAS.....	R.....	New Hanover.....	Wilmington
20	DEWEY L. HILL.....	D.....	Columbus.....	Lake Waccamaw
21	LARRY M. BELL.....	D.....	Sampson.....	Clinton
22	WILLIAM D. BRISSON.....	D.....	Bladen.....	Dublin
23	JOE P. TOLSON.....	D.....	Edgecombe.....	Pinetops
24	JEAN FARMER-BUTTERFIELD.....	D.....	Wilson.....	Wilson
25	RANDY STEWART.....	D.....	Nash.....	Rocky Mount
26	N. LEO DAUGHTRY.....	R.....	Johnston.....	Smithfield
27	MICHAEL H. WRAY.....	D.....	Northampton.....	Gaston
28	JAMES H. LANGDON, JR.....	R.....	Johnston.....	Angier
29	LARRY D. HALL.....	D.....	Durham.....	Durham
30	PAUL LUEBKE.....	D.....	Durham.....	Durham
31	HENRY M. MICHAUX, JR.....	D.....	Durham.....	Durham
32	JAMES W. CRAWFORD, JR.....	D.....	Granville.....	Oxford
33	ROSA U. GILL.....	D.....	Wake.....	Raleigh
34	GRIER MARTIN.....	D.....	Wake.....	Raleigh
35	JENNIFER WEISS.....	D.....	Wake.....	Cary
36	NELSON DOLLAR.....	R.....	Wake.....	Cary
37	PAUL STAM.....	R.....	Wake.....	Apex
38	DEBORAH K. ROSS.....	D.....	Wake.....	Raleigh
39	DARREN G. JACKSON.....	D.....	WAKE.....	Raleigh
40	MARILYN AVILA.....	R.....	Wake.....	Raleigh
41	* TY HARRELL.....	D.....	Wake.....	Raleigh
	+ CHRIS HEAGARTY.....	D.....	Wake.....	Raleigh
42	MARVIN W. LUCAS.....	D.....	Cumberland.....	Spring Lake
43	ELMER FLOYD.....	D.....	Cumberland.....	Fayetteville
44	** MARGARET HIGSMITH DICKSON.....	D.....	Cumberland.....	Fayetteville
	++ DIANE PARFITT.....	D.....	Cumberland.....	Fayetteville
45	RICK GLAZIER.....	D.....	Cumberland.....	Fayetteville
46	DOUGLAS Y. YONGUE.....	D.....	Scotland.....	Laurinburg
47	RONNIE SUTTON.....	D.....	Robeson.....	Pembroke
48	GARLAND E. PIERCE.....	D.....	Scotland.....	Wagram
49	*** LUCY T. ALLEN.....	D.....	Franklin.....	Louisburg
	+++ JOHN MAY.....	D.....	Franklin.....	Louisburg
50	BILL FAISON.....	D.....	Orange.....	Cedar Grove
51	JIMMY L. LOVE, SR.....	D.....	Lee.....	Sanford
52	JAMES L. BOLES, JR.....	R.....	Moore.....	Carthage
53	DAVID R. LEWIS.....	R.....	Harnett.....	Dunn
54	JOE HACKNEY.....	D.....	Orange.....	Chapel Hill
55	W.A. (WINKIE) WILKINS.....	D.....	Person.....	Roxboro
56	VERLA INSKO.....	D.....	Orange.....	Chapel Hill

57	PRICEY HARRISON	D	Guilford	Greensboro
58	ALMA ADAMS	D	Guilford	Greensboro
59	MAGGIE JEFFUS	D	Guilford	Greensboro
60	EARL JONES	D	Guilford	Greensboro
61	LAURA I. WILEY	R	Guilford	High Point
62	JOHN M. BLUST	R	Guilford	Greensboro
63	ALICE L. BORDSEN	D	Alamance	Mebane
64	DAN W. INGLE	R	Alamance	Burlington
65	NELSON COLE	D	Rockingham	Reidsville
66	MELANIE WADE GOODWIN	D	Richmond	Rockingham
67	JUSTIN P. BURR	R	Stanly	Albemarle
68	CURTIS BLACKWOOD	R	Union	Matthews
69	PRYOR GIBSON	D	Anson	Wadesboro
70	PAT B. HURLEY	R	Randolph	Asheboro
71	LARRY WOMBLE	D	Forsyth	Winston-Salem
72	EARLINE W. PARMON	D	Forsyth	Winston-Salem
73	LARRY R. BROWN	R	Forsyth	Kernersville
74	DALE R. FOLWELL	R	Forsyth	Winston-Salem
75	WM C. "BILL" MCGEE	R	Forsyth	Clemmons
76	FRED F. STEEN, II	R	Rowan	Landis
77	LORENE COATES	D	Rowan	Salisbury
78	HAROLD J. BRUBAKER	R	Randolph	Asheboro
79	JULIA C. HOWARD	R	Davie	Mocksville
80	JERRY C. DOCKHAM	R	Davidson	Denton
81	HUGH HOLLIMAN	D	Davidson	Lexington
82	JEFF BARNHART	R	Cabarrus	Concord
83	LINDA P. JOHNSON	R	Cabarrus	Kannapolis
84	PHILLIP D. FRYE	R	Mitchell	Spruce Pine
85	MITCH GILLESPIE	R	McDowell	Marion
86	HUGH BLACKWELL	R	Burke	Valdese
87	EDGAR V. STARNES	R	Caldwell	Hickory
88	RAY WARREN	D	Alexander	Hiddenite
89	MITCHELL S. SETZER	R	Catawba	Catawba
90	SARAH STEVENS	R	Surry	Mt. Airy
91	BRYAN R. HOLLOWAY	R	Stokes	King
92	DARRELL G. MCCORMICK	R	Yadkin	Yadkinville
93	CULLIE M. TARLETON	D	Watauga	Blowing Rock
94	SHIRLEY B. RANDLEMAN	R	Wilkes	Wilkesboro
95	GREY MILLS	R	Iredell	Mooreville
96	MARK K. HILTON	R	Catawba	Conover
97	JOHNATHAN RHYNE, JR.	R	Lincoln	Lincolnton
98	THOM TILLIS	R	Mecklenburg	Cornelius
99	NICK MACKEY	D	Mecklenburg	Charlotte
100	TRICIA ANN COTHAM	D	Mecklenburg	Matthews
101	BEVERLY M. EARLE	D	Mecklenburg	Charlotte
102	BECKY CARNEY	D	Mecklenburg	Charlotte
103	JIM GULLEY	R	Mecklenburg	Matthews
104	RUTH SAMUELSON	R	Mecklenburg	Charlotte
105	RIC KILLIAN	R	Mecklenburg	Charlotte
106	MARTHA B. ALEXANDER	D	Mecklenburg	Charlotte
107	KELLY M. ALEXANDER, JR.	D	Mecklenburg	Charlotte
108	WIL NEUMANN	R	Gaston	Belmont
109	WILLIAM A. CURRENT, SR.	R	Gaston	Gastonia
110	PEARL BURRIS-FLOYD	R	Gaston	Dallas
111	TIM MOORE	R	Cleveland	Kings Mountain
112	BOB ENGLAND M.D.	D	Rutherford	Ellenboro
113	W. DAVID GUICE	R	Transylvania	Brevard
114	SUSAN C. FISHER	D	Buncombe	Asheville
115	**** BRUCE GOFORTH	D	Buncombe	Asheville
	++++ PATSY KEEVER	D	Buncombe	Asheville
116	JANE WHILDEN	D	Buncombe	Asheville
117	CAROLYN K. JUSTUS	R	Henderson	Hendersonville
118	RAY RAPP	D	Madison	Mars Hill
119	R. PHILLIP HAIRE	D	Jackson	Sylva
120	ROGER WEST	R	Cherokee	Marble
*	Resigned September 20, 2009	+	Appointed October 30, 2009	
**	Resigned January 21, 2010	++	Appointed February 19, 2010	
***	Resigned April 6, 2010	+++	Appointed April 21, 2010	
****	Resigned July 31, 2010	++++	Appointed September 7, 2010	

LEGISLATIVE SERVICES COMMISSION

SENATE PRESIDENT PRO TEMPORE MARC BASNIGHT, *COCHAIR*

HOUSE SPEAKER JOE HACKNEY, *COCHAIR*

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	SEN. LINDA D. GARROU	REP. E. NELSON COLE
+	SEN. VERNON MALONE	REP. JULIA C. HOWARD
*	SEN. ANTHONY E. RAND	REP. PAUL LUEBKE
	SEN. LARRY SHAW	REP. WIL NEUMANN
	SEN. R. C. SOLES, JR.	REP. WILLIAM CLARENCE OWENS, JR.
	SEN. JERRY W. TILLMAN	REP. WILLIAM L. WAINWRIGHT

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GERRY F. COHEN	Director of the Bill Drafting Division
MARILYN CHISM.....	Director of the Fiscal Research Division
DENNIS W. MCCARTY	Director of the Information Systems Division
JOHN W. TURCOTTE.....	Director of the Program Evaluation Division
O. WALKER REAGAN	Director of the Research Division

+ Deceased April 18, 2009

* Resigned from Senate December 31, 2009

SESSION LAWS
OF THE
STATE OF NORTH CAROLINA

REGULAR SESSION 2010

Session Law 2010-1

S.B. 704

AN ACT TO SOLELY PROVIDE AUTHORIZATION FOR THE STATE BOARD OF EDUCATION TO APPROVE REQUESTS OF LOCAL BOARDS OF EDUCATION TO REFORM CONTINUALLY LOW-PERFORMING SCHOOLS AS EITHER A TRANSFORMATION MODEL, RESTART MODEL, TURNAROUND MODEL, OR SCHOOL CLOSURE MODEL; TO DEFINE TRANSFORMATION MODEL AS A SCHOOL WHICH INCREASES TEACHER AND SCHOOL LEADER EFFECTIVENESS, CREATES COMPREHENSIVE INSTRUCTIONAL REFORM STRATEGIES, INCREASES LEARNING TIME, CREATES COMMUNITY-ORIENTED SCHOOLS, AND PROVIDES OPERATIONAL FLEXIBILITY AND SUSTAINED SUPPORT; TO DEFINE RESTART MODEL AS ALLOWING THE SCHOOL TO OPERATE UNDER THE SAME RULES AS A CHARTER SCHOOL OR UNDER THE MANAGEMENT OF AN EDUCATIONAL MANAGEMENT ORGANIZATION WITH NO INCREASE IN THE MAXIMUM NUMBER OF CHARTER SCHOOLS AS PROVIDED IN G.S. 115C-238.29D(B); TO DEFINE TURNAROUND MODEL AS REPLACING THE PRINCIPAL IF THE PRINCIPAL HAS BEEN IN THAT POSITION FOR AT LEAST THREE YEARS AND REHIRING NO MORE THAN FIFTY PERCENT OF SCHOOL STAFF, ADOPTING A NEW SCHOOL GOVERNANCE STRUCTURE CONSISTENT WITH ARTICLE 8B OF CHAPTER 115C OF THE GENERAL STATUTES, AND IMPLEMENTING AN INSTRUCTIONAL PROGRAM ALIGNED WITH THE STANDARD COURSE OF STUDY; TO DEFINE SCHOOL CLOSURE MODEL AS CLOSING THE SCHOOL CONSISTENT WITH G.S. 115C-72 AND ENROLLING THE STUDENTS IN ANOTHER HIGHER-ACHIEVING SCHOOL IN THE LOCAL SCHOOL ADMINISTRATIVE UNIT CONSISTENT WITH ARTICLE 25 OF CHAPTER 115C OF THE GENERAL STATUTES; AND TO PROVIDE AUTHORIZATION TO THE STATE BOARD TO ADOPT RULES AND PROCEDURES CONSISTENT WITH THESE DEFINED MODELS; AND TO IMPLEMENT THESE MODELS WITH ANNUAL REPORTING TO THE STATE BOARD OF EDUCATION FROM THE LOCAL SCHOOL ADMINISTRATIVE UNITS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 8B of Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-105.37B. Reform of continually low-performing schools.

(a) Notwithstanding any other provision of this Article, the State Board of Education is authorized to approve a local board of education's request to reform any school in its

administrative unit which the State Board of Education has identified as one of the continually low-performing schools in North Carolina.

If the State Board of Education approves a local board of education's request to reform a school, the State Board of Education may authorize the local board of education to adopt one of the following models in accordance with State Board of Education requirements:

- (1) Transformation model, which would address the following four specific areas critical to transforming a continually low-performing school:
 - a. Developing and increasing teacher and school leader effectiveness.
 - b. Comprehensive instructional reform strategies.
 - c. Increasing learning time and creating community-oriented schools.
 - d. Providing operational flexibility and sustained support.
- (2) Restart model, in which the State Board of Education would authorize the local board of education to operate the school with the same exemptions from statutes and rules as a charter school authorized under Part 6A of Article 16 of this Chapter, or under the management of an educational management organization that has been selected through a rigorous review process. A school operated under this subdivision remains under the control of the local board of education, and employees assigned to the school are employees of the local school administrative unit with the protections provided by G.S. 115C-325. This subdivision shall not be interpreted to increase the maximum number of charter schools provided in G.S. 115C-238.29D(b). No school authorized under this subsection shall count against the limit provided for charter schools in G.S. 115C-238.29D(b).
- (3) Turnaround model, which would involve, among other actions, replacing the principal, if the principal has been in that position for at least three years, and rehiring no more than fifty percent (50%) of the school's staff, adopting a new governance structure at the school consistent with this Article, and implementing an instructional program aligned with the Standard Course of Study.
- (4) School closure model, in which a local school administrative unit would close the school consistent with G.S. 115C-72 and enroll the students who attended the school in other, higher-achieving schools in the local school administrative unit consistent with Article 25 of this Chapter.

(b) The State Board of Education shall adopt rules to develop requirements for the models for school reform established in subsection (a) of this section.

(c) The State Board shall establish a procedure to implement this section. This procedure shall include annual reporting requirements from local boards that are authorized to use one of the models under this section and shall include a procedure for removing or continuing the authorization.

(d) Nothing in this section shall be construed to limit the authority of a local board of education as otherwise provided in this Chapter."

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

In the General Assembly read three times and ratified this the 27th day of May, 2010.

Became law upon approval of the Governor at 7:35 p.m. on the 27th day of May, 2010.

Session Law 2010-2

H.B. 589

AN ACT TO REQUIRE HEALTH BENEFIT PLANS AND THE STATE HEALTH PLAN TO COVER HEARING AIDS AND REPLACEMENT HEARING AIDS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3 of Chapter 58 of the General Statutes is amended by adding the following new section to read:

"§ 58-3-285. Coverage for hearing aids.

(a) Every health benefit plan, including the State Health Plan for Teachers and State Employees, shall provide coverage for one hearing aid per hearing-impaired ear up to two thousand five hundred dollars (\$2,500) per hearing aid every 36 months for covered individuals under the age of 22 years subject to subsection (b) of this section. The coverage shall include all medically necessary hearing aids and services that are ordered by a physician or an audiologist licensed in this State. Coverage shall be as follows:

- (1) Initial hearing aids and replacement hearing aids not more frequently than every 36 months.
- (2) A new hearing aid when alterations to the existing hearing aid cannot adequately meet the needs of the covered individual.
- (3) Services, including the initial hearing aid evaluation, fitting, and adjustments, and supplies, including ear molds.

(b) The same deductibles, coinsurance, and other limitations as apply to similar services covered under the health benefit plan apply to hearing aids and related services and supplies required to be covered under this section.

(c) Nothing in this section prevents an insurer from applying utilization review criteria to determine medical necessity as defined by G.S. 58-50-61 as long as it does so in accordance with all requirements for utilization review programs and medical necessity determinations specified in that section, including the offering of an insurer appeal process and where applicable, health benefit plans external review as provided in Part 4 of Article 50 of Chapter 58 of the General Statutes."

SECTION 2. G.S. 135-45.8(13), as amended by Section 2(d) of Session Law 2009-16, reads as rewritten:

"§ 135-45.8. General limitations and exclusions.

The following shall in no event be considered covered expenses nor will benefits described in G.S. 135-45.6 through G.S. 135-45.11 be payable for:

- ...
- (13) Charges for routine eye examinations, eyeglasses or other corrective lenses (except for cataract lenses certified as medically necessary for aphakia persons) ~~and~~, except as authorized under G.S. 58-3-280, hearing aids or examinations for the prescription or fitting thereof.
-"

SECTION 3. This act is effective January 1, 2011 and applies to health benefit plans that are delivered, issued for delivery, or renewed on and after that date.

In the General Assembly read three times and ratified this the 27th day of May, 2010.

Became law upon approval of the Governor at 3:28 p.m. on the 7th day of June, 2010.

Session Law 2010-3

H.B. 1707

AN ACT (1) TO ALLOW ALREADY ENROLLED DEPENDENT CHILDREN UNDER THE AGE OF TWENTY-SIX WHO ARE NOT ELIGIBLE FOR EMPLOYER-BASED HEALTH CARE TO REMAIN ON THE NORTH CAROLINA STATE HEALTH PLAN FOR TEACHERS AND STATE EMPLOYEES FOR PLAN YEAR 2010-2011 AND (2) TO DIRECT THE STATE HEALTH PLAN TO CONSULT WITH THE COMMITTEE ON HOSPITAL AND MEDICAL BENEFITS BEFORE IMPLEMENTING ANY TOBACCO USE TESTING PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the requirement in G.S. 135-45.2(d)(1) that a dependent child less than 26 years of age be a full-time student to be eligible for coverage, a dependent child enrolled in the North Carolina State Health Plan for Teachers and State Employees as of May 1, 2010, may remain on the Plan through the end of the month following the dependent child's 26th birthday, regardless of the dependent child's status as a full-time student, provided that the dependent child is not eligible for other employer sponsored health benefit coverage as a primary beneficiary or spousal dependent.

SECTION 2. The Executive Administrator of the State Health Plan for Teachers and State Employees shall consult with the Committee on Employee and Hospital Medical Benefits prior to implementing any program to verify tobacco usage by members of the Plan.

SECTION 3. Section 1 of this act is effective June 1, 2010, and is repealed effective July 1, 2011. The remainder of the act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of June, 2010.

Became law upon approval of the Governor at 4:40 p.m. on the 7th day of June, 2010.

Session Law 2010-4

S.B. 388

AN ACT TO REMOVE CERTAIN GRANTS MADE UNDER THE AMERICAN RECOVERY AND REINVESTMENT TAX ACT FROM THE DEFINITION OF PUBLIC FUNDS FOR WHICH A CREDIT FOR INVESTING IN RENEWABLE ENERGY PROPERTY IS NOT AVAILABLE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-129.16A reads as rewritten:

"§ **105-129.16A. (Repealed January 1, 2016) Credit for investing in renewable energy property.**

(a) Credit. – If a taxpayer that has constructed, purchased, or leased renewable energy property places it in service in this State during the taxable year, the taxpayer is allowed a credit equal to thirty-five percent (35%) of the cost of the property. In the case of renewable energy property that serves a single-family dwelling, the credit must be taken for the taxable year in which the property is placed in service. For all other renewable energy property, the entire credit may not be taken for the taxable year in which the property is placed in service but must be taken in five equal installments beginning with the taxable year in which the property is placed in service. No credit is allowed under this section to the extent the cost of the renewable energy property was provided by public funds. For the purposes of this section, 'public funds' does not include grants made under section 1603 of the American Recovery and Reinvestment Tax Act of 2009.

(b) Expiration. – If, in one of the years in which the installment of a credit accrues, the renewable energy property with respect to which the credit was claimed is disposed of, taken out of service, or moved out of State, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.17. ~~No credit is allowed under this section to the extent the cost of the renewable energy property was provided by public funds.~~

(c) Ceilings. – The credit allowed by this section may not exceed the applicable ceilings provided in this subsection.

- (1) Nonresidential Property. – A ceiling of two million five hundred thousand dollars (\$2,500,000) per installation applies to renewable energy property placed in service for any purpose other than residential.
- (2) Residential Property. – The following ceilings apply to renewable energy property placed in service for residential purposes:

- a. One thousand four hundred dollars (\$1,400) per dwelling unit for solar energy equipment for domestic water heating, including pool heating.
- b. Three thousand five hundred dollars (\$3,500) per dwelling unit for solar energy equipment for active space heating, combined active space and domestic hot water systems, and passive space heating.
- c. Ten thousand five hundred dollars (\$10,500) per installation for any other renewable energy property for residential purposes.
- d. Eight thousand four hundred dollars (\$8,400) per installation for a geothermal heat pump or geothermal equipment.

(d) No Double Credit. – A taxpayer that claims any other credit allowed under this Chapter with respect to renewable energy property may not take the credit allowed in this section with respect to the same property. A taxpayer may not take the credit allowed in this section for renewable energy property the taxpayer leases from another unless the taxpayer obtains the lessor's written certification that the lessor will not claim a credit under this Chapter with respect to the property.

(e) Sunset. – This section is repealed effective for renewable energy property placed into service on or after January 1, 2016."

SECTION 2. This act becomes effective January 1, 2009, and applies to renewable energy property placed into service on or after that date.

In the General Assembly read three times and ratified this the 3rd day of June, 2010.

Became law upon approval of the Governor at 4:43 p.m. on the 7th day of June, 2010.

Session Law 2010-5

S.B. 140

AN ACT TO MAKE IT A FELONY FOR A PERSON WHO IS THE SUBJECT OF A VALID PROTECTIVE ORDER TO TRESPASS ON PROPERTY WHERE THE PROTECTED PARTY RESIDES AND THAT IS OPERATED AS A SAFE HOUSE OR HAVEN FOR DOMESTIC VIOLENCE VICTIMS WITHOUT REGARD AS TO WHETHER THE PERSON COVERED BY THE PROTECTIVE ORDER IS PRESENT ON THE PREMISES, AND TO LIMIT THE LIABILITY OF DOMESTIC VIOLENCE SHELTERS FOR TORTIOUS CONDUCT COMMITTED ON SHELTER PREMISES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 50B-4.1 is amended by adding a new subsection to read:

"(g1) Unless covered under some other provision of law providing greater punishment, any person who is subject to a valid protective order, as provided in subsection (a) of this section, who enters property operated as a safe house or haven for victims of domestic violence, where a person protected under the order is residing, shall be guilty of a Class H felony. A person violates this subsection regardless of whether the person protected under the order is present on the property."

SECTION 2. Chapter 1 of the General Statutes is amended by adding a new Article to read:

"Article 52.

"Limited Civil Liability of Domestic Violence Shelters and Persons Associated With the Shelters.

"§ 1-619. Definitions.

As used in this Article, the following terms mean:

- (1) Client. – A person who is the victim of domestic violence, as defined in Chapter 50B of the General Statutes, or of nonconsensual sexual conduct or stalking, as defined in Chapter 50C of the General Statutes, and is using services or facilities of a shelter.

- (2) Conduct. – One or more actions or omissions.
- (3) Harm. – Injury, death, or loss to person or property.
- (4) Perpetrator. – A person who has committed domestic violence and who bears one of the personal relationships specified in G.S. 50B-1(b) to the victim of domestic violence, or a person who has committed nonconsensual sexual conduct or stalking as defined in Chapter 50C of the General Statutes.
- (5) Person associated with the shelter. – A person who is a director, owner, trustee, officer, employee, victim advocate, or volunteer connected with the shelter.
- (6) Shelter. – A facility that meets the criteria set forth in G.S. 50B-9 and is funded through the Domestic Violence Center Fund providing shelter to victims of domestic violence, nonconsensual sexual conduct, or stalking.
- (7) Victim advocate. – A person from a crime victim service organization who provides support and assistance for a victim of a crime during court proceedings and recovery efforts related to the crime.
- (8) Volunteer. – An individual who provides any service at a shelter without expectation of receiving and without receiving any compensation or other form of remuneration, directly or indirectly, for the provision of the service.

"§ 1-620. Immunity of a domestic violence shelter and any person associated with the shelter concerning torts committed on the shelter's premises.

(a) Except as provided in subsection (b) of this section, no shelter and no person associated with the shelter is liable in damages in a tort action for any harm that a client or other person who is on the premises of the shelter sustains as a result of tortious conduct of a perpetrator that is committed on the premises of the shelter if the perpetrator is not a person associated with the shelter.

(b) The immunity established by this section does not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable."

SECTION 3. Section 1 of this act becomes effective December 1, 2010, and applies to offenses committed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 3rd day of June, 2010.

Became law upon approval of the Governor at 4:45 p.m. on the 7th day of June, 2010.

Session Law 2010-6

H.B. 1251

AN ACT DESIGNATING THE COLONIAL SPANISH MUSTANG AS THE OFFICIAL HORSE OF THE STATE OF NORTH CAROLINA.

Whereas, the wild horses living along the Outer Banks of North Carolina are considered to be descendants of the horses brought to the Americas by Spanish explorers and colonists beginning in the 16th century; and

Whereas, these horses are known as Colonial Spanish Mustangs; and

Whereas, these Colonial Spanish Mustangs have played a significant role in the history and culture of North Carolina's coastal area for hundreds of years; Now, therefore,

The General Assembly of North Carolina enacts:

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

"§ 145-31. State horse.

The Colonial Spanish Mustang is adopted as the official horse of the State of North Carolina."

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

In the General Assembly read three times and ratified this the 3rd day of June, 2010.

Became law upon approval of the Governor at 4:48 p.m. on the 7th day of June, 2010.

Session Law 2010-7

H.B. 1934

AN ACT TO AMEND THE LAW ESTABLISHING THE CHARLOTTE FIREFIGHTERS' RETIREMENT SYSTEM TO MAKE THE MINIMUM DEATH BENEFIT AVAILABLE WITH RESPECT TO ALL RETIREES OF THE SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. Section 21 of Chapter 926 of the 1947 Session Laws, as amended by Chapter 506 of the 1987 Session Laws, as amended by Chapter 1033 of the 1987 Session Laws, as amended by Chapter 248 of the 1989 Session Laws, as amended by Chapter 830 of the 1991 Session Laws, as amended by S.L. 1999-100, as amended by S.L. 2001-22, reads as rewritten:

"Sec. 21. **Death Benefits.**

(a) In the event of the death of any Member of the System prior to his effective date of retirement pursuant to the provisions of Sections 15, 16, 18, 19, or 20 of this act, his Designated Beneficiary(s) on file with the Retirement System, or his personal representative in the absence of any Designated Beneficiary, shall be entitled to reimbursement of the Total Contributions by him or on his behalf and contributions by the City of Charlotte to the System on his behalf; plus, interest compounded annually at the rate of four percent (4%) per year on the contribution balance at the beginning of each Plan Year in which the Participant contributed or in which contributions were made on his behalf. The Board of Trustees has the right to set a different interest rate from time to time. Interest shall not apply to death benefits occurring before July 1, 1986. Such Beneficiary(s) or personal representative must complete and file the form 'Application for Survivor Death Benefits' with the Administrator to receive reimbursement. As an option, a Beneficiary may elect to receive an annuity equal to and in lieu of a lump sum distribution by so designating on the above form. Effective July 1, 1989, as an option, a surviving spouse of a deceased Member who was eligible for a service or early retirement benefit on the date preceding death may elect to receive an Actuarial Equivalent computed as of the date preceding death in the same manner as if the deceased member had retired and elected a reduced monthly amount payable throughout his life, and nominated the surviving spouse as his beneficiary in accordance with the provisions of Option 4, Sixty-Six and Two-Thirds Percent (66 2/3%) Joint and Survivor benefit, as set forth in subsection (f) of Section 17. The Actuarial Equivalent for all benefits payable pursuant to this section shall be computed in accordance with the Unisex Mortality Table for 1984 set forward one year in age, with interest at six percent (6%).

(b) In the event of the death of a Retiree of this System ~~before he has received monthly receiving basic benefit payments~~ payments, or the last to die of the Retiree and Beneficiary receiving an optional form of benefit payment in accordance with Section 17, and before the Retiree (or Retiree and Beneficiary, in the case of an optional form of benefit) has received monthly benefit payments equal to the present value on the effective date of retirement of the Total Contributions ~~by him or on his behalf and contributions~~ to the System by the Retiree and by the City of Charlotte to the System on his behalf; plus, behalf of the Retiree, plus interest compounded annually at the rate applicable to subsection (a) of this section on the contribution balance at the beginning of each Plan Year in which the ~~Participant~~ Retiree contributed or in which contributions were made on ~~his behalf of the Retiree, and provided a monthly benefit is not payable in accordance with Section 17,~~ the Designated Beneficiary(s) Beneficiary(s), if any, or estate of the retiree Retiree (or estate of the Beneficiary, in the case of an optional form of benefit) shall be entitled to an amount equal to the difference between such contributions, plus interest, and the sum of the monthly benefit payments received by the ~~retiree~~ Retiree (or Retiree

and Beneficiary, in the case of an optional form of benefit). However, interest shall not apply to death benefits occurring before July 1, 1986. Such Beneficiary(s) or personal representative must complete and file the form 'Application for Survivor Death Benefits' with the Administrator to receive reimbursement."

SECTION 2. This act applies only to the City of Charlotte.

SECTION 3. This act becomes effective July 1, 2010.

In the General Assembly read three times and ratified this the 21st day of June, 2010.

Became law on the date it was ratified.

Session Law 2010-8

H.B. 1935

AN ACT TO RAISE THE CEILING FOR BENEFITS AND TO ADD A STIPEND FOR MINOR CHILDREN UNDER THE EMERGENCY PENSION FUND FOR SWORN LAW ENFORCEMENT OFFICERS OF MECKLENBURG COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Sections 2, 5, and 6 of Chapter 446 of the Public-Local Laws of 1931, as amended by Section 28.26 of Chapter 18 of the Session Laws of the 1996 Second Extra Session, and as rewritten by S.L. 2003-323, read as rewritten:

"Sec. 2. "Law enforcement officers" shall be deemed to include all State-certified sworn peace officers employed ~~in~~ by any city, county, or town law enforcement agency in Mecklenburg County who are required by the terms of their employment to give their full time to the enforcement of laws, the protection of life and property, and the detection and prevention of crime. "Law enforcement officers" shall also be deemed to include any reserve officer of an agency ~~of~~ in Mecklenburg County and any detention officer employed by the Sheriff of Mecklenburg County.

"Sec. 5. The funds accumulated under this act shall be known as "The Emergency Pension Fund for Sworn Law Enforcement Officers of Mecklenburg County", and shall be used as a fund for all law enforcement officers, as defined in Section 2 of this act, and their families, under the following terms and conditions:

- (1) If a law enforcement officer is killed while in the actual performance of the officer's duties, then the Board may pay from the Fund the amount of ~~ten thousand dollars (\$10,000)~~ twenty-five thousand dollars (\$25,000) as a death benefit to the surviving spouse of the deceased officer. If the law enforcement officer is not married at the time of death, the Board may pay the death benefit to the nearest dependent next of kin of the deceased.
- (2) If the law enforcement officer is permanently and totally physically disabled due to a physical injury received in the actual performance of the officer's duties, then the Board may pay from the Fund to the law enforcement officer the amount of ~~ten thousand dollars (\$10,000)~~ twenty-five thousand dollars (\$25,000). In the event the law enforcement officer is temporarily and totally physically disabled due to a physical injury received in the performance of the officer's duties, then the Board may pay from the Fund to the law enforcement officer a disability supplement of five hundred dollars (\$500.00) a month during the time that the officer is temporarily and totally disabled up to a maximum of ~~ten thousand dollars (\$10,000)~~ twenty-five thousand dollars (\$25,000). In any event, a temporarily or permanently physically disabled law enforcement officer shall not receive more than ~~ten thousand dollars (\$10,000)~~ twenty-five thousand dollars (\$25,000).
- (3) If a law enforcement officer is killed while in the actual performance of the officer's duties or is permanently and totally disabled, then the Board may award college scholarships to the officer's children up to a maximum amount

of ~~ten thousand dollars (\$10,000)~~ twenty-five thousand dollars (\$25,000). Such scholarships may be awarded if the child is between the ages of 17 and 22 and has been accepted or is attending a fully accredited college or university.

- (4) If a law enforcement officer is killed while in the actual performance of the officer's duties, and that officer is the parent or legal guardian of a minor child, then the Board may pay a one-hundred-dollar (\$100.00) stipend each year to each minor child on that child's birthday until each minor child reaches 18 years of age.

"Sec. 6. The Board created under the provisions of this act shall serve without compensation. The Secretary and Treasurer of said Board shall receive such compensation as may be provided by the Board not to exceed the sum of fifty dollars (\$50.00) per month, and the said Board shall have full power and authority to pay all expenses for administering this act including the purchase of supplies, legal advice, etc., out of the fund provided for herein. The Board shall have authority to make such rules, regulations, and provisions as may be necessary to the proper administration of this act. The Board may retain an investment firm to manage the Fund and ~~upon a unanimous vote of the Board may increase the amount of the maximum lump sum payments by up to ten percent (10%) once every five years.~~ Fund."

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

In the General Assembly read three times and ratified this the 21st day of June, 2010.

Became law on the date it was ratified.

Session Law 2010-9

S.B. 1359

AN ACT TO AMEND THE LAW THAT AUTHORIZED THE GOVERNING BODY OF THE TOWN OF HIGHLANDS TO ESTABLISH AND ADMINISTER A SCHOLARSHIP PROGRAM FOR GRADUATES OF HIGHLANDS HIGH SCHOOL TO PROVIDE THAT THE GOVERNING BODY HAS MORE DISCRETION WITH REGARD TO THE ADMINISTRATION OF THE SCHOLARSHIP PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3 of S.L. 1975-332 reads as rewritten:

~~"Sec. 3. The governing body shall appoint a scholarship committee, consisting of five members who shall be residents of Highlands school area. One member shall be a businessman of the area and shall serve for an initial term of three years. One member shall be a Minister of the Gospel or a church leader of the area and shall serve for an initial term of two years. One member shall be a citizen of the area who is active in community affairs and shall serve for an initial term of one year. Thereafter each of these terms shall be for three years. One member shall be the principal of Highlands High School and shall serve during his tenure as principal. One member shall be the attorney for the Town of Highlands and shall serve during his tenure as town attorney.~~

~~-The town governing body shall appoint to fill any vacancy occurring in the committee some person having the same qualifications as required for the member causing the vacancy. The appointment shall be for the unexpired term.~~

~~-The town board shall have the power and authority to remove any member of the scholarship committee at any time when the board determines that removal is in the best interest of the scholarship fund.~~ The governing body of the Town of Highlands is authorized to administer a scholarship program for the benefit of graduates of Highlands High School, upon the terms the governing body deems appropriate, subject to applicable law."

SECTION 2. Section 4 of S.L. 1975-332 is repealed.

SECTION 3. Section 5 of S.L. 1975-332 reads as rewritten:

"Sec. 5. No member of the town governing body ~~or of the scholarship committee~~ shall receive any compensation for services rendered under this act."

SECTION 4. Section 5.2 of the Charter of the Town of Highlands, being Chapter 519 of the Session Laws of 1991, reads as rewritten:

"Sec. 5.2. **Scholarship Program.** The Town's scholarship program for graduates of Highlands High School shall continue to be administered as provided in Chapter 332, Session Laws of ~~1975-1975~~ as amended."

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

In the General Assembly read three times and ratified this the 22nd day of June, 2010.

Became law on the date it was ratified.

Session Law 2010-10

H.B. 636

AN ACT TO GIVE CERTAIN LOCAL BOARDS OF EDUCATION ADDITIONAL FLEXIBILITY WITH REGARD TO INSTRUCTIONAL TIME LOST DUE TO INCLEMENT WEATHER.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 115C-84.2(a)(1) reads as rewritten:

"(a) School Calendar. – Each local board of education shall adopt a school calendar consisting of 215 days all of which shall fall within the fiscal year. A school calendar shall include the following:

- (1) A minimum of either 180 days and or 1,000 hours of instruction covering at least nine calendar months. The local board shall designate when the 180 instructional days or 1,000 hours shall occur. The number of instructional hours in an instructional day may vary according to local board policy and does not have to be uniform among the schools in the administrative unit. Local boards may approve school improvement plans that include days with varying amounts of instructional time. If school is closed early due to inclement weather, the day and the scheduled amount of instructional hours may count towards the required minimum to the extent allowed by State Board policy. The school calendar shall include a plan for making up days and instructional hours missed when schools are not opened due to inclement weather.

If, due to inclement weather, a local board of education complies with this subdivision by scheduling 1,000 hours of instruction on less than 180 days, the local school administrative unit is deemed to have a minimum of 180 days of instruction, teachers employed for a 10-month term are deemed to have been employed for 180 instructional days, and all other employees shall be compensated as if they had worked their regularly scheduled hours for 180 instructional days."

SECTION 1.(b) This section applies only to local school administrative units that missed more than 20 instructional days during the 2009-2010 school year due to inclement weather.

SECTION 2.(a) G.S. 115C-238.29F(d)(1) reads as rewritten:

- "(1) The school shall provide instruction each year for ~~at least 180 days a~~ minimum of either 180 days or 1,000 hours of instruction covering at least nine calendar months."

SECTION 2.(b) This section applies only to charter schools that missed more than 20 instructional days during the 2009-2010 school year due to inclement weather.

SECTION 3. This act is effective when it becomes law and applies only to the 2009-2010 school year.

In the General Assembly read three times and ratified this the 14th day of June, 2010.

Became law upon approval of the Governor at 1:25 p.m. on the 23rd day of June, 2010.

Session Law 2010-11

H.B. 766

AN ACT TO CLARIFY THE PROTECTION PROVIDED BY THE NORTH CAROLINA LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION AGAINST FAILURE IN THE PERFORMANCE OF CONTRACTUAL OBLIGATIONS UNDER ANNUITY CONTRACTS BECAUSE OF THE DELINQUENCY OF THE MEMBER INSURER THAT ISSUED THE POLICIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-62-21(d)(5) reads as rewritten:

"(d) The benefits for which the Association is liable do not, in any event, exceed the lesser of:

...

(5) With respect to any one ~~contract holder~~ payee (or beneficiaries of one payee if the payee is deceased) of a structured settlement annuity, one million dollars (\$1,000,000) for all benefits, including cash values."

SECTION 2. G.S. 58-62-21(e) is repealed.

SECTION 3. This act is effective when it becomes law and applies to claims submitted to the North Carolina Life and Health Insurance Guaranty Association on or after August 7, 2009.

In the General Assembly read three times and ratified this the 15th day of June, 2010.

Became law upon approval of the Governor at 1:31 p.m. on the 23rd day of June, 2010.

Session Law 2010-12

H.B. 1694

AN ACT TO ADD A LICENSED DENTIST TO THE COMMISSION ON CHILDREN WITH SPECIAL HEALTH CARE NEEDS, AS RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-682 reads as rewritten:

"§ 143-682. **Commission established.**

(a) There is established the Commission on Children With Special Health Care Needs. The Department of Health and Human Services shall provide staff services and space for Commission meetings. The purpose of the Commission is to monitor and evaluate the availability and provision of health services to special needs children in this State, and to monitor and evaluate services provided to special needs children under the Health Insurance Program for Children established under Part 8 of Article 2 of Chapter 108A of the General Statutes.

(b) The Commission shall consist of ~~eight~~ nine members appointed by the Governor, as follows:

- (1) Two parents, not of the same family, each of whom has a special needs child. In appointing parents, the Governor shall consider appointing one parent of a child with chronic illness and one parent of a child with a developmental disability or behavioral disorder.
- (2) A licensed psychiatrist recommended by the North Carolina Psychiatric ~~Association~~Association.
- (3) A licensed psychologist recommended by the North Carolina Psychological ~~Association~~Association.
- (4) A licensed pediatrician whose practice includes services for special needs children, recommended by the Pediatric Society of North ~~Carolina~~Carolina.
- (5) A representative of one of the children's hospitals in the State, recommended by the Pediatric Society of North ~~Carolina~~Carolina.
- (6) A local public health director recommended by the Association of Local Health ~~Directors~~and Directors.
- (7) An educator providing education services to special needs children, recommended by the North Carolina Council of Administrators of Special Education.
- (8) A licensed dentist who provides services to children with special needs, recommended by the North Carolina Dental Society.

(c) The Governor shall appoint from among Commission members the person who shall serve as chair of the Commission. Of the initial appointments, two shall serve one-year terms, three shall serve two-year terms, and three shall serve three-year terms. Thereafter, terms shall be for two years. Vacancies occurring before expiration of a term shall be filled from the same appointment category in accordance with subsection (b) of this section."

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

In the General Assembly read three times and ratified this the 14th day of June, 2010.

Became law upon approval of the Governor at 1:33 p.m. on the 23rd day of June, 2010.

Session Law 2010-13

H.B. 1713

AN ACT TO PROVIDE THAT EACH FISHERY MANAGEMENT PLAN MUST SPECIFY TIME PERIODS FOR ENDING OVERFISHING AND ACHIEVING A SUSTAINABLE HARVEST AND INCLUDE A STANDARD OF AT LEAST FIFTY PERCENT PROBABILITY OF ACHIEVING A SUSTAINABLE HARVEST, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-182.1(b) reads as rewritten:

"(b) The goal of the plans shall be to ensure the long-term viability of the State's commercially and recreationally significant species or fisheries. Each plan shall be designed to reflect fishing practices so that one plan may apply to a specific fishery, while other plans may be based on gear or geographic areas. Each plan shall:

- (1) Contain necessary information pertaining to the fishery or fisheries, including management goals and objectives, status of relevant fish stocks, stock assessments for multiyear species, fishery habitat and water quality considerations consistent with Coastal Habitat Protection Plans adopted pursuant to G.S. 143B-279.8, social and economic impact of the fishery to the State, and user conflicts.
- (2) Recommend management actions pertaining to the fishery or fisheries.

- (3) Include conservation and management measures that will provide the greatest overall benefit to the State, particularly with respect to food production, recreational opportunities, and the protection of marine ecosystems, and that will produce a sustainable harvest.
- (4) ~~Specify a time period, not to exceed 10 years from the date of the adoption of the plan, for ending overfishing and achieving a sustainable harvest. This subdivision shall only apply to a plan for a fishery that is overfished. This subdivision shall not apply to a plan for a fishery where the biology of the fish or environmental conditions make ending overfishing and achieving a sustainable harvest within 10 years impracticable.~~
- (5) Specify a time period, not to exceed two years from the date of the adoption of the plan, for ending overfishing. This subdivision shall only apply to a plan for a fishery that is not producing a sustainable harvest.
- (6) Specify a time period, not to exceed 10 years from the date of the adoption of the plan, for achieving a sustainable harvest. This subdivision shall not apply if the Fisheries Director determines that the biology of the fish, environmental conditions, or lack of sufficient data make implementing the requirements of this subdivision incompatible with professional standards for fisheries management.
- (7) Include a standard of at least fifty percent (50%) probability of achieving sustainable harvest for the fishery or fisheries. This subdivision shall not apply if the Fisheries Director determines that the biology of the fish, environmental conditions, or lack of sufficient data make implementing the requirements of this subdivision incompatible with professional standards for fisheries management."

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

In the General Assembly read three times and ratified this the 17th day of June, 2010.

Became law upon approval of the Governor at 1:34 p.m. on the 23rd day of June, 2010.

Session Law 2010-14

S.B. 59

AN ACT TO CLARIFY AN ORDER FOR THE PAYMENT OF ATTORNEYS' FEES IN ACTIONS FOR ALIMONY OR POSTSEPARATION SUPPORT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 50-16.4 reads as rewritten:

"§ 50-16.4. Counsel fees in actions for alimony, postseparation support.

At any time that a dependent spouse would be entitled to alimony pursuant to G.S. 50-16.3A, or postseparation support pursuant to G.S. 50-16.2A, the court may, upon application of such spouse, enter an order for reasonable counsel ~~fees for the benefit of such spouse, fees,~~ to be paid and secured by the supporting spouse in the same manner as alimony."

SECTION 2. This act becomes effective October 1, 2010, and applies to fees for services rendered on or after that date.

In the General Assembly read three times and ratified this the 17th day of June, 2010.

Became law upon approval of the Governor at 1:35 p.m. on the 23rd day of June, 2010.

Session Law 2010-15

H.B. 1710

AN ACT TO PROVIDE AN EXPEDITED PROCESS BY WHICH THE MARINE FISHERIES COMMISSION MAY SUPPLEMENT FISHERY MANAGEMENT PLANS, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-182.1 reads as rewritten:

"§ 113-182.1. Fishery Management Plans.

(a) The Department shall prepare proposed Fishery Management Plans for adoption by the Marine Fisheries Commission for all commercially or recreationally significant species or fisheries that comprise State marine or estuarine resources. Proposed Fishery Management Plans shall be developed in accordance with the Priority List, Schedule, and guidance criteria established by the Marine Fisheries Commission under G.S. 143B-289.52.

(b) The goal of the plans shall be to ensure the long-term viability of the State's commercially and recreationally significant species or fisheries. Each plan shall be designed to reflect fishing practices so that one plan may apply to a specific fishery, while other plans may be based on gear or geographic areas. Each plan shall:

- (1) Contain necessary information pertaining to the fishery or fisheries, including management goals and objectives, status of relevant fish stocks, stock assessments for multiyear species, fishery habitat and water quality considerations consistent with Coastal Habitat Protection Plans adopted pursuant to G.S. 143B-279.8, social and economic impact of the fishery to the State, and user conflicts.
- (2) Recommend management actions pertaining to the fishery or fisheries.
- (3) Include conservation and management measures that will provide the greatest overall benefit to the State, particularly with respect to food production, recreational opportunities, and the protection of marine ecosystems, and that will produce a sustainable harvest.
- (4) Specify a time period, not to exceed 10 years from the date of the adoption of the plan, for ending overfishing and achieving a sustainable harvest. This subdivision shall only apply to a plan for a fishery that is overfished. This subdivision shall not apply to a plan for a fishery where the biology of the fish or environmental conditions make ending overfishing and achieving a sustainable harvest within 10 years impracticable.

(c) To assist in the development of each Fishery Management Plan, the Chair of the Marine Fisheries Commission shall appoint a fishery management plan advisory committee. Each fishery management plan advisory committee shall be composed of commercial fishermen, recreational fishermen, and scientists, all with expertise in the fishery for which the Fishery Management Plan is being developed.

(c1) The Department shall consult with the regional advisory committees established pursuant to G.S. 143B-289.57(e) regarding the preparation of each Fishery Management Plan. Before submission of a plan for review by the Joint Legislative Commission on Seafood and Aquaculture, the Department shall review any comment or recommendation regarding the plan that a regional advisory committee submits to the Department within the time limits established in the Schedule for the development and adoption of Fishery Management Plans established by G.S. 143B-289.52. ~~The Commission shall consult with the regional advisory committees regarding the development of any temporary management measure that the Commission determines to be necessary to ensure the viability of the species or fishery while the plan is being developed and regarding the development of any management measure to implement the plan. Before the Commission adopts a temporary management measure or a management measure to implement a plan, the Commission shall review any comment or recommendation~~

regarding the management measure that a regional advisory committee submits to the Commission.

(d) Each Fishery Management Plan shall be reviewed at least once every five years. The Marine Fisheries Commission may revise the Priority List and guidance criteria whenever it determines that a revision of the Priority List or guidance criteria will facilitate or improve the development of Fishery Management Plans or is necessary to restore, conserve, or protect the marine and estuarine resources of the State. The Marine Fisheries Commission may not revise the Schedule for the development of a Fishery Management Plan, once adopted, without the approval of the Secretary of Environment and Natural Resources.

(e) The Secretary of Environment and Natural Resources shall monitor progress in the development and adoption of Fishery Management Plans in relation to the Schedule for development and adoption of the plans established by the Marine Fisheries Commission. The Secretary of Environment and Natural Resources shall report to the Joint Legislative Commission on Seafood and Aquaculture on progress in developing and implementing the Fishery Management Plans on or before 1 September of each year. The Secretary of Environment and Natural Resources shall report to the Joint Legislative Commission on Seafood and Aquaculture within 30 days of the completion or substantial revision of each proposed Fishery Management Plan. The Joint Legislative Commission on Seafood and Aquaculture shall review each proposed Fishery Management Plan within 30 days of the date the proposed Plan is submitted by the Secretary. The Joint Legislative Commission on Seafood and Aquaculture may submit comments and recommendations on the proposed Plan to the Secretary within 30 days of the date the proposed Plan is submitted by the Secretary.

(e1) If the Secretary determines that it is in the interest of the long-term viability of a fishery, the Secretary may authorize the Commission to develop temporary management measures to supplement an existing Fishery Management Plan pursuant to this subsection. Development of temporary management measures pursuant to this subsection is exempt from subsections (c), (c1), and (e) of this section and the Priority List, Schedule, and guidance criteria established by the Marine Fisheries Commission under G.S. 143B-289.52. During the next review period for a Fishery Management Plan supplemented pursuant to this subsection, the Commission shall either incorporate the temporary management measures into the revised Fishery Management Plan or the temporary management measures shall expire on the date the revised Fishery Management Plan is adopted.

(f) The Marine Fisheries Commission shall adopt rules to implement Fishery Management Plans in accordance with Chapter 150B of the General Statutes.

(g) To achieve sustainable harvest under a Fishery Management Plan, the Marine Fisheries Commission may include in the Plan a recommendation that the General Assembly limit the number of fishermen authorized to participate in the fishery. The Commission may recommend that the General Assembly limit participation in a fishery only if the Commission determines that sustainable harvest cannot otherwise be achieved. In determining whether to recommend that the General Assembly limit participation in a fishery, the Commission shall consider all of the following factors:

- (1) Current participation in and dependence on the fishery.
- (2) Past fishing practices in the fishery.
- (3) Economics of the fishery.
- (4) Capability of fishing vessels used in the fishery to engage in other fisheries.
- (5) Cultural and social factors relevant to the fishery and any affected fishing communities.
- (6) Capacity of the fishery to support biological parameters.
- (7) Equitable resolution of competing social and economic interests.
- (8) Any other relevant considerations."

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

In the General Assembly read three times and ratified this the 17th day of June, 2010.

Became law upon approval of the Governor at 1:38 p.m. on the 23rd day of June, 2010.

Session Law 2010-16

S.B. 254

AN ACT TO INCREASE THE PENALTY FOR THE MALICIOUS ABUSE, TORTURE, OR KILLING OF AN ANIMAL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-360(a1) reads as rewritten:

"(a1) If any person shall maliciously kill, or cause or procure to be killed, any animal by intentional deprivation of necessary sustenance, that person shall be guilty of a ~~Class A1 misdemeanor~~. Class H felony."

SECTION 2. G.S. 14-360(b) reads as rewritten:

"(b) If any person shall maliciously torture, mutilate, maim, cruelly beat, disfigure, poison, or kill, or cause or procure to be tortured, mutilated, maimed, cruelly beaten, disfigured, poisoned, or killed, any animal, every such offender shall for every such offense be guilty of a ~~Class I~~ Class H felony. However, nothing in this section shall be construed to increase the penalty for cockfighting provided for in G.S. 14-362."

SECTION 3. This act becomes effective December 1, 2010, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 17th day of June, 2010.

Became law upon approval of the Governor at 1:46 p.m. on the 23rd day of June, 2010.

Session Law 2010-17

S.B. 1146

AN ACT TO VALIDATE CERTAIN CABARRUS COUNTY FIRE DISTRICT BOUNDARIES CHANGES DONE BY MOTION RATHER THAN ORDINANCE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 19.1 of Chapter 558 of the 1987 Session Laws, as added by S.L. 2006-1, reads as rewritten:

"**SECTION 19.1.(a)** The Board of Commissioners may, effective the first day of July after the adoption of an ordinance, change the boundaries of a fire district in Cabarrus County established by this act, if:

- (1) It first holds a public hearing on that ordinance, with notice published at least 14 days before the hearing.
- (2) Makes available in the office of the Clerk to the Board of Commissioners a map showing the proposed changes.
- (3) No area will be in more than one fire district.
- (4) No area shall be within the corporate limits of a municipality (except for any area within the corporate limits of a municipality that is already within a fire district under this act).

SECTION 19.1.(b) Any action taken by motion rather than ordinance under subsection (a) of this section between May 10, 2006, and the effective date of this subsection is not invalid on account of the use of a motion, as long as the motion was reflected in the minutes of the board of commissioners."

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

In the General Assembly read three times and ratified this the 23rd day of June, 2010.

Became law on the date it was ratified.

Session Law 2010-18

H.B. 1664

AN ACT AMENDING THE CHARTER OF THE CITY OF BREVARD TO AUTHORIZE THE CITY MANAGER TO APPOINT THE CITY CLERK.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4.4 of the Charter of the City of Brevard, being Chapter 415 of the 1981 Session Laws, reads as rewritten:

"Sec. 4.4. City Clerk. The ~~City Council~~ City Manager shall appoint a City Clerk to keep a journal of the proceedings of the Council, to maintain in a safe place all records and documents pertaining to the affairs of the City, and to perform such other duties as may be required by law or as the ~~City Council~~ City Manager may direct. The City Clerk shall receive such compensation as the ~~Council~~ City Manager shall determine."

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

In the General Assembly read three times and ratified this the 24th day of June, 2010.

Became law on the date it was ratified.

Session Law 2010-19

H.B. 1716

AN ACT TO ALLOW THE CITY OF HAMLET TO USE MOTORIZED ALL-TERRAIN VEHICLES ON CERTAIN HIGHWAYS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-171.24(f) reads as rewritten:

"(f) This section applies to the Towns of Ansonville, Atlantic Beach, Burgaw, Carolina Beach, Cramerton, Dallas, Davidson, Duck, Emerald Isle, Franklin, Indian Beach, Kill Devil Hills, Kitty Hawk, Kure Beach, Lowell, Manteo, Murphy, Nags Head, North Topsail Beach, Oakboro, Ocean Isle Beach, Pine Knoll Shores, Stanley, Surf City, Sylva, Topsail Beach, and Wrightsville Beach, the Cities of Albemarle, Belmont, Cherryville, Gastonia, Hamlet, Kings Mountain, Mount Holly, and Rockingham and the Counties of Cleveland, Currituck, Gaston, Surry, and Wilkes only."

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

In the General Assembly read three times and ratified this the 24th day of June, 2010.

Became law on the date it was ratified.

Session Law 2010-20

H.B. 1753

AN ACT TO ALLOW SCHOOL BUSES AND ACTIVITY BUSES TO CROSS CERTAIN RAILROAD GRADE CROSSINGS WITHOUT FIRST STOPPING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-142.3 reads as rewritten:

"§ 20-142.3. **Certain vehicles must stop at railroad grade crossing.**

(a) Before crossing at grade any track or tracks of a railroad, the driver of any school bus, any activity bus, any motor vehicle carrying passengers for compensation, any commercial motor vehicle listed in 49 C.F.R. § 392.10, and any motor vehicle with a capacity of 16 or more

persons shall stop the vehicle within 50 feet but not less than 15 feet from the nearest rail of the railroad. While stopped, the driver shall listen and look in both directions along the track for any approaching train and shall not proceed until the driver can do so safely. Upon proceeding, the driver of the vehicle shall cross the track in a gear that allows the driver to cross the track without changing gears and the driver shall not change gears while crossing the track or tracks.

(b) Except for school buses and activity buses, the provisions of this section shall not require the driver of a vehicle to stop:

- (1) At railroad tracks used exclusively for industrial switching purposes within a business district.
- (2) At a railroad grade crossing which a police officer or crossing flagman directs traffic to proceed.
- (3) At a railroad grade crossing protected by a gate or flashing signal designed to stop traffic upon the approach of a train, when the gate or flashing signal does not indicate the approach of a train.
- (4) At an abandoned railroad grade crossing which is marked with a sign indicating that the rail line is abandoned.
- (5) At an industrial or spur line railroad grade crossing marked with a sign reading "Exempt" erected by or with the consent of the appropriate State or local authority.

(b1) Notwithstanding the provisions of subsection (b) of this section, no school bus or activity bus shall be required to stop at a railroad grade crossing that is marked with a sign reading "Exempt" erected by or with the consent of the appropriate State or local authority and the railroad tracks leading to and from the railroad grade crossing are gated closed at all times when a train is not passing over the railroad grade crossing.

(c) A person violating the provisions of this section shall be guilty of an infraction and punished in accordance with G.S. 20-176. Violation of this section shall not constitute negligence per se.

(d),(e) Repealed by Session Laws 2001-487, s. 50(g).

(f) An employer who knowingly allows, requires, permits, or otherwise authorizes a driver of a commercial motor vehicle to violate this section shall be guilty of an infraction. Such employer will also be subject to a civil penalty under G.S. 20-37.21."

SECTION 2. This act applies to Craven County only.

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

In the General Assembly read three times and ratified this the 24th day of June, 2010.

Became law on the date it was ratified.

Session Law 2010-21

H.B. 1956

AN ACT TO CHANGE THE FORM OF GOVERNMENT FOR THE TOWN OF MARSHVILLE FROM MAYOR-COUNCIL TO COUNCIL-MANAGER.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the Town of Marshville, being Chapter 313 of the Private Laws of 1913, is amended by adding a new section to read:

"Sec. 13.1. The Town shall operate under the Council-Manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes."

SECTION 2. This act becomes effective upon the Town of Marshville hiring an initial Town Manager.

In the General Assembly read three times and ratified this the 24th day of June, 2010.

Became law on the date it was ratified.

Session Law 2010-22

S.B. 992

AN ACT TO AMEND AND CLARIFY THE PYROTECHNICS TRAINING AND PERMITTING ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-82A-1 reads as rewritten:

"§ 58-82A-1. (Effective February 1, 2010) State Fire Marshal establish pyrotechnic safety guidelines.

(a) Guidelines. – The Commissioner of Insurance through the Office of the State Fire Marshal, in consultation with the State Fire and Rescue Commission, must establish guidelines, testing, and training requirements for the following:

- (1) Individuals who assist a display operator with the exhibition, use, handling, or discharge of pyrotechnics in connection with a concert or public exhibition authorized under Article 54 of Chapter 14 of the General Statutes.
- (2) Individuals seeking to obtain a display operator ~~permit~~-license, proximate audience display operator license, or assistant display operator license under this Article.

(b) Definitions. – The definitions in G.S. 14-410 apply in this Article.

(c) Rule making. – The Commissioner may adopt rules to implement this Article."

SECTION 2. Article 82A of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-82A-1A. **Definitions.**

The following definitions apply in this Article:

- (1) Assistant display operator. – An individual who, under the supervision of the display operator, assists with the safety, setup, and discharge of a pyrotechnic display and who is licensed pursuant to this Article.
- (2) Event employee. – An individual who works under the supervision of the display operator and who assists with the safety, setup, and discharge of a pyrotechnic display but does not handle the pyrotechnic materials.
- (3) Outdoor pyrotechnics display. – A pyrotechnic display that is outdoors and uses 1.4G, 1.3G, 1.2G, and 1.1G pyrotechnics and is a minimum of 75 feet from the audience in accordance with NFPA 1123.
- (4) Pyrotechnics. – All fireworks not exempted by G.S. 14-414 and that are used for professional outdoor displays and classified as fireworks by UN0333 (1.1G), UN0334 (1.2G), UN0335 (1.3G), or UN0336 (1.4G) by the United States Department of Transportation under 49 C.F.R. § 172.101.
- (5) Pyrotechnics display operator. – An individual who is responsible for the safety, setup, and discharge of the pyrotechnic display, who is responsible for the supervision of personnel at the pyrotechnic display, and who is licensed under this Article.
- (6) Proximate audience display. – A display of pyrotechnics that occurs within a building or structure or that occurs outside before an audience within 75 feet of the pyrotechnics in accordance with NFPA 1126.
- (7) Proximate audience display operator. – An individual who is responsible for the safety, setup, and discharge of the proximate audience display and who is licensed under this Article.
- (8) Supervision. – The direction and management of the activities of personnel in the safety, setup, handling, and display of an outdoor pyrotechnic display, a proximate audience display, or a flame effect display."

SECTION 3. Article 82A of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-82A-1B. Commissioner of Insurance to administer Article; rules; employees; evidence of Commissioner's action.

(a) The Commissioner shall have full power and authority to administer the provisions of this Article, which establishes guidelines for the use, handling, exhibiting, or discharge of pyrotechnics in connection with a concert or public exhibition, as allowed under Article 54 of Chapter 14 of the General Statutes, and to license and regulate pyrotechnic operators. The Commissioner shall adopt any rules necessary to enforce the purposes and provisions of this Article.

(b) Any written instrument purporting to be a copy of any action, proceeding, or finding of fact by the Commissioner, or any record of the Commissioner authenticated under the head of the Commissioner by the seal of the Commissioner's office, shall be accepted by all courts of this State as prima facie evidence of the contents thereof."

SECTION 4. Article 82A of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-82A-2A. Require licenses.

(a) No person shall obtain a pyrotechnics permit under Article 54 of Chapter 14 of the General Statutes unless the person possesses the appropriate license, as provided by this Article.

(b) An applicant for a license authorized by this Article shall apply on forms supplied by the Commissioner. The Commissioner shall inquire as to the applicant's qualifications and other matters relative to the applicant's fitness to be licensed or to continue to be licensed.

(c) When a license is issued under this section, the Commissioner shall issue to the licensee an identification card approved by the Commissioner. Each licensee must carry this card at all times when working in the scope of the licensee's employment. A licensee whose license terminates or is terminated shall surrender the identification card to the Commissioner, when requested by the Commissioner. The Commissioner may contract directly with persons for the processing and issuance of identification cards required by this section and may charge a reasonable fee in addition to the license fee in an amount that offsets the cost of the service, including the costs associated with the contract authorized by this subsection. Contracts entered into under this subsection shall not be subject to Article 3 of Chapter 143 of the General Statutes."

SECTION 5. Article 82A of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-82A-2B. Terms of licenses.

A license issued to a pyrotechnics display operator, a proximate audience display operator, or an assistant display operator under this Article authorizes the licensee to act in that capacity until the license is suspended, revoked, or not renewed. Upon the suspension or revocation of a license, or the failure to renew a license, the licensee shall return the license to the Commissioner. A pyrotechnics display operator's license, a proximate audience display operator's license, and an assistant display operator's license is valid for three years unless suspended or revoked and may be renewed every three years from the date of issuance upon payment of the applicable renewal fee."

SECTION 6. G.S. 58-82A-3 reads as rewritten:

"§ 58-82A-3. (Effective February 1, 2010) Display operator ~~permit~~ license.

(a) ~~Permit License~~ Required. – A display operator ~~permit license~~ issued by the ~~State Fire Marshal~~ Commissioner is required for an individual to obtain the necessary authorization under Article 54 of Chapter 14 of the General Statutes to exhibit, use, handle, manufacture, or discharge pyrotechnics at a concert or public exhibition in this State. A ~~permit license~~ issued under this section is valid for three years unless it is revoked by the ~~State Fire Marshal~~ Commissioner.

(b) Requirements. – The ~~State Fire Marshal~~ Commissioner may issue a display operator ~~permit license~~ to an individual if all of the following conditions are met:

(1) The individual is at least 21 years of age.

- (2) The individual has assisted a display operator as an assistant display operator ~~in~~with the exhibition, use, or display of pyrotechnics at a concert or public exhibition, as allowed under Article 54 of Chapter 14 of the General Statutes, on at least three ~~occasions~~occasions, or is a proximate audience display operator.
- (3) The individual successfully completes the minimum training requirements established by the State Fire Marshal.
- (4) The individual successfully passes an examination approved by the State Fire Marshal that demonstrates the individual has the knowledge to safely handle, store, and exhibit Class ~~1.3g and 1.4g~~1.4g, 1.3g, 1.2g, and 1.1g pyrotechnics or provides satisfactory evidence of current certification by a third party acceptable to the State Fire Marshal.
- ~~(5) The individual pays an application fee not to exceed one hundred dollars (\$100.00) and the cost of the examination.~~
- (6) The individual has no violations of any provision of this Article or of any similar provision of any other state and submits an "Employer Possessor Letter of Clearance" issued to the individual by the Bureau of Alcohol, Tobacco and Firearms pursuant to 18 U.S.C. Chapter 40 or, if the Bureau of Alcohol, Tobacco and Firearms has not issued a Letter of Clearance to the individual, the individual signs a statement provided by the Commissioner affirming that the individual has not been convicted of violating 18 U.S.C. Chapter 40, Section 842(i).

~~(c) Reciprocity.—The State Fire Marshal may issue a display operator permit to an individual who holds a permit or certification issued by another state, provided the minimum requirements of that state are at least equal to the minimum requirements under this section and the person pays the application fee required under subsection (b) of this section.~~

~~(d) Refusal and Revocation.—The State Fire Marshal may refuse to issue a permit or may revoke a permit issued under this section if any of the following apply:~~

- ~~(1) The display operator violates any provision of this Article.~~
- ~~(2) The display operator violates any requirement of a permit issued under G.S. 14-413.~~
- ~~(3) The display operator fails to provide direct supervision and control over individuals who assist the permit operator in handling, using, exhibiting, or displaying pyrotechnics.~~
- ~~(4) The display operator is convicted of a crime under Article 54 of Chapter 14 of the General Statutes.~~
- ~~(5) Another state revokes the permit or certification issued to that display operator by that state."~~

SECTION 7. Article 82A of Chapter 58 of the General Statutes is amended by adding the following new sections to read:

"§ 58-82A-4. Proximate audience display operator license.

A proximate audience display operator license issued by the Commissioner is required for an individual to obtain the necessary authorization under Article 54 of Chapter 14 of the General Statutes to exhibit, use, handle, manufacture, or discharge pyrotechnics at a concert or public exhibition with a proximate audience display of pyrotechnics in this State. The Commissioner may issue a proximate audience display operator license to an individual who meets all of the following requirements:

- (1) Is at least 21 years of age at the time of application.
- (2) Completes the training program approved by the Commissioner for pyrotechnic proximate audience display operators or another program which the Commissioner determines to be substantially equivalent.
- (3) Successfully passes the written examination provided by the Commissioner.

- (4) Submits evidence of active participation as a display operator in the safe performance of at least three displays or as an assistant display operator in the safe performance of at least three displays under the direct supervision of a display operator.
- (5) Has no violations of any provision of this Article or of any similar provision of any other state and submits an "Employer Possessor Letter of Clearance" issued to the individual by the Bureau of Alcohol, Tobacco and Firearms pursuant to 18 U.S.C. Chapter 40 or, if the Bureau of Alcohol, Tobacco and Firearms has not issued a Letter of Clearance to the individual, the individual signs a statement provided by the Commissioner affirming that the individual has not been convicted of violating 18 U.S.C. Chapter 40, Section 842(i).

"§ 58-82A-5. Assistant display operator license.

(a) No person shall assist a pyrotechnics display operator or a proximate audience display operator with the exhibition, use, handling, or discharge of pyrotechnics or pyrotechnic effects in connection with a concert or public exhibition authorized under Article 54 of Chapter 14 of the General Statutes without an assistant display operator's license issued by the Commissioner.

(b) The Commissioner may issue an assistant display operator license to an individual who meets all of the following requirements:

- (1) Is at least 18 years of age.
- (2) Signs a statement provided by the Commissioner affirming that the individual has read and understands the pyrotechnics safety guidelines established by the Office of the State Fire Marshal.
- (3) Successfully passes the written examination provided by the Commissioner.
- (4) Has no violations of any provision of this Article or of any similar provision of any other state and submits an "Employer Possessor Letter of Clearance" issued to the individual by the Bureau of Alcohol, Tobacco and Firearms pursuant to 18 U.S.C. Chapter 40 or, if the Bureau of Alcohol, Tobacco and Firearms has not issued a Letter of Clearance to the individual, the individual signs a statement provided by the Commissioner affirming that the individual has not been convicted of violating 18 U.S.C. Chapter 40 Section 842(i).

"§ 58-82A-6. License fees.

(a) A nonrefundable license fee of one hundred dollars (\$100.00) shall be paid by the applicant to the Commissioner at the time of each application for a pyrotechnics display operator license.

(b) A nonrefundable license fee of one hundred dollars (\$100.00) shall be paid by the applicant to the Commissioner at the time of each application for a license as a proximate audience display operator license.

(c) A nonrefundable license fee of thirty dollars (\$30.00) shall be paid to the Commissioner by the applicant with each application for a license as an assistant display operator.

"§ 58-82A-7. Qualifications for event employees.

Notwithstanding the provisions of this Article, the Commissioner or the fire code official for the jurisdiction issuing the pyrotechnics permit under G.S. 14-413 may certify an individual as an event employee if the individual meets the following requirements:

- (1) Is at least 18 years of age.
- (2) Possesses and provides a valid drivers license or other state-issued identification card.
- (3) Correctly passes an on-site examination, administered by the Office of the State Fire Marshal or fire code official for the jurisdiction issuing the permit

under G.S. 14-413, of five questions to test basic pyrotechnic safety knowledge.

- (4) Provides written confirmation from the licensed display operator or proximate audience display operator that the event employee is working under the supervision of the operator and that the event employee will not handle the pyrotechnic materials. An event employee certification is valid only for the concert or public exhibition listed on the pyrotechnic permit and cannot be renewed.

"§ 58-82A-8. Examination fees.

(a) Each applicant for a license as a pyrotechnic display operator, a proximate audience display operator, or assistant display operator shall take a written examination approved by the Commissioner. The Commissioner may contract with a person to process, administer, and grade the examination in the same manner as for agent examinations under Article 33 of this Chapter. The Commissioner may charge a fee to offset the costs of the contract for examination services.

(b) The fee for the examination is ten dollars (\$10.00). The examination fee is nonrefundable.

"§ 58-82A-9. Renewal fees.

(a) To renew a license as a pyrotechnics display operator, a proximate audience display operator, or an assistant display operator, a licensee shall make application to the Commissioner upon the renewal application form provided by the Commissioner and attest that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Failure to provide the attestation or providing untrue, incorrect, or incomplete statements shall be grounds for denial, suspension, or revocation of the license.

(b) Before approving the application for renewal, the Commissioner shall find that the licensee:

- (1) Has not committed any act which is grounds for denial, suspension, nonrenewal, or revocation under this Article.
- (2) Has not had administrative action taken against a pyrotechnics display operator's license or the equivalent by this or any other state.
- (3) Has on at least three occasions participated in the use, handling, exhibiting, or discharge of pyrotechnics in connection with a concert or public exhibition pursuant to the terms of the license.
- (4) Has paid the applicable fees set forth in this Article.
- (5) Has completed a minimum of 12 hours of continuing education during the previous three-year period.

(c) The renewal fee for a pyrotechnics display operator license and a proximate audience display operator license is sixty dollars (\$60.00) for each license renewed. The renewal fee for an assistant display operator license is thirty dollars (\$30.00).

"§ 58-82A-10. Dual license holding.

If any individual holds more than one license issued under this Article simultaneously, all licenses are considered one license for the purpose of disciplinary actions involving suspension, revocation, or nonrenewal under this Article. Separate fees must be paid for each license.

"§ 58-82A-11. Reciprocity.

The Commissioner may issue a license under this Article to an individual who holds a comparable valid permit, license, or certification issued by another state, provided the minimum requirements of that state are at least equal to the minimum requirements under this Article for the specific license issued and the person pays the application fee required under this Article.

"§ 58-82A-12. Discipline.

The Commissioner may deny, suspend, revoke, or refuse to renew any license under this Article if any of the following apply:

- (1) The licensee violates any provision of this Article.
- (2) The applicant or licensee violates any requirement of a permit issued under G.S. 14-413.
- (3) The licensed display operator or proximate audience display operator fails to provide direct supervision and control over individuals who assist the licensee in handling, using, exhibiting, or displaying pyrotechnics.
- (4) The licensed display operator, proximate audience display operator, or assistant display operator is convicted of a crime under Article 54 of Chapter 14 of the General Statutes.
- (5) Another state revokes the permit, license, or certification issued to the licensee by that state.
- (6) A material misstatement, misrepresentation, or fraud was committed in obtaining a license under this Article.
- (7) Cheating on an examination required by this Article.
- (8) Knowingly aiding or abetting others to evade or violate the provisions of this Article.
- (9) Any existing cause for which the issuance of the license could have been denied had it been known to the Commissioner at the time of issuance.

"§ 58-82A-13. License sanction and denial procedures.

(a) The suspension or revocation of, or refusal to renew, any license under this Article may be contested in accordance with the provisions of Article 3A of Chapter 150B of the General Statutes.

(b) Whenever the Commissioner denies an initial application for a license or an application for a reissuance of a license, the Commissioner shall notify the applicant and advise the applicant, in writing, of the reasons for the denial of the license. The application may also be denied for any reason for which a license may be suspended or revoked or not renewed under this Article. In order for an applicant to be entitled to a review of the Commissioner's action, the applicant must make a written demand upon the Commissioner for a review no later than 30 days after the service of the notification upon the applicant. The review shall be completed without undue delay, and the applicant shall be notified promptly in writing of the outcome of the review. In order for an applicant who disagrees with the outcome of the review to be entitled to a hearing under Article 3A of Chapter 150B of the General Statutes, the applicant must make a written demand upon the Commissioner for a hearing no later 30 days after service upon the applicant of the Commissioner's decision."

SECTION 8. G.S. 14-410(a1) reads as rewritten:

"(a1) It shall be permissible for pyrotechnics to be exhibited, used, handled, manufactured, or discharged within the State, provided all of the following apply:

- (1) The exhibition, use, or discharge is at a concert or public exhibition.
- (2) All individuals who exhibit, use, handle, or discharge pyrotechnics in connection with a concert or public exhibition have completed the training and licensing required under ~~G.S. 58-82A-2 and are under the direct supervision and control of a display operator who holds a display operator permit issued by the State Fire Marshal under G.S. 58-82A-3.~~ Article 82A of Chapter 58 of the General Statutes. The display operator or proximate audience display operator, as required under Article 82A of Chapter 58 of the General Statutes, must be present at the concert or public exhibition and must personally direct all aspects of exhibiting, using, handling, or discharging the pyrotechnics.
- (3) The display operator has secured written authority under G.S. 14-413 from the board of county commissioners of the county, or the city if authorized under G.S. 14-413(a1), in which the pyrotechnics are to be exhibited, used or discharged. Written authority from the board of commissioners or city is not required under this subdivision for a concert or public exhibition provided

the display operator has secured written authority from The University of North Carolina or the University of North Carolina at Chapel Hill under G.S. 14-413, and pyrotechnics are exhibited on lands or buildings in Orange County owned by The University of North Carolina or the University of North Carolina at Chapel Hill."

SECTION 9.(a) The Commissioner of Insurance may issue a temporary display operator's license to any individual who meets the following qualifications:

- (1) Is at least 21 years of age.
- (2) Provides evidence of completion of a minimum of six North Carolina permitted displays within the past 10 years.

SECTION 9.(b) A temporary display operator's license issued pursuant to this section shall be issued to a person only one time and shall be valid for 30 days after issuance. A person issued a temporary license shall take the written exam required by Article 82A of Chapter 58 of the General Statutes and complete the training program approved by the Commissioner for pyrotechnic displays, or another program the Commissioner determines to be substantially equivalent, no later than the earlier of September 30, 2010, or 60 days after the effective date of this act. Any person not in compliance with this section shall not be allowed to apply for a license until after September 30, 2011. In no event shall a temporary license be issued after July 31, 2010.

SECTION 9.(c) The fee for a temporary display operator's license is twenty-five dollars (\$25.00) for each license issued.

SECTION 10. The Rules Review Commission shall not disapprove any rule adopted by the Commissioner of Insurance that requires successful passage of an examination for pyrotechnics operator under this act.

SECTION 11. Article 87 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-87-7. Oversight and accountability of grant awards.

To increase accountability and to expedite receipt of certain grant awards, notwithstanding any other provision, the Office of the State Fire Marshal and other employees of the Department of Insurance may in their discretion conduct on-site examinations of fire, rescue, and EMS equipment and supplies purchased with funds awarded from either the Volunteer Fire Department Fund or the Volunteer Rescue/EMS Fund. The on-site examinations may include the inspection of equipment purchased from prior grants and may be conducted prior to or simultaneous with the delivery of the grant awards. The on-site examination shall document what equipment and supplies have been purchased by the volunteer fire department or volunteer rescue/EMS department and whether those items were received by the department and visually reviewed by the on-site examiner. Items that have already been distributed or put in the field shall be noted by the on-site examiner. The Office of the State Fire Marshal shall maintain records of on-site inspections and provide them, or a summary thereof, in reports to the State Auditor or the Office of State Budget and Management."

SECTION 12. Sections 9, 10, and 12 of this act are effective when they become law. Section 11 becomes effective July 1, 2010. The remainder of this act becomes effective October 1, 2010.

In the General Assembly read three times and ratified this the 23rd day of June, 2010.

Became law upon approval of the Governor at 9:10 a.m. on the 25th day of June, 2010.

Session Law 2010-23

S.B. 1356

AN ACT TO INCREASE THE MONTHLY BENEFIT TO MEMBERS OF THE WILKESBORO FIREMEN'S SUPPLEMENTAL PENSION FUND.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4 of Chapter 131 of the 1985 Session Laws, as amended by Section 1 of S.L. 1999-56, reads as rewritten:

"Sec. 4. Any member who has served 20 years as a fireman in the Wilkesboro Fire Department and has attained the age of 55 or who has served for five or more years and has become totally and permanently disabled is entitled to receive a monthly pension from the "Supplemental Pension Fund". This monthly pension shall be ~~in the amount of one hundred dollars (\$100.00) per month.~~ equal to the monthly pension amount paid by the North Carolina Firemen's and Rescue Squad Workers' Pension Fund under G.S. 58-86-55 and shall be adjusted to match that State pension amount whenever that amount is amended. If, for any reason, the Fund shall be insufficient to pay in full any pension benefits, or other charges, then all benefits shall be reduced pro rata for as long as the deficiency in amount exists. No claim shall accrue with respect to any amount by which a benefit payment shall have been reduced."

SECTION 2. This act becomes effective July 1, 2010.

In the General Assembly read three times and ratified this the 28th day of June, 2010.

Became law on the date it was ratified.

Session Law 2010-24

H.B. 1673

AN ACT TO HELP MUNICIPALITIES COLLECT DELINQUENT PROPERTY TAXES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 161-31 reads as rewritten:

"§ 161-31. **Tax certification.**

(a) Tax Certification. – The board of commissioners of a county may, by resolution, require the register of deeds not to accept any deed transferring real property for registration unless the county tax collector has certified ~~that no delinquent ad valorem county taxes, ad valorem municipal taxes, or other taxes with which the collector is charged are a lien on the property described in the deed.~~ all of the following:

- (1) That no delinquent ad valorem county taxes are a lien on the property described in the deed.
- (2) That no delinquent ad valorem municipal taxes are a lien on the property described in the deed. If a county tax collector is not charged with collecting ad valorem municipal taxes for a municipality in the county, then the resolution shall direct how the county tax collector is to receive the certification from the tax collector charged with collecting ad valorem municipal taxes.
- (3) That no other taxes with which the collector is charged are a lien on the property described in the deed.

The county commissioners may describe the form the certification must take in its resolution.

(a1) Exception to Tax Certification. – If a board of county commissioners adopts a resolution pursuant to subsection (a) of this section, notwithstanding the resolution, the register of deeds shall accept without certification a deed submitted for registration under the supervision of a closing attorney and containing this statement on the deed: "This instrument prepared by: _____, a licensed North Carolina attorney. Delinquent taxes, if any, to be paid by the closing attorney to the county tax collector upon disbursement of closing proceeds.

(b) Applicability. – This section applies only to Alexander, Anson, Beaufort, Bertie, Burke, Cabarrus, Camden, Carteret, Caswell, Catawba, Cherokee, Chowan, Clay, Cleveland, Currituck, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Gaston, Gates, Graham, Granville, Greene, Halifax, Harnett, Haywood, Henderson, Hertford, Hyde, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, Macon, Madison, Martin, Montgomery, Nash, Northampton, Onslow, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Robeson, Rockingham, Rowan, Rutherford, Stanly, Surry, Swain, Transylvania, Tyrrell, Vance, Warren, Washington, Wayne, Wilson, and Yadkin Counties."

SECTION 2. This act applies to Duplin County only.

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

In the General Assembly read three times and ratified this the 28th day of June, 2010.

Became law on the date it was ratified.

Session Law 2010-25

S.B. 1120

AN ACT AMENDING THE CHARTER OF THE CITY OF BURLINGTON RELATING TO RESIDENTIAL DEVELOPMENT PROJECTS IN A MUNICIPAL SERVICE DISTRICT.

The General Assembly of North Carolina enacts:

SECTION 1. Subchapter C of Chapter III of the Charter of the City of Burlington, being Chapter 119 of the 1961 Session Laws, is amended by adding a new section to read:

"Section 3.42. Residential development projects in municipal service districts. The city council may, in accordance with G.S. 158-7.1, et seq., make appropriations and authorize economic incentives for the purposes of aiding and encouraging residential development projects within the city in a municipal service district established pursuant to Article 23 of Chapter 160A of the General Statutes which, in the discretion of the city council, is likely to have a significant effect on the economic revitalization of that district.

In connection with the foregoing, the city council may make loans and grants from public funds for revitalization projects that will have a significant revitalization effect on the city."

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

In the General Assembly read three times and ratified this the 29th day of June, 2010.

Became law on the date it was ratified.

Session Law 2010-26

S.B. 1135

AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE TOWN OF RED OAK AND REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE CITY OF ROCKY MOUNT.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is removed from the corporate limits of the Town of Red Oak:

BEGINNING at a point located in the western right-of-way line of SR 1646 (Northern Nash Road) being the southeast property corner of Lot 8 of Richwood Subdivision and the northwest corner of Lot 1 of Northern Estates Subdivision thence from said beginning point along the property line of Lot 8 of Richwood Subdivision with Lots 1, 2, 3 and 4 of Northern Estates Subdivision south 87 degrees 31 minutes 09 seconds west 400.00 feet to an iron stake cornering, thence along the property line of Lots 7, 8, and 9 of Richwood Subdivision north 01 degrees 17 minutes 26 seconds west 213.62 feet to an iron stake corner of Lots 6 and 7 in the line of Lot 9 Richwood Subdivision cornering, thence along the line of lots 6 and 7 of Richwood Subdivision north 87 degrees 56 minutes 58 seconds East 400.20 feet to

an iron stake corner of Lots 6 and 7 Richwood Subdivision located in the western right-of-way of SR 1646 (Northern Nash Road) cornering, thence along the western right-of-way line of SR 1646 (Northern Nash Road) south 01 degrees 13 minutes 18 seconds east 210.62 feet to the point of beginning, containing 1.94 acres and being Lots 7 and 8 as shown on final plat of Phase 2 of Richwood Subdivision, Red Oak Township, Nash County, North Carolina, dated August 22, 1991 and revised October 3, 1991 and October 28, 1991, by Joyner-Keeny & Associates and recorded in Plat Book 20 page 184, Nash County Registry.

SECTION 2. The following described property is removed from the corporate limits of the City of Rocky Mount:

BEGINNING at the southeast corner for Susan S. Pierce, having state plane coordinates of (786018.99, 2345687.32) thence along the Pierce property line south 89 degrees 36 minutes 38 seconds west 196.25 feet to a point; thence north 2 degrees 11 minutes 1 second west 97.70 feet to a point; thence north 87 degrees 55 minutes 46 seconds east 197.75 feet to a point in the western right-of-way of Pridgen Road; thence along the western right-of-way of Pridgen Road south 01 degree 18 minutes 00 seconds east 103.47 feet to the point of beginning and containing 0.45 acres.

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

In the General Assembly read three times and ratified this the 30th day of June, 2010.

Became law on the date it was ratified.

Session Law 2010-27

S.B. 1389

AN ACT TO REMOVE CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE CITY OF GRAHAM.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is removed from the corporate limits of the City of Graham:

AREA #1.

Beginning at a point in the center of Jim Minor Road S.R. # 2135, said point also being the Southwestern most corner of Micheal and Carolyn White Trustee as recorded in Deed Book 1035 page 0627, thence with the center of Jim Minor Road S.R. # 2135 North 72 degrees 18 minutes 50 seconds West distance being 185.39 feet to a point, thence North 68 degrees 14 minutes 46 seconds West distance being 409.29 feet to a point in the Southeastern most corner of John A. and wife Darleen J. Church as recorded in Deed Book 1314 page 0633, thence with the Eastern line of said John A., and wife Darleen J. Church as recorded in Deed Book 1314 page 0633 North 22 degrees. 03 minutes. 52 seconds. East distance being 280.21 feet to a point, thence North 09 degrees. 43 minutes. 57 seconds. East distance being 206.98 feet to a point, thence North 81 degrees. 19 minutes. 26 seconds. West distance being 341.40 feet to a point, thence South 08 degrees. 19 minutes. 20 seconds. West distance being 414.51 feet to a point in the center of Jim Minor Road SR# 2135, thence with the centerline of Jim Minor Road SR 2135 North 66 degrees. 48 minutes. 50 seconds. West distance being 247.45 feet to a point, thence North 74 degrees. 31 minutes. 12 seconds. West distance being 138.49 feet to a point, thence North 85 degrees. 00 minutes. 47 seconds. West distance being 142.54 feet to a point, thence South 85 degrees. 22 minutes. 32 seconds. West distance being 153.88 feet to a point, thence South 81 degrees. 25 minutes. 01 second West distance being 694.17 feet to a point, said point being the Southeastern most corner of Ralph H. Scott III and wife Heide W. Scott as recorded in Deed Book 0669 page 0778, thence with the Eastern line of said Ralph H. Scott III and wife Heide W. Scott as recorded in Deed Book 0669 page 0778 North 31 degrees. 45 minutes. 59 seconds. West distance being 924.92 feet to a point, thence with the Northern line of Ralph H. Scott III and wife Heide W. Scott as recorded in Deed Book 0669 page 0778 South 63 degrees. 01 minute. 41 seconds. West distance being 747.98 feet to a point, said point being

on the Eastern line Jack A. Shrader and Reva A. as recorded in Deed Book 0719 page 0086, thence North 11 degrees. 03 minutes. 52 seconds. West distance being 311.99 feet to a point, thence North 24 degrees. 35 minutes. 17 seconds. West distance being 205.78 feet to a point, said point being the Northern most corner of D.T. Wiggins as recorded in Deed Book 0227 page 0488, said point also being in the Southern line of Newton W. Scott III and wife Sandra Y. Scott as recorded in Deed Book 0558 page 0506, thence with the Southern line of said Newton W. Scott III and wife Sandra Y. Scott North 69 degrees. 24 minutes. 02 seconds. East distance being 366.29 feet to a point, said point being the Southwestern most corner of Christen S. Wood A/H James Craig Wood as recorded in Deed Book 1791 page 0749, Thence North 70 degrees. 24 minutes. 48 seconds. East distance being 422.84 feet to a point, Thence North 44 degrees 02 minutes. 23 seconds. East distance being 297.95 feet to a point, Thence North 15 degrees. 14 minutes. 32 seconds. East distance being 271.49 feet to a point, Thence North 15 degrees. 16 minutes. 05 seconds. East distance being 169.94 feet to a point, said point being in the Southern line of Mary Scott Cagle as recorded in Deed Book 0870, page 0633, thence North 84 degrees. 38 minutes. 41 seconds. East distance being 298.55 feet to a point, said point being the Southwestern most corner of Robert W. Scott as recorded in Deed Book 0323 page 0513, thence North 87 degrees. 24 minutes. 11 seconds. East distance being 703.72 feet to a point, thence North 66 degrees. 25 minutes. 05 seconds. East distance being 1,222.41 feet to a point, said point being in the Southern line of Mary Scott Lowdermilk Trustee as recorded in Deed Book 0903 page 0679, Thence with the Southern line of said Mary Scott Lowdermilk Trustee as recorded in Deed Book 903 page 679 South 46 degrees. 59 minutes. 27 seconds. East distance being 67.10 feet to a point, thence North 68 degrees. 40 minutes. 28 seconds. East distance being 194.20 feet to a point, thence North 75 degrees. 31 minutes. 28 seconds. East distance being 170.00 feet to a point, thence South 83 degrees. 06 minutes. 32 seconds. East distance being 212.20 feet to a point, thence South 44 degrees. 49 minutes. 32 seconds. East distance being 225.40 feet to a point, thence North 76 degrees. 22 minutes. 28 seconds. East distance being 134.18 feet to a point, thence South 53 degrees. 09 minutes. 38 seconds. East distance being 1011.64 feet to a point, said point also being The Northern most corner of Edward K. And Iva G. Freshwater as recorded in Deed Book 904 page 218, thence with the Western line of said Edward K. And Iva G. Freshwater as recorded in Deed Book 0904 page 0218 South 69 degrees. 59 minutes. 20 seconds w distance being 481.04 feet to a point, thence South 01 degree. 30 minutes. 24 seconds. East distance being 960.39 feet to a point said point also being the Northeastern most corner of Micheal and Carolyn White Trustee as recorded in Deed Book 1035 page 627, thence with the Northern line of said Micheal and Carolyn white Trustee as recorded in Deed Book 1035 page 627 South 89 degrees. 01 minute, 23 seconds. West distance being 905.38 feet to a point, thence South 06 degrees. 21 minutes. 32 seconds. West distance being 916.34 feet to the point and place of beginning, and containing 167.92 acres, more or less. Ralph and Heide Scott legal description.

AREA #2.

Beginning at an existing iron pipe, said pipe being a point on the Northern property line of R. H. Scott, Jr. As described in Deed Book 676 Page 931 in the Alamance County Register of Deeds, thence departing said point North 25 degrees 27 minutes 44 seconds West a distance of 232.51 feet to an existing iron pipe, said pipe being a point on the Eastern property line of R.J. Brown and D.W. Brown as described in Deed Book 1286 page 268 in the Alamance County Register of Deeds thence departing North 25 degrees 31 minutes 07 seconds West a distance of 253.64 feet to an existing iron pipe, said pipe being a point on the Northern property line of C.M. Brown and P.M. Bunting as described in Deed Book 1536 page 259 as described in the Alamance County Register of Deeds thence North 25 degrees 31 minutes 07 seconds West a distance of 143.59 feet to an existing iron pipe, said pipe being on the Southern property line of Jack A. And Reva A. Schrader as described in Deed Book 719 page 86 in the Alamance County Register of Deeds thence departing said iron the following two courses: 1.) North 25 degrees 31 minutes 07 seconds West a distance of 39.72 feet 2.) North 63 degrees 00 minutes 49 seconds East a distance of 38.01 feet To an existing iron pipe, said pipe being on the

property line of Scott Associates as described in Deed Book 1044 page 467 as described in the Alamance County Register of Deeds thence along said Scott Associates property line the following two courses: 1.) North 63 degrees 01 minute 41 seconds East a distance of 747.98 feet 2.) South 31 degrees 45 minutes 59 seconds East a distance of 245.74 feet To an existing iron pipe, said pipe being on the property line of Ralph H. Scott III and wife Heide W. Scott as described in Book 669 page 778 in The Alamance County Register of Deeds, thence departing said pipe along Ralph H. Scott III Western line the following eight courses: 1.) South 43 degrees 20 minutes 50 seconds West a distance of 49.44 feet 2.) South 73 degrees 46 minutes 51 seconds West a distance of 160.79 feet 3.) South 55 degrees 06 minutes 31 seconds West a distance of 122.92 feet 4.) South 37 degrees 54 minutes 31 seconds West a distance of 111.18 feet 5.) South 28 degrees 26 minutes 46 seconds West a distance of 184.05 feet 6.) South 15 degrees 36 minutes 45 seconds West a distance of 118.11 feet 7.) South 08 degrees 01 minute 21 seconds West a distance of 154.27 feet 8.) South 27 degrees 04 minutes 20 seconds West a distance of 94.98 feet To the point of being having 6.55 acres more or less. C.M. Brown and P.M. Bunting Legal Description.

AREA #3.

Beginning at an existing iron pipe, said pipe being on the Eastern right of way of Jimmy Kerr Road, said pipe also being a point on the Southern property line of J.D. Payne as recorded in Deed Book 1855 Page 497 found in the Alamance County Register of Deeds thence following said Southern property line North 66 degrees 50 minutes 35 seconds West a distance of 235.57 feet to an existing iron pipe thence North 25 degrees 31 minutes 07 seconds West a distance of 143.59 feet to an existing iron pipe, said pipe being on the Southern property line of Jack A. And Reva A. Schrader as described in Deed Book 719 page 86 found in the Alamance County Register of Deeds thence departing said pipe along said Schrader Southern property line South 65 degrees 15 minutes 22 seconds West a distance of 238.10 feet to an existing Iron pipe, said pipe being on said Schrader Southern property line, said point also being on the Eastern right of way of Jimmy Kerr Road thence continuing along said Eastern property line South 26 degree 38 minutes 49 seconds East a distance of 137.13 feet to the point of beginning containing 0.76 acres more or less.

AREA #4.

Beginning at the northeast corner of the Stephen E. & Amy C. Dunlap property as described in Deed Book 929 at Page 851 of the Alamance County Register of Deeds Office, said corner being a point on the southerly sixty (60) foot right-of-way line of Jim Minor Road; thence along said southerly right-of-way line the follow two courses: 1). South 63 degrees 54 minutes 06 seconds East a distance of 121.30 feet to a point; 2). S 62 degrees 51 minutes 36 seconds East a distance of 506.81 feet to the northwest corner of the Courtney Lynn Covington & Alena Fawn Toler property as described in Deed Book 1548 at Page 564 of said Alamance County Registry; thence departing said southerly right-of-way line along the property lines of said Covington and Toler the following three (3) courses: 1). South 09 degrees 49 minutes 49 second West a distance of 428.98 feet to a point; 2). South 79 degrees 45 minutes 51 seconds East a distance of 294.49 feet to a point; 3). North 23 degrees 23 minutes 49 seconds East a distance of 326.16 feet to the point of intersection with said southerly right-of-way line of Jim Minor Road; thence departing said Covington and Toler property along said southerly right-of-way line the following five (5) courses: 1). South 63 degrees 35 minutes 26 seconds East a distance of 97.27 feet to a point; 2). South 79 degrees 06 minutes 01 seconds East a distance of 76.26 feet to a point; 3). South 81 degrees 17 minutes 06 seconds East a distance of 15.64 feet to a point; 4). South 86 degrees 50 minutes 58 seconds East a distance of 206.73 feet to a point; 5). South 87 degrees 02 minutes 22 seconds East a distance of 1070.59 feet to the northwest corner of the Edward K. & Iva G. Freshwater property as described in Deed Book 904 at Page 218 of said Alamance County Registry; thence departing said southerly right-of-way line along the westerly property line of said Freshwater, South 02 degrees 46 minutes 38 seconds West a distance of 267.31 feet to the point of intersection with the northwesterly property line of Ray Naomi T. Estate, c/o Peggy Ray Stout & etal as described in

Deed Book 1637 at Page 770 of said Alamance County Registry; thence along said northwesterly property line South 49 degrees 27 minutes 38 seconds West a distance of 793.25 feet to the most westerly corner of said Ray Naomi T. property; thence South 41 degrees 18 minutes 22 seconds East a distance of 528.00 feet to the most westerly corner of Gordon H. & Cynthia B. Oliver property as described in Deed Book 998 at Page 653 of said Alamance County Registry; thence along the property lines of said Oliver the following two (2) courses: 1). South 41 degrees 18 minutes 22 seconds East a distance of 329.59 feet to a point; 2). South 44 degrees 01 minutes 08 seconds West a distance of 780.30 feet to a northerly corner of the Mona Bowers Riggins property as described in Deed Book 1329 at Page 927 of said Alamance County Registry; thence along the northwesterly property line of said Bowers South 44 degrees 01 minutes 08 seconds West a distance of 432.90 feet to the northeast corner of the Honda Power Equipment Mfg. Inc. property as described in Deed Book 485 at Page 159 of said Alamance County Registry; thence North 61 degrees 12 minutes 52 seconds West a distance of 114.25 feet to the most easterly corner of the Lem Edwards Jr. property as described in Deed Book 94 at Page 333 of said Alamance County Register of Deeds; thence along the property lines of said Edwards the following five (5) courses: North 61 degrees 12 minutes 52 seconds West a distance of 837.75 feet to a point; South 39 degrees 34 minutes 38 seconds West a distance of 247.50 feet to a point; North 31 degrees 07 minutes 00 seconds West a distance of 760.30 feet to a point; North 24 degrees 41 minutes 00 seconds West a distance of 89.30 feet to a point; North 59 degrees 50 minutes 00 seconds West a distance of 274.10 feet to a point; thence continuing along said Edwards line and the northerly property lines of Woodrow W. & Lucille Currin as described in Deed Book 324 at Page 355, and William B. & Lauren B. Guthrie as described in Deed Book 2056 at Page 82, and Christopher R. & Sebrena Norton as described in Deed Book 2041 at Page 368, and Elizabeth M. Magruder as described in Deed Book 1341 at Page 932, and Kenneth Allen Melton as described in Deed Book 2029 at Page 766, and Timothy E. Ingle as described in Deed Book 1073 at Page 174 of said Alamance County Registry the following three (3) courses: 1). North 38 degrees 03 minutes 00 seconds West a distance of 634.00 feet to a point; 2). N 38 degrees 06 minutes 46 seconds West a distance of 300.05 feet to a point; 3). N 53 degrees 29 minutes 43 seconds West a distance of 84.39 feet to the southeast corner of the James Kenneth Jeffreys property as described in Deed Book 379 at Page 556 of said Alamance County Registry; thence along the easterly property lines of said Jeffreys the following three (3) courses: 1). North 49 degrees 47 minutes 29 seconds East a distance of 226.70 feet to a point; 2). North 46 degrees 07 minutes 39 seconds East a distance of 264.93 feet to a point; 3). North 53 degrees 12 minutes 19 seconds East a distance of 341.65 feet to the southeast corner of said Stephen E. & Amy C. Dunlap property; thence along the property lines of said Dunlap the following three (3) courses: 1). North 53 degrees 21 minutes 05 seconds East a distance of 365.66 feet to a point; 2). North 75 degrees 09 minutes 01 seconds West a distance of 172.07 feet to a point; 3). North 23 degrees 02 minutes 59 seconds East a distance of 181.66 feet to the point of beginning, containing 115.6 acres more or less.

SECTION 2. This act has no effect upon the validity of any liens of the City of Graham for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property was still within the corporate limits of the City of Graham.

SECTION 3. This act becomes effective June 30, 2010.

In the General Assembly read three times and ratified this the 30th day of June, 2010.

Became law on the date it was ratified.

Session Law 2010-28

H.B. 337

AN ACT TO REMOVE CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE CITY OF STATESVILLE.

The General Assembly of North Carolina enacts:

SECTION 1. The corporate limits of the City of Statesville are reduced by removing the following described territory:

PARCEL 1:

ALL that certain piece and parcel of land as described in Deed Book 834, Page 527, LESS and EXCEPTING that certain 17.88 ac as described in Deed Book 847 Page 906, Iredell County Registry.

PARCEL 2:

BEGINNING at an existing iron, Twin Oaks Golf Course corner in the line of Anne Ponce, and runs from the beginning with the line of said Ponce and continuing with the line of Gillespie, North 83 deg. 30 min. 35 sec. West 921.36 feet to an existing iron, Gillespie's corner; thence with the line of said Gillespie, South 2 deg. 30 min. West 209.58 feet to an existing iron, common corners of Gillespie and Willie Belle Corry; thence with the new line of Willie Belle Corry, South 06 deg. 59 min. 40 sec. West 40.62 feet to the Northwestern corner of a 5.23 acre tract being conveyed to Charles Y. Corry and wife, by deed dated June 10, 1977; thence with the line of said Charles Y. Corry and wife, South 83 deg. 30 min. 35 sec. East 905.48 feet to the Northeastern corner of said Charles Y. Corry and wife in the line of the Twin Oaks Golf Course Property; thence with the line of said Golf Course Property; North 06 deg. 52 min. 10 sec. East 249.70 feet to the point of Beginning, containing 5.23 acres, more or less, and being the identical property described as SECOND TRACT in the deed from Willie Belle Corry, Widow, to Ethel Corry Holiday, dated June 10, 1977, and recorded in Deed Book 614, page 175, Iredell County Registry.

PARCEL 3:

BEGINNING at a point in the line of the Twin Oaks Golf Course Property, which point is located South 06 deg. 52 min. 10 sec. West 249.70 feet from an existing iron marking the Twin Oaks Golf Course corner in the line of Anne Ponce, which beginning point is also the Southwestern corner of a 5.23 acre tract being conveyed to Ethel Corry Holiday by deed dated June 10, 1977, and runs thence from the beginning with the line of said Twin Oaks Golf Course Property, South 06 deg. 52 min. 10 sec. West 251.60 feet to a point in said line, which point is located North 06 deg. 51 min. 10 sec. East 547.27 feet from the Northeastern corner of James McCombs as described in Deed Book 574, Page 546, Iredell County Registry, N.C.; thence North 83 deg. 30 min. 35 sec. West 906.03 feet to a stake; thence North 06 deg. 59 min. 40 sec. East 251.60 feet to the Southwestern corner of the 5.23 acre tract being conveyed to Ethel Corry Holiday; thence with the line of said Holiday, South 83 deg. 30 min. 35 sec. East 905.48 feet to the point BEGINNING, containing 5.23 acres, more or less, and being the second tract in the deed from Willie Belle Corry, Widow, to Charles Y. Corry, and wife, Carolyn I. Corry, by deed dated June 10, 1977, and recorded in Book 651, page 362, Deed Records for Iredell County.

Parcel 4:

BEGINNING at the Northwestern corner of James McCombs as described in Deed Book 574, at page 546, in the line of William Stevenson and runs from the beginning with the line of William Stevenson and continuing with a new line of Willie Belle Corry, North 06 deg. 59 min. 40 sec. East 460.20 feet to the Southwestern corner of a 5.23 acre tract being conveyed to Charles Y. Corry and wife by deed of even date; thence with the line of said 5.23 acre tract, South 83 deg. 30 min. 35 sec. East 906.03 feet to the Southeastern corner of said 5.23 acre tract in the line of the Twin Oaks Golf Course Property; thence with the line of said Golf Course Property, South 06 deg. 52 min. 10 sec. West 547.27 feet to the Northeastern corner of James McCombs; thence with the line of said McCombs North 78 deg. 01 min. 20 sec. West 910.63

feet to the point of BEGINNING, containing 10.48 acres, more or less, according to a survey by R. B. Kestler, Jr., Registered Surveyor, dated December 5, 1967, and being the identical property described as Tract Two in the deed from Willie Belle Corry to Berthaline Corry Danner, dated June 10, 1977, and recorded in Deed Book 608, page 608, Iredell County Registry. For further back title see deed from Berthaline Corry Danner to George Costella Danner dated April 14, 1987, recorded in Book 747, page 377, Iredell County Registry, and deed from Donald L. Corry and wife to George Costella Danner dated October 16, 1987 and recorded in Deed Book 757, page 14, Iredell County Registry.

Parcel 5:

Being all that tract of land containing 17.879 acres by coordinate geometry lying and being in Chambersburg Township, Iredell County, North Carolina bounded by natural boundaries and/or lands owned by and/or in possession of persons as follows: on the east and north by the Woodridge Corporation (formerly Vernon C. Neall, Inc., Deed Book 756, Page 09, Tract III); on the east by NCSR #2319, commonly known as Twin Oaks Road; and on the south by Iredell County (Deed Book 744, Page 570 and Deed Book 816, Page 155); and being more particularly described by courses and distances according to a survey performed in September, 1991 by Municipal Engineering Services Co., P.A., under the direction and supervision of C. Neal Bare, RLS L-2425 as follows:

BEGINNING on an iron found at the northeast corner of Iredell County property (Deed Book 744, Page 570) at North 34 degrees 17 minutes 05 seconds East (NC Grid) 4859.19 feet (Horizontal Surface) from USGS Control Monument "Third" N.A.D. 1983 X=443,954.051m Y=224,594.659m; thence from the point of BEGINNING and along the dividing boundary line between said county and the aforesaid Woodridge Corporation properties the following six (6) courses and distances: (1) South 65 degrees 42 minutes 34 seconds West 226.09 feet to an iron found; (2) South 36 degrees 29 minutes 07 seconds East 17.44 feet to an iron found; (3) South 71 degrees 37 minutes 09 seconds West 613.56 feet to an iron found; (4) North 84 degrees 33 minutes 36 seconds West 1475.82 feet to an iron found in the eastern boundary of the Iredell County property (Deed Book 816, Page 155); (5) North 04 degrees 47 minutes 49 seconds East 153.67 feet to an iron found; and (6) South 85 degrees 10 minutes 10 seconds West 143.53 feet to an iron found at North 75 degrees 53 minutes 06 seconds East 127.05 feet from an iron rebar found; thence along a new line North 74 degrees 50 minutes 30 seconds West 16.30 feet to a point in the centerline of a branch, a tributary to Fourth Creek: thence down and along the center of said branch the following 44 courses and distances:

- (1) North 30 degrees 05' 20" East 68.93'
- (2) North 49 degrees 48' 58" East 95.27'
- (3) North 54 degrees 56' 35" East 32.82'
- (4) North 29 degrees 36' 14" West 36.47'
- (5) North 69 degrees 01' 50" East 48.97'
- (6) North 44 degrees 50' 34" East 66.31'
- (7) North 74 degrees 01' 10" East 47.39'
- (8) North 18 degrees 18' 37" East 40.62'
- (9) North 76 degrees 25' 34" East 26.35'
- (10) South 84 degrees 53' 34" East 70.55'
- (11) North 37 degrees 55' 43" East 39.37'
- (12) South 83 degrees 45' 27" East 43.11'
- (13) South 60 degrees 31' 40" East 58.70'
- (14) South 68 degrees 45' 37" East 84.89'
- (15) South 63 degrees 41' 34" East 50.71'
- (16) South 56 degrees 36' 07" East 79.24'
- (17) South 74 degrees 27' 26" East 26.65'
- (18) South 05 degrees 45' 55" East 18.46'
- (19) South 68 degrees 16' 58" East 39.45'
- (20) North 05 degrees 11' 38" East 17.28'

- (21) North 77 degrees 02' 41" East 68.68'
- (22) North 61 degrees 36' 18" East 73.20'
- (23) South 78 degrees 08' 23" East 94.64'
- (24) South 81 degrees 39' 16" East 63.60'
- (25) North 87 degrees 22' 49" East 92.50'
- (26) South 47 degrees 27' 07" East 31.12'
- (27) South 85 degrees 32' 39" East 63.50'
- (28) South 74 degrees 30' 37" East 81.08'
- (29) South 68 degrees 02' 43" East 46.47'
- (30) South 78 degrees 14' 03" East 85.81'
- (31) South 88 degrees 33' 01" East 14.86'
- (32) South 83 degrees 20' 10" East 73.94'
- (33) South 59 degrees 22' 07" East 104.35'
- (34) South 62 degrees 48' 13" East 32.53'
- (35) South 63 degrees 57' 32" East 117.55'
- (36) South 72 degrees 47' 30" East 82.60'
- (37) North 63 degrees 14' 58" East 34.48'
- (38) North 63 degrees 04' 52" East 78.04'
- (39) North 40 degrees 45' 50" East 103.59'
- (40) North 87 degrees 43' 58" East 24.62'
- (41) North 25 degrees 58' 17" East 45.02'
- (42) North 76 degrees 39' 57" East 110.44'
- (43) North 77 degrees 47' 04" East 40.61'
- (44) North 51 degrees 12' 29" East 63.73' to an iron set near the end of triple arch culverts carrying said branch under NCSR #2319; thence South 44 degrees 50 minutes 20 seconds East 261.13 feet to the point of BEGINNING.

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

In the General Assembly read three times and ratified this the 30th day of June, 2010.

Became law on the date it was ratified.

Session Law 2010-29

H.B. 1687

AN ACT TO ALLOW THE TOWN OF CASWELL BEACH TO IMPOSE A SEWER TREATMENT FEE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 8 of S.L. 2004-96, as amended by S.L. 2006-54, reads as rewritten:

"**SECTION 8.** This act applies only within the Towns of Caswell Beach, Holden Beach and Oak Island."

SECTION 2. Section 4 of S.L. 2004-96 reads as rewritten:

"**SECTION 4.** Fees. – The fees imposed by the municipality may not exceed the cost of providing the sewer collection facility within the municipality and the cost of the contract with a county or other municipality to provide it with the facilities to transport, treat, and dispose of the municipality's effluent. Said fees shall be imposed on owners of each dwelling unit or parcel of property that could or does benefit from the availability of sewage treatment."

SECTION 3. Section 6 of S.L. 2004-96 reads as rewritten:

"**SECTION 6.** Use of Fees. – The Town shall credit the fees collected within the district to a separate fund to be used only to pay the debt service for the sewer system. The governing board of the municipality shall administer the fund to provide for the payment of said sewer services provided by the ~~county~~ county or other municipality."

SECTION 4. Sections 2 and 3 of this act apply only to the Town of Caswell Beach.

SECTION 5. This act is effective when it becomes law. In the General Assembly read three times and ratified this the 30th day of June, 2010. Became law on the date it was ratified.

Session Law 2010-30

H.B. 1953

AN ACT TO PROVIDE THAT CURRITUCK COUNTY MAY PROHIBIT THE ISSUANCE OF A LAND-USE PERMIT OR A BUILDING PERMIT TO A DELINQUENT TAXPAYER AND TO ALLOW PASQUOTANK COUNTY TO SET THE TAX PREPAYMENT DISCOUNT BY JUNE 30, 2010.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of this act applies to Currituck County only.

SECTION 2. G.S. 153A-340 is amended by adding a new subsection to read:

"§ 153A-340. **Grant of power.**

...
(c2) A county may by ordinance provide that a special use permit or conditional use permit may not be issued under subsection (c1) of this section to a person who owes delinquent property taxes, determined under G.S. 105-360, on property owned by the person. Such ordinance may provide that a special use permit or conditional use permit may be issued to a person protesting the assessment or collection of property taxes."

SECTION 3. G.S. 153A-357(c)(2) reads as rewritten:

"(2) This subsection applies to Alexander, Alleghany, Anson, Bertie, Catawba, Chowan, Currituck, Davie, Gates, Greene, Lenoir, Lincoln, Iredell, Stokes, Surry, Tyrrell, Wayne, and Yadkin Counties only."

SECTION 4. Notwithstanding G.S. 105-360(c)(1), in order to establish a schedule of discounts to be applied to taxes paid prior to the due date prescribed in G.S. 105-360(a), Pasquotank County shall, not later than the 30th day of June preceding the due date of the taxes to which it first applies, adopt a resolution or ordinance specifying the amounts of the discounts and the periods of time during which they are to be applicable.

Any taxpayer who pays 2010 taxes to Pasquotank County prior to the due date and prior to the publishing of the new discount schedule under G.S. 105-360(c)(3) shall be entitled to the discount in effect at the time payment was made.

SECTION 5. This act is effective when it becomes law. Section 4 of this act applies only to the 2010 process of adopting a resolution to set the discount to be applied to taxes paid prior to the due date.

In the General Assembly read three times and ratified this the 30th day of June, 2010. Became law on the date it was ratified.

Session Law 2010-31**S.B. 897****AN ACT TO MODIFY THE CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS APPROPRIATIONS ACT OF 2009 AND FOR OTHER PURPOSES.***The General Assembly of North Carolina enacts:***PART I. INTRODUCTION AND TITLE OF ACT****TITLE OF ACT**

SECTION 1.1. This act shall be known as "The Current Operations and Capital Improvements Appropriations Act of 2010."

INTRODUCTION

SECTION 1.2. The appropriations made in this act are for maximum amounts necessary to provide the services and accomplish the purposes described in the budget. Savings shall be effected where the total amounts appropriated are not required to perform these services and accomplish these purposes and, except as allowed by the State Budget Act, or this act, the savings shall revert to the appropriate fund at the end of each fiscal year as provided in G.S. 143C-1-2(b).

PART II. CURRENT OPERATIONS AND EXPANSION GENERAL FUND**CURRENT OPERATIONS AND EXPANSION/GENERAL FUND**

SECTION 2.1. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated, are adjusted for the fiscal year ending June 30, 2011, according to the schedule that follows. Amounts set out in brackets are reductions from General Fund appropriations for the 2010-2011 fiscal year.

Current Operations – General Fund	2010-2011
EDUCATION	
Community Colleges System Office	\$ 42,668,183
Department of Public Instruction	(275,244,311)
University of North Carolina – Board of Governors	
Appalachian State University	1,998,580
East Carolina University	
Academic Affairs	5,851,230
Elizabeth City State University	750,308
Fayetteville State University	1,417,998
North Carolina Agricultural and Technical State University	2,490,531
North Carolina Central University	370,281
North Carolina State University	
Academic Affairs	12,371,317
UNC School of the Arts	466,240
University of North Carolina at Asheville	782,143
University of North Carolina at Chapel Hill	
Academic Affairs	5,269,319
Health Affairs	125,319

Area Health Education Centers	0
University of North Carolina at Charlotte	7,748,950
University of North Carolina at Greensboro	3,362,001
University of North Carolina at Pembroke	768,400
University of North Carolina at Wilmington	3,435,177
Western Carolina University	1,015,952
Winston-Salem State University	798,672
General Administration	(410,863)
University Institutional Programs	(40,303,905)
Related Educational Programs	10,058,332
UNC Financial Aid Private Colleges	(63,635)
North Carolina School of Science and Mathematics	80,851
UNC Hospitals at Chapel Hill	(8,000,000)
Total University of North Carolina – Board of Governors	\$ 10,383,198

HEALTH AND HUMAN SERVICES

Department of Health and Human Services	
Central Management and Support	\$ (3,523,834)
Division of Aging	100,000
Division of Blind Services/Deaf/HH	(632,912)
Division of Child Development	(34,959,584)
Division of Education Services	(4,093,260)
Division of Health Service Regulation	(2,061,346)
Division of Medical Assistance	(351,830,928)
Division of Mental Health	40,780,659
NC Health Choice	6,444,925
Division of Public Health	(3,933,117)
Division of Social Services	(15,859,792)
Division of Vocational Rehabilitation Services	(1,540,982)
Total Health and Human Services	\$ (371,110,171)

NATURAL AND ECONOMIC RESOURCES

Department of Agriculture and Consumer Services	\$ (179,075)
Department of Commerce	
Commerce	22,270,645
Commerce State-Aid	20,580,564
NC Biotechnology Center	5,000,000
Rural Economic Development Center	3,933,378
Department of Environment and Natural Resources	4,225,974
Department of Environment and Natural Resources – Clean Water Management Trust Fund	0
Department of Labor	(1,102,555)

JUSTICE AND PUBLIC SAFETY

Department of Correction	\$ (41,239,247)
Department of Crime Control and Public Safety	(1,656,592)
Judicial Department	(13,434,355)
Judicial Department – Indigent Defense	(4,431,626)
Department of Justice	(3,004,760)
Department of Juvenile Justice and Delinquency Prevention	(903,138)

GENERAL GOVERNMENT

Department of Administration	\$ (745,126)
Office of Administrative Hearings	(30,000)
Department of State Auditor	(337,033)
Office of State Controller	7,435,411
Department of Cultural Resources	
Cultural Resources	(1,253,146)
Roanoke Island Commission	(115,926)
State Board of Elections	184,869
General Assembly	(2,914,926)
Office of the Governor	
Office of the Governor	(353,359)
Office of State Budget and Management	(373,164)
OSBM – Reserve for Special Appropriations	3,150,693
Housing Finance Agency	(2,500,000)
Department of Insurance	
Insurance	(2,176,454)
Insurance – Volunteer Safety Workers' Compensation	0
Office of Lieutenant Governor	(33,539)
Department of Revenue	(201,183)
Department of Secretary of State	(666,886)
Department of State Treasurer	
State Treasurer	(202,709)
State Treasurer – Retirement for Fire and Rescue Squad Workers	0

RESERVES, ADJUSTMENTS AND DEBT SERVICE

Job Development Investment Grants (JDIG)	(6,600,000)
Debt Service	
General Debt Service	(1,668,313)
TOTAL CURRENT OPERATIONS – GENERAL FUND	\$ (612,644,679)

GENERAL FUND AVAILABILITY STATEMENT

SECTION 2.2.(a) Section 2.2(a) of S.L. 2009-451 is repealed. The General Fund availability used in adjusting the 2010-2011 budget is shown below:

	FY 2010-2011
Unappropriated Balance Remaining from Previous Year	3,702,182
Adjustment from Estimated to Actual FY 2009-2010 Beginning Unreserved Fund Balance	270,080
Beginning Unreserved Fund Balance	3,972,262
 Revenues Based on Existing Tax Structure	 18,199,339,016
 Nontax Revenues	
Investment Income	57,500,000
Judicial Fees	239,100,000
Disproportionate Share	100,000,000
Insurance	67,000,000
Other Nontax Revenues	182,700,000
Highway Trust Fund/Use Tax Reimbursement Transfer	72,800,000
Highway Fund Transfer	17,600,000
Subtotal Nontax Revenues	736,700,000
 Total General Fund Availability	 18,940,011,278
 Adjustments to Availability: Senate Bill 897	
Internal Revenue Code Conformity	(7,700,000)
Unemployment Insurance Refundable Tax Credit	(34,100,000)
Increase Sales Tax Prepayment Threshold	(7,000,000)
Relieve Annual Report Compliance Burden on Small Businesses	(400,000)
Fair Tax Penalties	0
Extend Sunsets on Various Tax Incentives	(3,500,000)
Improve Tax and Debt Collection Process	3,000,000
Modernize Sales Tax on Accommodations	1,700,000
Modernize Admissions Tax and Restore Amenities Exclusion	(700,000)
Reserve for Pending Finance Legislation	(9,800,000)
Reduce Franchise Tax Burden on Construction Companies	(1,500,000)
Department of Revenue Settlement Initiative	110,000,000
Disproportionate Share	35,000,000
Loss of Estate Tax Revenues for FY 2010-2011	(85,000,000)
Increase Justice and Public Safety Fees	13,930,670
Transfer from the Health and Wellness Trust Fund	5,397,000
Transfer Aviation from Department of Commerce to Department of Transportation	(500,000)
Transfer from Wildlife Resources Commission	3,000,000

Divert Funds from Scrap Tire Disposal Account	2,500,000
Divert Funds from White Goods Fund	1,200,000
Transfer from Mercury Pollution Prevention Fund	2,250,000
Transfer from Bladen Lakes Special Fund	150,000
Transfer from DACS – N.C. State Fair	1,000,000
Transfer from ECU Magnetic Resonance Imaging Lease and Equipment Fund	1,000,000
Adjust Transfer from Insurance Regulatory Fund	(2,176,454)
Transfer from Motorfleet Internal Services Fund	14,000,000
Subtotal Adjustments to Availability: Senate Bill 897	41,751,216
Revised General Fund Availability	18,981,762,494
Less General Fund Appropriations	18,958,293,337
Balance Remaining	23,469,157

SECTION 2.2.(b) Notwithstanding the provisions of G.S. 143C-4-3, the State Controller shall not transfer funds to the Repairs and Renovations Reserve Account on June 30, 2010. This subsection becomes effective June 30, 2010.

SECTION 2.2.(c) Notwithstanding G.S. 143C-4-2, the State Controller shall not transfer funds to the Savings Reserve Account on June 30, 2010. This subsection becomes effective June 30, 2010.

SECTION 2.2.(d) Notwithstanding the provisions of G.S. 105-187.19(b), effective for taxes levied during the 2010-2011 fiscal year, the Secretary of Revenue shall credit to the General Fund the net tax proceeds that G.S. 105-187.19(b) directs the Secretary to credit to the Scrap Tire Disposal Account.

SECTION 2.2.(e) Notwithstanding the provisions of G.S. 105-187.24, effective for taxes levied during the 2010-2011 fiscal year, the Secretary of Revenue shall credit to the General Fund the net tax proceeds that G.S. 105-187.24 directs the Secretary to credit to the White Goods Management Account.

SECTION 2.2.(f) Section 2.2(i) of S.L. 2009-451 reads as rewritten:

"SECTION 2.2.(i) Notwithstanding G.S. 143C-9-3, of the funds credited to the Health Trust Account, the sum of ~~five million dollars (\$5,000,000)~~ ten million three hundred ninety-seven thousand dollars (\$10,397,000) that would otherwise be deposited in the Fund Reserve shall be transferred from the Department of State Treasurer, Budget Code 23460 (Health and Wellness Trust Fund), to the State Controller to be deposited in Nontax Budget Code 19978 (Intrastate Transfers) to support General Fund appropriations for the 2009-2010 and 2010-2011 fiscal years. These funds shall be transferred on or after April 30, 2010.

SECTION 2.2.(g) Section 2.2(g) of S.L. 2009-451, as amended by Section 2 of S.L. 2009-575, is repealed.

SECTION 2.2.(h) Notwithstanding any other provision of law to the contrary, effective July 1, 2010, the following amounts shall be transferred to the State Controller to be deposited in Nontax Budget Code 19978 (Intrastate Transfers) or the appropriate budget code as determined by the State Controller. These funds shall be used to support the General Fund appropriations as specified in this act for the 2010-2011 fiscal year.

			FY 2010-2011
Budget Code	Fund Code	Description	Amount
24300	2119	Mercury Pollution Prevention	2,250,000
24300	2221	Forestry – Bladen Lakes	150,000

24350	Wildlife Resources – Special	3,000,000
53750	DACS – NC State Fair	1,000,000.

SECTION 2.2.(i) Section 2.2(h) of S.L. 2009-451 reads as rewritten:

"SECTION 2.2.(h) Notwithstanding G.S. 143C-9-3, of the funds credited to the Tobacco Trust, the sum of five million dollars (\$5,000,000) shall be transferred from the Department of Agriculture and Consumer Services, Budget Code 23703 (Tobacco Trust Fund), to the State Controller to be deposited in Nontax Budget Code 19978 (Intrastate Transfers) to support General Fund appropriations for the ~~2009-2010 and 2010-2011 fiscal years.~~ 2010-2011 fiscal year. These funds shall be transferred on or after April 30, ~~2010-2011.~~"

SECTION 2.2.(j) The Brody School of Medicine (formerly known as the East Carolina University School of Medicine) shall transfer the sum of two million dollars (\$2,000,000) from Budget Code 06067, Fund Code 0142, to the Office of State Controller for deposit to Nontax Budget Code 19978 (Intrastate Transfers) for the 2010-2011 fiscal year.

EXTRAORDINARY MEASURES TO ADDRESS THE POTENTIAL LOSS OF FEDERAL FUNDS

SECTION 2.3.(a) The General Assembly finds that:

- (1) Upon enactment of the State's 2010-2011 fiscal year budget, the Congress of the United States had considered but not authorized the extension of the enhanced federal Medical Assistance Percentage (FMAP), as initially authorized under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5).
- (2) The modifications to the 2010-2011 budget set out in this act include the use of these anticipated federal receipts to offset General Fund appropriations to the Department of Health and Human Services.
- (3) The potential loss of these funds, which may total up to five hundred eighteen million eight hundred ninety-five thousand eight hundred forty-six dollars (\$518,895,846), would create a substantial shortfall in the State's General Fund further straining the General Assembly's efforts to (i) increase economic development activities and job creation, (ii) maintain critical funds for education, and (iii) maintain health care and services for the State's most vulnerable citizens.

SECTION 2.3.(b) If the Congress does not act to authorize all or part of these enhanced FMAP funds prior to January 1, 2011, the General Assembly directs the Director of the Budget, in conjunction with the State Treasurer, State Controller, and other State officials, to effectuate the following extraordinary budget adjustments to the extent necessary to backfill the funds, in priority order:

(1)	Transfer from the Disaster Relief Reserve Fund established in S.L. 2005-1	\$ (30,000,000)
(2)	Transfer of unclaimed lottery prize money and excess receipts	(35,000,000)
(3)	Use of interest from all other funds	(50,000,000)
(4)	Use of balance in General Fund Availability	(23,469,157)
(5)	Reduction of Medicaid Provider rates	(26,618,975)
(6)	Use of funds from the Savings Reserve Fund	(37,307,714)
(7)	Reduction in Retirement System contributions	(139,000,000)
(8)	One percent (1%) Management Flexibility Reduction	(177,500,000)
TOTAL		\$ (518,895,846)

SECTION 2.3.(c) If it is necessary to implement the budget adjustment set out in subdivision (b)(2) of this section:

- (1) Notwithstanding G.S. 18C-162(c)(1), the Office of State Budget and Management shall transfer fiscal year 2010-2011 unclaimed lottery prize money which would otherwise enhance prizes to the State Controller to be deposited in Nontax Budget Code 18878 (Intrastate Transfers) or the appropriate budget code as determined by the State Controller.
- (2) Notwithstanding G.S. 18C-164(f) and Section 5.1 of this act, the Office of State Budget and Management shall transfer fiscal year 2009-2010 lottery receipts in excess of four hundred nineteen million four hundred sixty-three thousand two hundred seventy-two dollars (\$419,463,272) to the State Controller to be deposited in Nontax Budget Code 18878 (Intrastate Transfers) or the appropriate budget code as determined by the State Controller.
- (3) The Director of the Budget and the Lottery Commission shall hold in reserve the funds referenced in subdivisions (1) and (2) of this subsection to ensure proper implementation of this section.

SECTION 2.3.(d) If it is necessary to implement the budget adjustment set out in subdivision (b)(3) of this section, notwithstanding any other provision of law, and unless it is inconsistent with a federal law, grant agreement, or other federal requirement, or with the terms of a gift or settlement agreement, the State Controller shall credit to the General Fund for the 2010-2011 fiscal year the sum of fifty million dollars (\$50,000,000) from the 2010-2011 interest earnings from all governmental and proprietary funds, except for the Highway Fund and the Highway Trust Fund.

SECTION 2.3.(e) If it is necessary to implement the budget adjustment set out in subdivision (b)(4) of this section, the Director of the Budget shall use the unappropriated balance in the General Fund to offset the reduction in federal fund availability, and such funds are hereby appropriated for this purpose. If it is not necessary to expend all of these funds in accordance with subdivision (b)(4) of this section, the State Controller shall transfer the remaining funds to the Savings Reserve Account.

SECTION 2.3.(f) If it is necessary to implement the budget adjustment set out in subdivision (b)(5) of this section, notwithstanding Section 10.68A(a)(8) of S.L. 2009-451, as amended by Section 5A of S.L. 2009-575 and Section 10.35 of this act, the Department of Health and Human Services shall reduce reimbursement rates paid to service providers in the Medicaid program to generate savings of twenty-six million six hundred eighteen thousand nine hundred seventy-five dollars (\$26,618,975).

The rate reduction authorized in this section shall not apply to: federally qualified health clinics, rural health centers, State institutions, hospital inpatient, pharmacies, and the noninflationary components of the case-mix reimbursement system for nursing facilities.

SECTION 2.3.(g) If it is necessary to implement the budget adjustment set out in subdivision (b)(6) of this section, the Office of State Budget and Management shall use up to thirty-seven million three hundred seven thousand seven hundred fourteen dollars (\$37,307,714) from the Savings Reserve Fund to offset the reduction in federal fund availability, and such funds are hereby appropriated for this purpose.

SECTION 2.3.(h) Section 6(c) of S.L. 2009-16, as amended by Section 26.20(b) of S.L. 2009-451, reads as rewritten:

"SECTION 6.(c) Effective July 1, 2010, the State's employer contribution rates budgeted for reserves, retirement and related benefits as percentage of covered salaries for the 2010-2011 fiscal year are: (i) ~~ten and fifty one hundredths percent (10.51%)~~ nine and fifteen hundredths percent (9.15%) – Teachers and State Employees; plus one and thirty-six hundredths percent (1.36%) to a reserve in the Office of State Budget and Management to be transferred to the Retirement System only if not needed as an adjustment as required by Section 2.3(b)(7) of Senate Bill 897, 2009 Regular Session; (ii) ~~fifteen and fifty one hundredths percent (15.51%)~~ fourteen and fifteen hundredths percent (14.15%) – State Law Enforcement Officers; plus one and thirty-six hundredths percent (1.36%) to a reserve in the Office of State Budget

and Management to be transferred to the Retirement System only if not needed as an adjustment as required by Section 2.3(b)(7) of Senate Bill 897, 2009 Regular Session; (iii) twelve and twenty-six hundredths percent (12.26%) – University Employees' Optional Retirement System; (iv) twelve and twenty-six hundredths percent (12.26%) – Community College Optional Retirement Program; (v) twenty and one hundredths percent (20.01%) – Consolidated Judicial Retirement System; and (vi) four and ninety hundredths percent (4.90%) – Legislative Retirement System. Each of the foregoing contribution rates includes four and ninety hundredths percent (4.90%) for hospital and medical benefits. The rate for Teachers and State Employees, State Law Enforcement Officers, Community College Optional Retirement Program, and for the University Employees' Optional Retirement Program includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include sixteen-hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income."

SECTION 2.3.(i) If it is necessary to implement the budget adjustment set out in subdivision (b)(8) of this section, the Director of the Budget shall implement a one percent (1%) annualized management flexibility reduction. Notwithstanding any other provision of law, and unless it is inconsistent with a federal law, grant agreement, or other federal requirement, or with the terms of a gift or settlement agreement, the Director of the Budget may use funds appropriated for any purpose or program and from any governmental or proprietary funds for this purpose.

Effective July 1, 2010, agency heads shall immediately take steps in preparation for a potential one percent (1%) reduction.

SECTION 2.3.(j) If on or after January 1, 2011, Congress passes legislation that restores any portion of the enhanced FMAP funding, these funds shall be used to reverse any of the actions taken pursuant to this section in reverse of the priority order in which the adjustments were made in subsection (b) of this section.

PART III. CURRENT OPERATIONS/HIGHWAY FUND

CURRENT OPERATIONS/HIGHWAY FUND

SECTION 3.1. Appropriations from the State Highway Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated are adjusted for the fiscal year ending June 30, 2011, according to the following schedule. Amounts set out in brackets are reductions from Highway Fund Appropriations for the 2010-2011 fiscal year.

	2010-2011
Department of Transportation	
Administration	\$ (29,344)
Division of Highways	
Administration	0
Construction	3,840,718
Maintenance	(4,373,213)
Planning and Research	0
OSHA Program	0
Ferry Operations	11,349,869
State Aid	
Municipalities	(785,319)
Public Transportation	0

Airports	500,000
Railroads	6,325,000
Governor's Highway Safety Program	0
Division of Motor Vehicles	200,325
Transfers to Other State Agencies, and Reserves	35,861,964
TOTAL	\$ 52,890,000

HIGHWAY FUND AVAILABILITY

SECTION 3.2. Section 3.2 of S.L. 2009-451 is repealed. The Highway Fund availability used in adjusting the 2010-2011 fiscal year budget is shown below:

Highway Fund Availability Statement	2010-2011
Unappropriated Balance from Previous Year	\$0
Beginning Fund Balance	\$0
Estimated Revenue	\$1,792,540,000
Total Highway Fund Availability	\$1,792,540,000
Unappropriated Balance	\$0

PART IV. HIGHWAY TRUST FUND APPROPRIATIONS**CURRENT OPERATIONS/HIGHWAY TRUST FUND**

SECTION 4.1. Appropriations from the State Highway Trust Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated are adjusted for the fiscal year ending June 30, 2011, according to the following schedule. Amounts set out in brackets are reductions from Highway Trust Fund Appropriations for the 2010-2011 fiscal year.

Current Operations – Highway Trust Fund	2010-2011
Intrastate System	4,995,162
Urban Loops	2,019,836
Aid to Municipalities	524,109
Secondary Roads	(170,627)
Program Administration	371,520
North Carolina Turnpike Authority	0
Transfer to General Fund	0
Debt Service	0
TOTAL	7,740,000

HIGHWAY TRUST FUND AVAILABILITY STATEMENT

SECTION 4.2. Section 4.2 of S.L. 2009-451 is repealed. The Highway Trust Fund availability used in developing the 2010-2011 fiscal year budget is shown below:

Total Highway Trust Fund Availability	\$928,730,000
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PART V. OTHER APPROPRIATIONS**EDUCATION LOTTERY**

SECTION 5.1.(a) Pursuant to G.S. 18C-164, the revenue used to support appropriations made in this act is transferred from the State Lottery Fund in the amount of four hundred forty-one million three hundred forty-seven thousand five hundred dollars (\$441,347,500) for the 2010-2011 fiscal year.

SECTION 5.1.(a1) Notwithstanding G.S. 18C-164(b), funds in the amount of sixteen million eight hundred eight thousand seventy-six dollars (\$16,808,076) shall be transferred from the Education Lottery Reserve Fund to the Education Lottery Fund to support appropriations made in this act. These funds shall be allocated for class size reduction.

SECTION 5.1.(b) Notwithstanding G.S. 18C-164, the appropriations made from the Education Lottery Fund pursuant to G.S. 18C-164(d) for the 2010-2011 fiscal year are as follows:

(1)	Class Size Reduction	\$ 220,643,188
(2)	Prekindergarten Program	79,635,709
(3)	Public School Building Capital Fund	113,741,929
(4)	Scholarships for Needy Students	44,134,750
	Total	\$ 458,155,576

SECTION 5.1.(c) Notwithstanding G.S. 18C-164(f) or any other provision of law, excess lottery receipts realized in the 2009-2010 fiscal year in the amount of thirty-one million eight hundred eighty-one thousand forty-six dollars (\$31,881,046) shall be transferred to the Public School Building Capital Fund and allocated on the basis of average daily membership (ADM) to those local school administrative units that did not qualify for funding in the 2009-2010 fiscal year pursuant to G.S. 115C-546.2(d)(2). Notwithstanding G.S. 18C-164(f) or any other provision of law, the balance of the excess lottery revenues realized in the 2009-2010 fiscal year shall be used for scholarships for needy students.

SECTION 5.1.(d) Section 5.2(d) of S.L. 2009-451, as enacted by Section 3N of S.L. 2009-575, is repealed.

SECTION 5.1.(e) Notwithstanding G.S. 18C-164(c), G.S. 115C-546.2(d), or any other provision of law, funds appropriated in this section to the Public School Building Capital Fund for the 2010-2011 fiscal year shall be allocated to counties on the basis of average daily membership (ADM). Counties may authorize local school administrative units to use funds received from the Public School Capital Fund pursuant to subsection (f) of this section for one or more of the following purposes only: (i) for school construction projects in accordance with G.S. 115C-546.2(d), (ii) to retire indebtedness incurred for school construction projects incurred on or after January 1, 2003, in accordance with G.S. 115C-546.2(d), and (iii) for classroom teachers. A county may authorize the use of these funds for classroom teachers only upon the request of the local board of education. Funds used for classroom teachers shall supplement and not supplant existing local current expense funding for the public schools.

These funds shall not be included in the computation of "average per pupil allocation for average daily membership" or "per pupil local current expense appropriation" under G.S. 115C-238.29H.

SECTION 5.1.(f) Notwithstanding G.S. 18C-164(c), Article 35A of Chapter 115C of the General Statutes, or any other provision of law, of the funds appropriated in this section for Scholarships for Needy Students, the sum of twenty-six million six hundred sixty-one thousand forty-six dollars (\$26,661,046) shall be administered in accordance with the policy adopted by the Board of Governors of The University of North Carolina.

SECTION 5.1.(g) Notwithstanding G.S. 18C-164(f), if the actual net lottery revenues for the 2010-2011 fiscal year exceed the amounts appropriated in subsection (b) of this section, the excess net revenues shall be allocated for school capital on the basis of average daily membership.

SECTION 5.1.(h) Subsections (c) and (d) of this section become effective June 30, 2010.

INFORMATION TECHNOLOGY AVAILABILITY AND APPROPRIATION

SECTION 5.2. Section 5.3(b) of S.L. 2009-451 reads as rewritten:

"SECTION 5.3.(b) Appropriations are made from the Information Technology Fund for the 2009-2011 fiscal biennium as follows:

Office of Information Technology Services	FY 2009-2010	FY 2010-2011
Information Technology Operations	\$5,350,000	\$4,990,000
<u>Center for Geographic Information and Analysis</u>		\$740,000
<u>Enterprise Security and Risk Management Office</u>		1,101,296
<u>Enterprise Project Management Office</u>		1,795,000
<u>Architecture and Engineering</u>		648,000
<u>Total Information Technology Operations</u>	<u>\$5,350,000</u>	<u>\$4,284,296</u>
Information Technology Projects	\$4,462,733	\$4,077,467
<u>Enterprise Licensing</u>		\$300,000
<u>State Portal</u>		500,000
<u>Enterprise Identity Management</u>		1,250,000
<u>IT Consolidation</u>		2,079,467
<u>Electronic Forms/Digital Signatures</u>		653,704
<u>Total Information Technology Projects</u>	<u>\$4,462,733</u>	<u>\$4,783,171</u>
Budget and Performance Management System	\$1,021,985	0
Budget/Committee Reporting System	\$500,000	0
Total	\$11,334,718	\$9,067,467"

APPROPRIATION OF CASH BALANCES

SECTION 5.3. Section 5.4 of S.L. 2009-451 reads as rewritten:

"SECTION 5.4.(a) State funds, as defined in G.S. 143C-1-1(d)(25), are appropriated ~~and authorized~~ as provided in G.S. 143C-1-2 for the 2009-2011 fiscal biennium as follows:

- (1) For all budget codes listed in the Base Budget and Performance Management Information sections of "North Carolina State Budget, Recommended Operating Budget 2009-2011, Volumes 1 through 6," and in the Budget Support Document, cash balances and receipts are appropriated up to the amounts specified in Volumes 1 through 6, as adjusted by the General Assembly, for the 2009-2010 fiscal year and the 2010-2011 fiscal year. Funds may be expended only for the programs, purposes, objects, and line items specified in Volumes 1 through 6, or otherwise authorized by the General Assembly. Expansion budget funds listed in those documents are appropriated only as otherwise provided in this act.
- (2) For all budget codes that are not listed in "North Carolina State Budget, Recommended Operating Budget 2009-2011, Volumes 1 through 6," or in the Budget Support Document, cash balances and receipts are appropriated for each year of the 2009-2011 fiscal biennium up to the level of actual expenditures for the ~~2008-2009~~ 2009-2010 fiscal year, unless otherwise provided by law. Funds may be expended only for the programs, purposes, objects, and line items authorized for the ~~2008-2009~~ 2009-2010 fiscal year.

- (3) Notwithstanding subdivisions (1) and (2) of this subsection, any receipts that are required to be used to pay debt service requirements for various outstanding bond issues and certificates of participation are appropriated up to the actual amounts received for the 2009-2010 fiscal year and the 2010-2011 fiscal year and shall be used only to pay debt service requirements.
- (4) Notwithstanding subdivisions (1) and (2) of this subsection, cash balances and receipts of funds that meet the definition issued by the Governmental Accounting Standards Board of a trust or agency fund are appropriated for and in the amounts required to meet the legal requirements of the trust agreement for the 2009-2010 fiscal year and the 2010-2011 fiscal year.

"SECTION 5.4.(b) Receipts collected in a fiscal year in excess of the amounts authorized by this section shall remain unexpended and unencumbered until appropriated by the General Assembly in a subsequent fiscal year, unless the expenditure of overrealized receipts in the fiscal year in which the receipts were collected is authorized by the State Budget Act.

Overrealized receipts are appropriated up to the amounts necessary to implement this subsection.

In addition to the consultation and reporting requirements set out in G.S. 143C-6-4, the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division within 30 days after the end of each quarter on any overrealized receipts approved for expenditure under this subsection by the Director of the Budget. The report shall include the source of the receipt, the amount overrealized, the amount authorized for expenditure, and the rationale for expenditure.

"SECTION 5.4.(c) Notwithstanding subsections (a) and (b) of this section, there is appropriated from the Reserve for Reimbursements to Local Governments and Shared Tax Revenues for each fiscal year an amount equal to the amount of the distributions required by law to be made from that reserve for that fiscal year."

OTHER RECEIPTS FROM PENDING GRANT AWARDS

SECTION 5.4. Section 5.6 of S.L. 2009-451 reads as rewritten:

"SECTION 5.6. Notwithstanding G.S. 143C-6-4, State agencies may, with approval of the Director of the Budget and after consultation with the Joint Legislative Committee on Governmental Operations, spend funds received from grants awarded subsequent to the enactment of this act. The Office of State Budget and Management shall work with the recipient State agencies to budget grant awards according to the annual program needs and within the parameters of the respective granting entities. Depending on the nature of the award, additional State personnel may be employed on a time-limited basis. The Office of State Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations prior to expending any funds received from grant awards. Funds received from such grants are hereby appropriated and shall be incorporated into the ~~certified~~ authorized budget of the recipient State agency."

PART VI. GENERAL PROVISIONS

EXPENDITURE OF FUNDS IN RESERVES LIMITED

SECTION 6.1. All funds appropriated by this act into reserves may be expended only for the purposes for which the reserves were established.

BUDGET CODE CONSOLIDATIONS

SECTION 6.2. Notwithstanding G.S. 143C-6-4, the Office of State Budget and Management may adjust the enacted budget by making transfers among purposes or programs for the purpose of consolidating budget and fund codes or eliminating inactive budget and fund

codes. The Office of State Budget and Management shall change the authorized budget to reflect these adjustments.

BUDGET REALIGNMENT

SECTION 6.3. Notwithstanding G.S. 143C-6-4(b), the Office of State Budget and Management, in consultation with the Office of the State Controller and the Fiscal Research Division, may adjust the enacted budget by making transfers among purposes or programs for the sole purpose of correctly aligning authorized positions and associated operating costs with the appropriate purposes or programs as defined in G.S. 143C-1-1(d)(23). The Office of State Budget and Management shall change the authorized budget to reflect these adjustments only after reporting the proposed adjustments to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. Under no circumstances shall total General Fund expenditures for a State department exceed the amount appropriated to that department from the General Fund for the fiscal year.

ESTABLISHING OR INCREASING FEES PURSUANT TO THIS ACT

SECTION 6.5.(a) Notwithstanding G.S. 12-3.1, an agency is not required to consult with the Joint Legislative Commission on Governmental Operations prior to establishing or increasing a fee as authorized or anticipated in this act.

SECTION 6.5.(b) Notwithstanding G.S. 150B-21.1A(a), an agency may adopt an emergency rule in accordance with G.S. 150B-21.1A to establish or increase a fee as authorized by this act if the adoption of a rule would otherwise be required under Article 2A of Chapter 150B of the General Statutes.

LEGISLATIVE BUDGET PRIORITIES

SECTION 6.6. The General Assembly finds North Carolina's citizens and businesses are suffering from the effects of a significant State, national, and international financial crisis and that this financial crisis has resulted in large reductions in revenues available to fund the State's budget for the upcoming year and in large increases in demand for State services. The General Assembly further finds that, in spite of the reduced revenues, the State must act decisively to create jobs, encourage economic activity to keep our families working, provide job training and higher education opportunities to the citizens of the State, and protect core government services such as health care for the most vulnerable populations and public safety for the citizens of the State; therefore, the General Assembly provides funding for and support of the following initiatives:

- (1) Retention of classroom teachers.
- (2) Tax credits for small businesses.
- (3) Small Business Assistance Fund to make loans available to businesses.
- (4) Preservation of access to health care for vulnerable populations.
- (5) Financial aid to needy college and community college students.
- (6) Full funding for community college enrollment growth to be used to hire additional faculty and student support staff.
- (7) Small Business Centers at community colleges.
- (8) Business Recruitment, Marketing, and Agricultural and Business International Trade funds to create export opportunities and increase investment in North Carolina.
- (9) One North Carolina Small Business matching grants for federal incentives.
- (10) One North Carolina Fund to enhance business recruitment.
- (11) Job Maintenance and Capital Development Fund for employment in Tier 1 counties.
- (12) Wave energy research funding.
- (13) Energy Research Grants that match federal funds for research in energy and green jobs.

- (14) Full funding for the seven Regional Economic Development Commissions.
- (15) Home Grown Jobs to help rural communities compete for businesses.
- (16) Main Street Solutions grants for downtown improvements that support small businesses.
- (17) Biofuels Center working to develop North Carolina's biofuels industry.
- (18) North Carolina Biotechnology Center developing the State's biotechnology industry.
- (19) Indian Economic Development initiatives to assist Indian communities with job creation.
- (20) Family Farm Opportunity and Innovation grants to stimulate jobs and innovation on small farms.
- (21) Got to Be NC Marketing to promote North Carolina agricultural products.
- (22) Agricultural Development and Farmland Preservation funds to sustain working farms and promote agribusiness.
- (23) Natural Gas and Petroleum Exploration to understand the State's natural gas and petroleum potential.
- (24) Restored funding for mental health programs.
- (25) Tar Heel Works Program providing work-based training.
- (26) UNCC Energy Production Infrastructure Center (EPIC).
- (27) ECU Dental School Operations.
- (28) NC A&T/UNC-G Joint School of Nanoscience and Nanoengineering.
- (29) Full funding for Clean Water State Revolving Fund.
- (30) Full funding for Drinking Water State Revolving Fund.
- (31) Minority Support Center funds for loans to small businesses with limited access to credit.
- (32) Tourism Marketing funds to promote North Carolina as a tourist destination.
- (33) In-Source NC creating buyer-supplier networks among businesses in North Carolina.
- (34) Repair and Renovations projects.
- (35) Basic Skills Plus providing accelerated job training for people seeking their high school diploma or its equivalent.
- (36) Minority Male Mentoring Program.

AMEND ARRA FUNDS

SECTION 6.7. Section 6.6C(b) of S.L. 2009-451 reads as rewritten:

"SECTION 6.6C.(b) Appropriation of ARRA Funds. – Funds received from ARRA grants and receipts not specified in this act are hereby appropriated in the amounts provided in the notification of award from the federal government or any entity acting on behalf of the federal government to administer federal ARRA funds. ~~Prior to allocation of funds not expressly delineated in this act, the~~ Within 30 days after notification of the allocation of federal funds, OSBM and affected state State agencies shall consult with report to the Joint Legislative Commission on Governmental Operations. Operations on ARRA grants received that are not expressly delineated in this act."

INFORMATION TECHNOLOGY OPERATIONS

SECTION 6.8. Section 6.7 of S.L. 2009-451 reads as rewritten:

"SECTION 6.7.(a) Office of Information Technology Services Budget. – Notwithstanding G.S. 147-33.88, the Office of Information Technology Services shall develop an annual budget for review and approval by the Office of State Budget and Management in accordance with a schedule prescribed by the Director of the Office of State Budget and Management. The approved Office of Information Technology Services budget shall be included in the Governor's budget recommendations to the General Assembly.

The Office of State Budget and Management shall ensure that State agencies have an opportunity to adjust their budgets based on any rate changes proposed by the Office of Information Technology Services.

"SECTION 6.7.(b) Enterprise Projects. – The State Chief Information Officer shall consult the respective State agency chief information officers to identify specific State agency requirements prior to the initiation of any enterprise ~~project~~ project or contract. State agency requirements shall be incorporated into any enterprise agreement signed by the State Chief Information Officer. Enterprise projects shall not exceed the participating State agencies' ability to financially support the contracts.

The State Chief Information Officer shall not enter into any information technology contracts without obtaining written agreements from participating State agencies regarding apportionment of funding. State agencies agreeing to participate in a contract shall:

- (1) Ensure that sufficient funds are budgeted to support their agreed shares of enterprise agreements throughout the life of the contract.
- (2) Transfer the agreed-upon funds to the Office of Information Technology Services in sufficient time for the Office of Information Technology Services to meet contract requirements.
- (3) Ensure that enterprise project costs are allocated to participating agencies in an equitable manner.

"SECTION 6.7.(c) Notwithstanding the cash management provisions of G.S. 147-86.11, the Office of Information Technology Services may procure information technology goods and services for periods of up to a total of three years where the terms of the procurement contract require payment of all, or a portion, of the contract purchase price at the beginning of the agreement. All of the following conditions shall be met before payment for these agreements may be disbursed:

- (1) Any advance payment complies with the Office of Information Technology Services budget.
- (2) The State Controller receives conclusive evidence that the proposed agreement would be more cost-effective than a multiyear agreement that complies with G.S. 147-86.11.
- (3) The procurement complies in all other aspects with applicable statutes and rules.
- (4) The proposed agreement contains contract terms that protect the financial interests of the State against contractor nonperformance or insolvency through the creation of escrow accounts for funds, source codes, or both, or by any other reasonable means that have legally binding effect.

The Office of State Budget and Management shall ensure the savings from any authorized agreement shall be included in the Office of Information Technology Services calculation of rates before the Office of State Budget and Management annually approves the proposed rates. The Office of Information Technology Services shall report to the Office of State Budget and Management on any State agency budget impacts resulting from multiyear contracts.

The Office of Information Technology Services shall submit a quarterly written report of any authorizations granted under this subsection to the Joint Legislative Oversight Committee on Information Technology and to the Fiscal Research Division.

"SECTION 6.7.(d) State agencies developing and implementing information technology projects shall use the State infrastructure to host their projects. The State Chief Information Officer may grant an exception if the State agency can demonstrate any of the following:

- (1) Using an outside contractor would be more cost-effective for the State.
- (2) The Office of Information Technology Services does not have the technical capabilities required to host the application.
- (3) Valid security requirements preclude the use of State infrastructure, and a contractor can provide a more secure environment.

"SECTION 6.7.(e) Service level agreements developed with supported State agencies shall include metrics for ITS, as well as the supported agencies. When ITS or an agency fails to meet metrics established by the SLA, a report will be provided to the Office of State Budget and Management and the Fiscal Research Division of the General Assembly within 10 days that details the shortfall and provides a corrective action plan with a time line.

"SECTION 6.7.(f) The Office of Information Technology Procurement shall assist State agencies in identifying the least expensive source for the purchase of IT goods and services and shall ensure that agencies receive every available discount when purchasing IT goods and services.

"SECTION 6.7.(g) The State CIO shall ensure that the agency bills from ITS for information technology goods and services are easily understood and fully transparent.

"SECTION 6.7.(h) If a State agency fails to pay its Information Technology Internal Service Fund bills within 30 days of receipt, the Office of State Budget and Management may transfer funds to cover the cost of the bill from that agency to the IT Internal Service Fund."

COORDINATION OF INFORMATION TECHNOLOGY REQUIREMENTS AND GEOGRAPHICAL INFORMATION SYSTEM EFFORTS

SECTION 6.9.(a) The State Chief Information Officer (SCIO), through the Enterprise Program Management Office (EPMO), shall adopt measures to avoid the duplication of information technology capabilities and resources across State agencies. When multiple State agencies require the same or a substantially similar information technology capability, the SCIO shall designate one State agency as the lead to coordinate support and to manage that capability for all State agencies requiring the capability, with the SCIO maintaining oversight of the effort. Further, the EPMO shall:

- (1) Review all ongoing and future information technology projects to determine whether the capabilities required for each project, or the specific requirements comprising a component within a project, already exist in a planned, ongoing, or completed information technology project developed by another State agency.
- (2) When State agencies request approval for new projects determine if the information technology project has transferable applicability to current or future capabilities required by another State agency.
- (3) Upon identifying an existing information technology capability needed by a State agency, assist that agency in determining how best to access existing projects.
- (4) Identify all current instances of duplication and work with the affected State agencies to develop and implement a plan to integrate their efforts. These plans shall be reported to the Joint Legislative Oversight Committee on Information Technology and to the Fiscal Research Division by January 1, 2011.

SECTION 6.9.(b) All State agencies shall coordinate any Geographic Information System (GIS) initiatives through the Center for Geographic Information and Analysis (CGIA) to ensure that they are not duplicating an existing function. The CGIA shall monitor and approve all new GIS-related information technology projects and expansion budget requests. By January 1, 2011, the CGIA shall make a written report to the Joint Legislative Oversight Committee on Information Technology and to the Fiscal Research Division on the results of these efforts.

CRIMINAL JUSTICE LAW ENFORCEMENT AUTOMATED DATA SERVICES (CJLEADS)

SECTION 6.10.(a) The Department of Justice and the Office of the State Controller, in cooperation with the State Chief Information Officer, shall:

- (1) Continue the implementation of the Criminal Justice Data Integration Pilot Program, which is now known as the Criminal Justice Law Enforcement Automated Data Services (CJLEADS), in Wake County;
- (2) Develop a plan to transition CJLEADS to the Department of Justice beginning July 1, 2011, with all the elements of a Type I transfer as defined in G.S. 143A-6; and
- (3) Provide quarterly reports on the status of the Program and the transition plan to the Joint Legislative Oversight Committee on Information Technology beginning October 1, 2010.

The Office of the State Controller shall not expand CJLEADS beyond Wake County without prior coordination with the Department of Justice.

SECTION 6.10.(b) The Department of Justice shall administer CJLEADS with the assistance of a Leadership Council consisting of:

- (1) The Attorney General;
- (2) The Director of Administrative Office of the Courts;
- (3) The Secretary of the Department of Correction;
- (4) The Secretary of Crime Control and Public Safety;
- (5) The Secretary of the Department of Juvenile Justice and Delinquency Prevention;
- (6) The Commissioner of Motor Vehicles, Department of Transportation;
- (7) The President of the North Carolina Association of Chiefs of Police;
- (8) The Executive Vice President of the North Carolina Sheriffs' Association, Inc.;
- (9) A representative of the Federal Bureau of Investigation, who shall be a nonvoting member;
- (10) The State Controller; and
- (11) The State Chief Information Officer.

SECTION 6.10.(c) Data that is not classified as a public record under G.S. 132-1 shall not be considered a public record when incorporated into the CJLEADS database.

SECTION 6.10.(d) To maintain the confidentiality requirements attached to the information provided to CJLEADS by the various State and local agencies, each source agency providing data for CJLEADS shall be the sole custodian of the data for the purpose of any request for inspection or copies thereof under Chapter 132 of the General Statutes. CJLEADS shall only allow access to data from the source agencies in accordance with rules adopted by the respective source agencies.

SECTION 6.10.(e) The transfer of the hosting of CJLEADS to the Department of Justice shall be completed by July 1, 2012.

ITS NETWORK INTEGRATION

SECTION 6.11. Section 6.13(c) of S.L. 2009-451, as amended by Sections 3A(b) and 3A(c) of S.L. 2009-575, reads as rewritten:

"SECTION 6.13.(c) Following completion of the feasibility study by the Office of Information and Technology Services and the Office of State Budget and Management, and if the Program Evaluation Division and the Fiscal Research Division can verify that the efficiencies and savings identified in the study are valid, accurate, and substantial enough to justify increased coordination, then the Office of Information Technology Services and MCNC shall develop a plan to identify areas in which it may be feasible to coordinate their operations. The coordination plan shall include at least the following:

- (1) Definition of requirements to achieve statewide integration.
- (2) Detailed information on the allocation of responsibility for each requirement and component.
- (3) An estimate of the associated costs with each requirement or component, including what the costs to each agency would be without coordination.

- (4) Priorities for integration.
- (5) A schedule for implementation.
- (6) Detailed cost information for the development and integration of a single network.
- (7) A governance structure for management and oversight of the network.
- (8) A means for resolution of any issues identified during the feasibility study.

The coordination plan shall be completed by ~~May 1, 2010~~, December 1, 2010, and shall be presented to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Oversight Committee on Information Technology."

INFORMATION TECHNOLOGY CONTRACTED PERSONNEL

SECTION 6.12. Section 6.18 of S.L. 2009-451 reads as rewritten:

"SECTION 6.18.(a) Beginning July 1, 2009, and notwithstanding any provision of law to the contrary:

- (1) No contract for information technology personal services, or providing personnel to perform information technology functions, may be established or renewed ~~for any term longer than 12 months unless otherwise specifically required by a contract in effect on June 30, 2009, without the express written approval of the Statewide Information Technology Procurement Office.~~
- (2) Before any State agency, department, or institution may renew a contract position for information technology personnel the State agency must report to the Statewide Information Technology Procurement Office (SITPO), Office of State Budget and Management (OSBM), to the Office of State Personnel (OSP), to the Office of Information Technology Services (ITS), and to the Fiscal Research Division (FRD) of the Legislative Services Office on the justification for the contract. The report shall explain:
 - a. The proposed duration of the contract position. If the contract term is for more than 12 months, why recruitment for an in-house State employee position is not feasible.
 - b. Whether the contract position requires unique skills for which the State has a short-term need.
 - c. Whether the contract position is required by a specific information technology project and if the position will be terminated upon completion of the project.
 - d. The specific work products and completion time lines for the contract position.
- (3) Contract positions subject to this subsection shall be reviewed and approved by the Statewide Information Technology Procurement Office and shall be entered in the project portfolio management tool.
- (4) Once approved, contract positions will be reviewed by the Office of State Personnel to determine what the market rate is for the type of contractor required, as well as to determine the comparable cost for a State employee. Agencies may not exceed the market rate determined by OSP.
- (5) After OSP provides cost data, OSBM must approve funding for the position.
- (6) Whenever a State agency, department, or institution determines that only a contractor can fill a position and the position is required to perform an ongoing function within the agency, the head of the State agency must develop and implement a plan to hire or train a qualified State employee to fill that position within 12 months. Within 60 days of hiring the contractor, this plan shall be forwarded to the Office of State Budget and Management, to the Office of State Personnel, to the Office of Information Technology Services, to the Joint Legislative Oversight Committee on Information

Technology, and to the Fiscal Research Division of the Legislative Services Office.

- (7) Any contract position requiring information technology skills is subject to this provision. OSBM may immediately terminate the funding for any information technology position that is filled without following defined procedures.
- (8) All information technology personnel contracts shall be competitive and shall be subject to competition each time they expire. Exceptions must be approved by ITS, OSP, and OSBM and can only be approved once for a particular individual. Approved exceptions must be immediately reported to the Joint Legislative Oversight Committee on Information Technology and to the Fiscal Research Division of the Legislative Services Office.

"SECTION 6.18.(b) By October 1, 2009, and monthly thereafter, each State agency, department, and institution employing information technology personal services contractors, or personnel to perform information technology functions, shall provide a detailed report on those contracts to the Office of State Budget and Management, to the Office of State Personnel, to the Office of Information Technology Services, to the Joint Legislative Oversight Committee on Information Technology, and to the Fiscal Research Division of the Legislative Services Office. Each State agency's report shall include at least the following:

- (1) For each contracted information technology position:
 - a. The title of the position, a brief synopsis of the essential functions of the position, and how long the position has existed.
 - b. The name of the individual filling the position and the vendor company, if any, that regularly employs that individual.
 - c. The type, start date, and the termination date of the contract.
 - d. The length of time that the individual filling the contracted position has been employed as a contractor.
 - e. The contracted position salary or hourly rate, the number of hours per year, and the total annualized cost of the contracted position.
 - f. The salary and benefits cost for a State employee performing the same function.
 - g. The purchase order number for the position.
 - h. Whether the position can be converted to a State employee position. This determination shall be made by the SITPO.
 - i. When the agency anticipates converting the position to a State employee.
- (2) The total annual cost for information technology contractors and the total annual salary and benefits cost for filling the contract positions with State employees.
- (3) A determination of whether the information technology functions performed by contractors can be performed by State employees, which shall be validated by the Statewide Information Technology Procurement Office.
- (4) All information required by this subsection related to information technology contractors regardless of the contracting source.
- (5) A detailed explanation for any differences between the agency report and the Information Technology Expenditures Report annually published by the Office of the State Controller.

"SECTION 6.18.(c) This section does not apply to The University of North Carolina and its constituent institutions."

FUNDING FOR DATA INTEGRATION ENTERPRISE LICENSING AGREEMENTS

SECTION 6.14.(a) If the cost of data integration enterprise licensing agreements for the 2010-2011 fiscal year is in excess of two million dollars (\$2,000,000), the Office of

Information Technology Services shall recover the excess cost through cost allocation to participating agencies.

SECTION 6.14.(b) The State Chief Information Officer shall develop a plan for the equitable distribution of all costs for executive agency data integration enterprise licensing agreements to the participating agencies. By October 1, 2010, the State Chief Information Officer shall present this plan to the Joint Legislative Oversight Committee on Information Technology and shall provide a copy to Fiscal Research Division.

SECTION 6.14.(c) Beginning with the 2011-2012 fiscal year, all costs for executive agency data integration enterprise licensing agreements shall be allocated to the participating agencies.

NETWORK SECURITY ASSESSMENTS

SECTION 6.15.(a) G.S. 147-33.111 reads as rewritten:

"§ 147-33.111. **State CIO approval of security standards and security assessments.**

(a) Notwithstanding G.S. 143-48.3 or any other provision of law, and except as otherwise provided by this section, all information technology security purchased using State funds, or for use by a State agency or in a State facility, shall be subject to approval by the State Chief Information Officer in accordance with security standards adopted under this Article.

(a1) The State Chief Information Officer shall conduct assessments of network vulnerability, including network penetration or any similar procedure. The State Chief Information Officer may contract with another party or parties to perform the assessments. Detailed reports of the security issues identified shall be kept confidential as provided in G.S. 132-6.1(c).

(b) If the legislative branch, the judicial branch, The University of North Carolina and its constituent institutions, local school administrative units as defined by G.S. 115C-5, or the North Carolina Community Colleges System develop their own security standards, taking into consideration the mission and functions of that entity, that are comparable to or exceed those set by the State Chief Information Officer under this section, then these entities may elect to be governed by their own respective security standards, and approval of the State Chief Information Officer shall not be required before the purchase of information technology security. The State Chief Information Officer shall consult with the legislative branch, the judicial branch, The University of North Carolina and its constituent institutions, local school administrative units, and the North Carolina Community Colleges System in reviewing the security standards adopted by those entities.

(c) Before a State agency may enter into any contract with another party for an assessment of network ~~vulnerability, including network penetration or any similar procedure,~~ vulnerability, the State agency shall notify the State Chief Information Officer and obtain approval of the request. ~~The State Chief Information Officer shall refer the request to the State Auditor for a determination of whether the Auditor's office can perform the assessment and testing. If the State Auditor determines that the Auditor's office can perform the assessment and testing, then the State Chief Information Officer shall authorize the assessment and testing by the Auditor. If the State Auditor determines that the Auditor's office cannot perform the assessment and testing, then with the approval of the State Chief Information Officer and State Auditor, the State agency may enter into a contract with another party for the assessment and testing.~~ If the State agency enters into a contract with another party for assessment and testing, after approval of the State Chief Information Officer, the State agency shall issue public reports on the general results of the reviews. The contractor shall provide the State agency with detailed reports of the security issues identified that shall not be disclosed as provided in G.S. 132-6.1(c). The State agency shall provide the State Chief Information Officer ~~and the State Auditor~~ with copies of the detailed reports that shall not be disclosed as provided in G.S. 132-6.1(c).

(d) Nothing in this section shall be construed to preclude the Office of the State Auditor from assessing the security practices of State information technology systems as part of that Office's duties and responsibilities."

SECTION 6.15.(b) G.S. 147-64.6(c)(18) is repealed.

ENTERPRISE ELECTRONIC FORMS AND DIGITAL SIGNATURES

SECTION 6.17.(a) Under the direction of the State Chief Information Officer (SCIO), the State shall plan, develop, and implement a coordinated enterprise electronic forms and digital signatures capability. In developing this capability, the SCIO shall complete an inventory of paper and electronic forms currently in use by executive branch agencies within the State, determine the cost of converting forms to an electronic format, determine priorities for converting forms, and establish milestones for completing this conversion.

The SCIO's effort shall include integrating executive branch agencies already in the process of developing electronic forms and digital signatures projects. Before beginning this effort, the SCIO shall determine specific agency requirements and incorporate their requirements into its planning efforts.

SECTION 6.17.(b) Beginning October 1, 2010, the SCIO shall present quarterly reports on the status of the project to the Joint Legislative Oversight Committee on Information Technology.

ADDRESS NEEDS FOR BROADBAND FOR EDUCATION AND ECONOMIC DEVELOPMENT/CREATE JOINT BROADBAND TASK FORCE

SECTION 6.18.(a) There is created the Joint Broadband Task Force (Task Force). The purpose of the Task Force is to bring together public and private Internet access providers, legislators, and others to:

- (1) Examine issues related to last mile broadband deployments in the State and to improving the rate at which the general public accesses high-speed broadband.
- (2) Consider incentives and other funding mechanisms to advance last mile deployments.
- (3) Review the best and most cost-effective ways to address the needs of communities and households that lack broadband access.
- (4) Consider any other matters relating to last mile broadband deployment in this State.

SECTION 6.18.(b) The Task Force shall consist of 21 voting members appointed as follows:

- (1) Ten members appointed by the Speaker of the House of Representatives, including:
 - a. Five members of the House of Representatives.
 - b. One representative of the North Carolina League of Municipalities.
 - c. One representative of the North Carolina Association of County Commissioners.
 - d. One representative of a large telephone company that provides high-speed Internet service to 200,000 or more access lines.
 - e. One representative of a wireless high-speed Internet access provider.
 - f. One member of the general public.
- (2) Ten members appointed by the President Pro Tempore of the Senate, including:
 - a. Five members of the Senate.
 - b. One representative of the North Carolina League of Municipalities.
 - c. One representative of the North Carolina Association of County Commissioners.

- d. One representative of a small telephone company that provides high-speed Internet service to less than 200,000 access lines.
 - e. One representative of a cable television company that provides high-speed Internet access.
 - f. One member of the general public.
- (3) One member elected by a vote of the other members of the Task Force from nominees recommended by municipalities providing high-speed Internet access within the State.

SECTION 6.18.(c) The State Chief Information Officer, a member of the Utilities Commission, the Secretary of the Department of Transportation (or the Secretary's designee), and a representative of the e-NC Authority shall serve as nonvoting ex officio members of the Task Force.

SECTION 6.18.(d) The Speaker of the House of Representatives and the President Pro Tempore of the Senate each shall appoint a cochair for the Task Force. The Task Force may contract for consultant services as provided by G.S. 120-32.02. Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to assist in the work of the Task Force. Clerical staff shall be furnished through the offices of the House of Representatives' and the Senate's Directors of Legislative Assistants. The Task Force may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission. The appointing authority shall fill vacancies. The Task Force, while in the discharge of its official duties, may exercise all the powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of the State to provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to them and the power to subpoena witnesses. Members of the Task Force shall receive per diem, subsistence, and travel allowances as follows:

- (1) Members of the General Assembly, at the rate established in G.S. 120-3.1.
- (2) Members who are officials or employees of the State or of local government agencies, at the rate established in G.S. 138-6.
- (3) All other members, at the rate established in G.S. 138-5.

SECTION 6.18.(e) Beginning December 1, 2010, the Task Force shall provide quarterly reports to the Joint Legislative Oversight Committee on Information Technology and shall terminate upon filing its final report.

SMART CARDS FOR EFFICIENCY, ENHANCED SERVICES, AND REDUCED FRAUD

SECTION 6.19. E-procurement receipts, in excess of required vendor payments, up to the sum of one million dollars (\$1,000,000) for the 2010-2011 fiscal year may be used to develop integrated circuit cards, or "smart cards," that have the capability to support financial and health services transactions, particularly validation of the cardholder through the use of biometrics. Development of any such systems shall be coordinated by the State Chief Information Officer with other State agencies (including the Department of Health and Human Services) that have programs for which the use of the cards are appropriate. Beginning October 1, 2010, the State Chief Information Officer shall submit quarterly progress reports to the Joint Legislative Oversight Committee on Information Technology on the implementation of this section.

PART VII. PUBLIC SCHOOLS

FUNDS FOR CHILDREN WITH DISABILITIES

SECTION 7.1. The State Board of Education shall allocate additional funds for children with disabilities on the basis of three thousand five hundred ninety-eight dollars and fifty-five cents (\$3,598.55) per child. Each local school administrative unit shall receive funds for the lesser of (i) all children who are identified as children with disabilities or (ii) twelve and

five-tenths percent (12.5%) of the 2010-2011 allocated average daily membership in the local school administrative unit. The dollar amounts allocated under this section for children with disabilities shall also adjust in accordance with legislative salary increments, retirement rate adjustments, and health benefit adjustments for personnel who serve children with disabilities.

FUNDS FOR ACADEMICALLY GIFTED CHILDREN

SECTION 7.2. The State Board of Education shall allocate additional funds for academically or intellectually gifted children on the basis of one thousand one hundred ninety-two dollars and ninety cents (\$1,192.90) per child. A local school administrative unit shall receive funds for a maximum of four percent (4%) of its 2010-2011 allocated average daily membership, regardless of the number of children identified as academically or intellectually gifted in the unit. The dollar amounts allocated under this section for academically or intellectually gifted children shall also adjust in accordance with legislative salary increments, retirement rate adjustments, and health benefit adjustments for personnel who serve academically or intellectually gifted children.

STATE FISCAL STABILIZATION FUND APPROPRIATION

SECTION 7.3. In order to ensure compliance with the requirements of Title XIV of the American Recovery and Reinvestment Act of 2009 and notwithstanding any other provision of law, the Office of State Budget and Management shall adjust the State Fiscal Stabilization Fund appropriation amounts, including any associated budget reductions, between the State Public School Fund and The University of North Carolina budget to align with the requirements of the North Carolina State Fiscal Stabilization Fund application as amended for 2010-2011. If associated budget reductions are required within the State Public School Fund, the Office of State Budget and Management shall first adjust the Classroom Materials/Instructional Supplies/Equipment allotment prior to adjusting any other allotments within the State Public School Fund.

NORTH CAROLINA VIRTUAL PUBLIC SCHOOLS ALLOTMENT FORMULA

SECTION 7.4.(a) The State Board of Education shall implement an allotment formula for the North Carolina Virtual Public Schools (NCVPS) beginning with the 2010-2011 school year. In accordance with Section 7.16 of S.L. 2006-66, the allotment formula shall create a sustainable source of funding that increases commensurate with student enrollment and recognizes "the extent to which projected enrollment in e-learning courses affects funding required for other allotments that are based on ADM."

SECTION 7.4.(b) The State Board shall use only funds provided through the North Carolina Virtual Public Schools Allotment Formula to fund NCVPS.

SECTION 7.4.(c) The Department of Public Instruction shall take the following steps to implement the North Carolina Virtual Public Schools Allotment Formula:

- (1) Project the unduplicated NCVPS enrollment for each local school administrative unit and for each grade level.
- (2) Divide the projected unduplicated NCVPS enrollment for each unit by six in order to calculate its ADM-equivalent student enrollment in NCVPS.
- (3) Reduce the unit's ADM allotments by seventy-five percent (75%) of its ADM-equivalent student enrollment in NCVPS.
- (4) Transfer a dollar amount equal to seventy-five percent (75%) of the unit's ADM-equivalent student enrollment to NCVPS.

NCVPS shall use the funds transferred to it to provide the NCVPS program at no cost to all students in North Carolina who are enrolled in North Carolina's public schools, Department of Defense schools, and schools operated by the Bureau of Indian Affairs.

SECTION 7.4.(d) NCVPS shall provide only high school courses and shall not provide any courses in physical education.

SECTION 7.4.(e) The Director of NCVPS shall continue to ensure that:

- (1) Course quality standards are established and met.

- (2) All e-learning opportunities offered by State-funded entities to public school students are consolidated under the North Carolina Virtual Public School program, eliminating course duplication.
- (3) All courses offered through NCVPS are aligned to the North Carolina Standard Course of Study.

SECTION 7.4.(f) Funds for the administration of NCVPS shall be capped at a maximum of fifteen percent (15%) per year of the funds transferred to NCVPS.

MORE AT FOUR PROGRAM

SECTION 7.5.(a) The Department of Public Instruction shall continue the implementation of the More at Four prekindergarten program for four-year-olds who are at risk for school failure in all counties. The State prekindergarten program shall serve children who reach the age of four on or before August 31 of that school year and who meet eligibility criteria that indicate a child's risk for school failure. Prekindergarten classrooms shall be operated in public schools, Head Start programs, and licensed child care facilities that choose to participate under procedures defined by the Office of Early Learning within the Department of Public Instruction. All such classrooms shall be subject to the supervision of the Office of Early Learning and shall be operated in accordance with standards adopted by the State Board of Education.

SECTION 7.5.(b) The Office of Early Learning shall specify program standards and requirements addressing:

- (1) Early learning standards and curricula;
- (2) Teacher education and specialized training;
- (3) Teacher in-service training and professional development;
- (4) Maximum class size;
- (5) Staff-child ratio;
- (6) Screenings, referrals, and support services;
- (7) Meals; and
- (8) Monitoring of sites to demonstrate adherence to State programs standards.

SECTION 7.5.(c) The State Board of Education shall submit an annual report no later than March 15 of each year to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Education Oversight Committee, the Senate Appropriations Committee on Education, the House of Representatives Appropriations Subcommittee on Education, the Office of State Budget and Management, and the Fiscal Research Division. The report shall include the following:

- (1) The number of children participating in State prekindergarten.
- (2) The number of children participating in State prekindergarten who have never been served in other early education programs, such as child care, public or private preschool, Head Start, Early Head Start, or early intervention programs.
- (3) The expected State prekindergarten expenditures for the programs and the source of the local contributions.
- (4) The results of an annual evaluation of the program.

SECTION 7.5.(d) The Office of Early Learning shall establish income eligibility requirements for the program not to exceed seventy-five percent (75%) of the State median income. Up to twenty percent (20%) of children enrolled may have family incomes in excess of seventy-five percent (75%) of median income if they have other designated risk factors. Furthermore, any age-eligible child of (i) an active duty member of the armed forces of the United States, including the North Carolina National Guard, State military forces, or a reserve component of the armed forces, who is ordered to active duty by the proper authority within the last 18 months or expected to be ordered within the next 18 months or (ii) a member of the armed forces of the United States, including the North Carolina National Guard, State military

forces, or a reserve component of the armed forces, who was injured or killed while serving on active duty, shall be eligible for the program.

SECTION 7.5.(e) The More at Four program funding shall not supplant any funding for classrooms serving four-year-olds as of the 2005-2006 fiscal year. Support of existing four-year-old classrooms with More at Four program funding shall be permitted when current funding is eliminated, reduced, or redirected as required to meet other specified federal or State mandates.

SECTION 7.5.(f) The Office of Early Learning shall develop a new More at Four funding model to be implemented in the 2010-2011 fiscal year. The per-child funding rates shall be based on participating provider cost structures and shall require a contribution of local resources to support the full cost of providing high quality prekindergarten. The Office of Early Learning shall implement an administrative cap on More at Four program funding and shall establish parameters for allowable administrative costs.

SECTION 7.5.(g) The Office of Early Learning shall contract with an independent research organization not affiliated with the Department of Health and Human Services, the Department of Public Instruction, or the Office of the Governor to produce an annual report to include longitudinal review of the More at Four program and academic, behavioral, and other child-specific outcomes. The review shall include a quasi-experimental research design of a representative sample of children who complete the More at Four program every other year and shall report on their sustained progress until the end of grade 6. The review shall also study a representative sample of children who do not enter the More at Four program but who are of the same grade level and demographic as those who complete the program, and their sustained progress shall also be reviewed until the end of grade 6. The review shall be presented to the Joint Legislative Education Oversight Committee by January 31 of every year.

SECTION 7.5.(h) To consolidate all of the regulatory functions regarding the monitoring of early care and education providers in certain private settings, it is the intent of the General Assembly that the Department of Health and Human Services and the Department of Public Instruction authorize Division of Child Development staff to assume the regulatory functions of the More at Four program in private classroom settings. The Department of Public Instruction shall provide Division of Child Development staff with the training necessary to monitor compliance with the More at Four program. The Division of Child Development shall continue its current licensing functions for those classrooms voluntarily licensed in public settings.

LEADERSHIP ACADEMY

SECTION 7.6. Of the funds appropriated in this act to the Department of Public Instruction for the 2010-2011 fiscal year, up to two hundred thousand dollars (\$200,000) may be used to support a Leadership Academy that provides professional development to principals and assistant principals to address critical areas such as student achievement and teacher recruitment and retention. The Leadership Academy is encouraged to utilize webinars and other technologies to reduce travel expenses and to reach additional participants.

DEPARTMENT OF PUBLIC INSTRUCTION

SECTION 7.7.(a) The Department of Public Instruction is not required to eliminate receipt-supported positions for the 2010-2011 fiscal year.

SECTION 7.7.(b) The Department of Public Instruction shall review expenditures of federal funds for personnel and contracts at the State level. Unless the expenditure is a condition of receiving the funds, the Department shall reallocate the funds to local school administrative units whenever possible.

The Department shall report on the reallocation of these funds to local school administrative units, to the Office of the Governor, the chairs of the House of Representatives Committee on Appropriations and the House of Representatives Appropriations Subcommittee on Education, the chairs of the Senate Committee on Appropriations/Base Budget and the

Senate Appropriations Committee on Education/Higher Education, and the Office of State Budget and Management no later than January 15, 2011.

SECTION 7.7.(c) Notwithstanding G.S. 143C-6-4 or Section 7.14 of S.L. 2009-451, the Department of Public Instruction may, after consultation with the Office of State Budget and Management and the Fiscal Research Division, reorganize if necessary to implement the budget reductions set out in this act. Consultation shall occur prior to requesting budgetary and personnel changes through the budget revision process. The Department shall provide a current organization chart in the consultation process and shall report to the Joint Legislative Commission on Governmental Operations on any reorganization.

CAREER AND COLLEGE – READY, SET, GO!

SECTION 7.8.(a) The State Board of Education shall work with all member institutions of the Education Cabinet and the Joint Governing Boards to focus funding and program priorities to ensure that all North Carolina students graduate prepared to successfully pursue a career or further education. Each Education Cabinet institution shall prioritize the Governor's Ready, Set, Go! initiative and ensure to the extent possible that all students PK-20:

- (1) Are prepared to be successful in school and can successfully progress through PK-20 education. This includes, but is not limited to:
 - a. Establishment of the Governor's Child Advocacy Council to increase ways for all children to come to school healthy and ready to learn;
 - b. Investment in early child development programs like Smart Start and More at Four;
 - c. Investment in smaller class sizes in K-3;
 - d. Implementation of student diagnostics in grades K-3 and 5 to ensure that all students at a minimum possess grade-level reading, writing, and math skills;
 - e. Implementation of student diagnostics for career and college readiness in grades 8 and 11 so students graduate prepared for work, college, or technical training; and
 - f. Implementation of the Student Learning Conditions Survey for grades 7, 9, and 11 that is aligned with the Teacher Working Conditions Survey.
- (2) Receive clear standards and high expectations, and benefit from the best teachers and principals that can most effectively help students reach those standards. This includes, but is not limited to:
 - a. Adoption of the State-led National Common Standards, including Career and College Ready Skills and assessments that prepare students for the global economy;
 - b. Evaluation of Teacher Preparation programs to identify best practices and programs that produce effective teachers;
 - c. Increased access to virtual learning opportunities for students and teachers like those provided through the NC Virtual Public School;
 - d. Increased access to Science, Technology, Engineering and Mathematics (STEM) opportunities;
 - e. Development of leadership academies that recruit and prepare effective principals;
 - f. Development of a PK-20 data system to provide comprehensive information on students;
 - g. Reduction and eventual elimination of low-performing status in North Carolina schools; and
 - h. Job-imbedded professional development for teachers and principals.

- (3) Fully understand and complete the prerequisites for the career, certification, or degree of choice that promotes workforce success. This includes, but is not limited to:
- a. Development of academic boot camps for high school students who need additional support in reading, composition, and math;
 - b. Consolidation of high school transition courses to provide high school students with more college-level or career and technical courses;
 - c. Increased access to virtual college-level and specific career and technical courses for high school students;
 - d. Alignment between high school and college curricula so that all students are prepared for higher education work; and
 - e. Implementation of NCSuccess, a program designed to increase the number of certificates and associate or bachelor's degrees in higher education.

SECTION 7.8.(b) The Education Cabinet shall report by January 15, 2011, to the Office of the Governor, the Joint Governing Boards, and the Joint Education Oversight Committee on its progress toward reaching the Governor's goal that every North Carolina student will graduate ready to be successful in a career, a 2- or 4-year college, or technical training.

SCHOOL CONNECTIVITY INITIATIVE

SECTION 7.9.(a) Section 7.12.(a) of S.L. 2009-451, as rewritten by Section 3E of S.L. 2009-575, is repealed.

SECTION 7.9.(b) Up to three hundred fifty thousand dollars (\$350,000) of the funds for the School Connectivity Initiative may be used for this and subsequent fiscal years by the Office of the Governor for education innovation and the education E-learning portal. These funds may be used to provide services to coordinate e-learning activities across all education agencies and to support the operating of the E-learning portal.

SCHOOL CALENDAR PILOT PROGRAM

SECTION 7.10. Section 7.40 of S.L. 2009-451 reads as rewritten:

"SECTION 7.40. The State Board of Education shall establish a school calendar pilot program in the Wilkes County Schools. The purpose of the pilot program is to determine whether and to what extent a local school administrative unit can save money during this extreme fiscal crisis by consolidating the school calendar.

Notwithstanding G.S. 115C-84.2(a)(1), the school calendar for the 2009-2010 ~~calendar year~~ and the 2010-2011 calendar years for the Wilkes County Schools shall include a minimum of 180 days or 1,000 hours of instruction covering at least nine calendar months. Notwithstanding G.S. 115C-84.2(d), the opening date for students shall not be before August 24.

If the Wilkes County Board of Education adds instructional hours to previously scheduled days under this section, the local school administrative unit is deemed to have a minimum of 180 days of instruction and teachers employed for a 10-month term are deemed to have been employed for the days being made up and shall be compensated as if they had worked the days being made up.

The State Board of Education shall report to the Joint Legislative Education Oversight Committee by March 15, ~~2010~~, 2011, on the administration of the pilot program, cost-savings realized by it, and its impact on student achievement."

NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS (NBPTS) FUNDS

SECTION 7.11.(a) G.S. 115C-296.2(d1) reads as rewritten:

"(d1) Repayment of the Application Fee. – A teacher shall repay the application fee to the State Education Assistance Authority within three years. The commencement of cash repayment shall begin 12 months following the disbursement of the loan funds. The State Education Assistance Authority may forgive the loan upon the death of the teacher or upon an injury deemed to leave the teacher totally and permanently disabled.

All funds appropriated to, or otherwise received by, the Authority to provide loans to teachers pursuant to this section, all funds received as repayment of loans, and all interest earned on these funds shall be placed in a trust fund. This fund shall be used only for loans made pursuant to this section and administrative costs of the Authority."

SECTION 7.11.(b) The State Board of Education shall transfer funds in the amount of three million two hundred seventy-four thousand five hundred dollars (\$3,274,500) from the State Public School Fund to the State Education Assistance Authority for the 2010-2011 fiscal year for NBPTS loans. It is the intent of the General Assembly that these funds are included in the certified budget for the State Education Assistance Authority for the 2011-2012 fiscal year and subsequent fiscal years.

SECTION 7.11.(c) The Joint Legislative Education Oversight Committee is directed to study a National Board Certification Program for Principals in conjunction with the pilot program being developed by the National Board for Professional Teaching Standards. The Committee shall report its recommendation to the 2011 General Assembly by March 1, 2011.

DRIVER EDUCATION

SECTION 7.12. The Highway Safety Research Center Institute of the University of North Carolina at Chapel Hill shall work in collaboration with the Department of Public Instruction and the Governor's Highway Safety Commission to create a standard curriculum to be used for the Driver Education Program in the Department of Public Instruction. The curriculum shall be ready for use in the school year beginning in the fall of 2011 and shall be used for all driver education programs funded with State funds.

PROTECTION OF THE CLASSROOM WHILE MAXIMIZING FLEXIBILITY

SECTION 7.13.(a) Section 7.8 of S.L. 2009-451 reads as rewritten:

"**SECTION 7.8.(a)** The State Board of Education is authorized to adopt emergency rules in accordance with G.S. 150B-21.1A to grant maximum flexibility to local school administrative units regarding the expenditure of State funds. These rules shall not be subject to the limitations on transfers of funds between funding allotment categories set out in G.S. 115C-105.25. These rules:

- (1) Shall authorize the transfer of textbook funds to other allotments to manage funding cuts; and
- (2) Shall not permit the transfer of funds from school-based positions to the central office.

"**SECTION 7.8.(b)** ~~For fiscal years 2009-2010 and 2010-2011, For the 2010-2011 fiscal year, local school administrative units shall make every effort to reduce spending whenever and wherever such budget reductions are appropriate with the goal of to protecting protect direct classroom-services services, and services for students at risk and children with special needs. Local school administrative units shall implement administrative and other operating efficiencies prior to and minimize the dismissal of classroom-based personnel-personnel. Local school administrative units shall maximize federal by maximizing funds received from the including American Recovery and Reinvestment Act of 2009 (ARRA), P.L. 111-5 P.L. 111-5; Keep Our Educators Working Act or any other federal act that provides funding that can be expended on positions; Individuals with Disabilities Act (IDEA); Title I; and Title II funds. Local school administrative units are encouraged to designate all Title I-eligible schools and must maximize attrition prior to the dismissal of classroom-based personnel.~~ Notwithstanding G.S. 115C-301 or any other law, local school administrative units shall have the maximum

flexibility to use allotted teacher positions to maximize student achievement in grades 4-12. Allocation of teachers and class size requirements in grades K-3 shall remain unchanged.

"**SECTION 7.8.(c)** Within 14 days of the date this act becomes law, the State Board of Education shall notify each local school administrative unit and charter school of the amount the unit must reduce from the State General Fund appropriations. The State Board shall determine the amount of the reduction for each unit on the basis of average daily membership.

"**SECTION 7.8.(d)** Each unit shall report to the State Board of Education, the Office of State Budget and Management, and the Department of Public Instruction on the flexibility budget reductions it has identified for the unit, including an explanation of how administrative efficiencies, federal funds, and attrition have been maximized prior to the dismissal of classroom-based personnel, within 30 days of the date this act becomes law.

"**SECTION 7.8.(e)** For the 2010-2011 fiscal year, to the extent that local school administrative units reduce career and technical education spending in order to meet the LEA Adjustment, local school administrative units shall make every effort to reduce spending from Career Technical Education – State: Program Support Funds before making any reductions to Career Technical Education – State: Months of Employment funds."

SECTION 7.13.(b) For the 2010-2011 fiscal year, local boards of education may also implement furloughs in accordance with Section 29.1 of this act to manage funding amounts.

PROBATIONARY TEACHERS

SECTION 7.14.(a) G.S. 115C-325(c)(5) reads as rewritten:

"(5) Consecutive Years of Service. –

- a. If a probationary teacher in a full-time permanent position does not work for at least 120 workdays in a school year because the teacher is on sick leave, disability leave, or both, that school year shall not be deemed to constitute (i) a consecutive year of service for the teacher or (ii) a break in the continuity in consecutive years of service for the teacher.
- b. If a probationary teacher in a full-time permanent position is nonrenewed because of a decrease in the number of positions due to decreased funding, decreased enrollment, or a district reorganization, and is subsequently rehired by the same school system within three years, the intervening years when the teacher was not employed by the local school administrative unit shall not be deemed to constitute (i) a consecutive year of service for the teacher or (ii) a break in the continuity of years of service. However, if at the time of the teacher's nonrenewal for the reasons described in this subsection, the teacher was eligible for career status after being employed four consecutive years pursuant to G.S. 115C-325(c)(1), or one year pursuant to G.S. 115C-325(c)(2), and the board subsequently rehires the teacher within three years, the teacher will be eligible for a career status decision after one additional year of employment. Unless the superintendent unilaterally grants a teacher the benefit set forth in this subsection pursuant to a policy adopted by the board of education for this purpose, the teacher is entitled to such benefit only if the teacher notifies the head of human resources for the local school administrative unit in writing within 60 calendar days after the first day of employment upon being rehired that the teacher was nonrenewed because of a decrease in the number of positions triggered by decreased funding, decreased enrollment, or a district reorganization, and therefore the teacher's nonrenewal did not constitute a break in service for purposes of determining eligibility

for career status. The local school administrative unit shall notify the teacher of the 60-day deadline as described herein in the employment application, contract, or in some other method reasonably calculated to provide the teacher actual notice within 30 calendar days after the first day of employment for the rehired teacher. The burden is on the teacher to submit information establishing that the teacher was nonrenewed because of a decrease in the number of positions triggered by decreased funding, decreased enrollment, or a district reorganization. If the local school administrative unit fails to provide notice to the teacher within this 30-day period, then the teacher's obligation to notify the local school administrative unit within 60 days does not commence until such time that the teacher is notified of the 60-day deadline.

The superintendent or designee will inform the teacher on whether the teacher qualifies for the benefit of this subsection within a reasonable period of time after receiving the information submitted by the teacher. This decision is final and the teacher has no right to a hearing or appeal except that the teacher may petition the board in writing within 10 calendar days after receiving the decision of the superintendent or designee, and the board or board panel shall review the matter on the record and provide the teacher a written decision. Notwithstanding any other provision of law, no appeal to court or otherwise is permitted in regard to the benefits provided under this subsection. This subsection creates no private right of action or basis for any liability on the part of the school system, nor does it create any reemployment rights for a nonrenewed probationary teacher.

The provisions of this subsection also shall apply to a probationary teacher in a full-time permanent position who resigns effective the end of the school year in good standing after receiving documentation that the teacher's position may be eliminated because of a decrease in the number of positions triggered by decreased funding, decreased enrollment, or a district reorganization, and is subsequently rehired by the same school system."

SECTION 7.14.(b) This section is effective when it becomes law and applies to probationary teachers rehired by the same school district beginning in the 2010-2011 school year.

UNIFORM BUDGET FORMAT

SECTION 7.17.(a) G.S. 115C-426(c) reads as rewritten:

- "(c) The uniform budget format shall require the following funds:
- (1) The State Public School Fund.
 - (2) The local current expense fund.
 - (3) The capital outlay fund.

In addition, other funds may be ~~required~~ used to account for reimbursements, including indirect costs, fees for actual costs, tuition, sales tax revenues distributed using the ad valorem method pursuant to G.S. 105-472(b)(2), sales tax refunds, gifts and grants restricted as to use, trust funds, ~~federal grants restricted as to use, federal appropriations made directly to local school administrative units, funds received for prekindergarten programs, and special programs.~~ In addition, the appropriation or use of fund balance or interest income by a local school administrative unit shall not be construed as a local current expense appropriation.

Each local school administrative unit shall maintain those funds shown in the uniform budget format that are applicable to its operations."

SECTION 7.17.(b) Any local school administrative unit (i) that did not fully comply with the provisions of G.S. 115C-238.29H(b) prior to the effective date of this section and (ii) that is subject to a judgment, court order, or binding settlement agreement arising from that noncompliance may make payments required thereunder over a period not to exceed three years.

SECTION 7.17.(c) Subsection (a) of this section applies beginning with the 2010-2011 school year.

DROPOUT PREVENTION GRANTS

SECTION 7.19.(a) Notwithstanding Section 7.13 of S.L. 2009-451, the Department of Public Instruction shall provide grants of five hundred thousand dollars (\$500,000) each to the following three evidence-based operators of dropout prevention initiatives:

- (1) Communities in Schools of North Carolina, Inc., to expand service to existing local programs, enable establishment of new local CIS programs, and, as matching or sustaining funds become available, support the placement of graduation coaches or creation of new Performance Learning Centers (PLCs).
- (2) North Carolina Congress of Parents and Teachers, Incorporated, to implement the PTA Parental Involvement Initiative at additional school sites.
- (3) The Greater Winston-Salem Chamber of Commerce Foundation, Inc., for the implementation of the Community Education Collaborative program.

These grant recipients shall be subject to the oversight, reporting, and evaluation requirements applicable to all other grantees.

SECTION 7.19.(b) The Committee on Dropout Prevention shall identify a minimum of three additional recipients of Dropout Prevention Grants that the Committee feels show promise as statewide models for dropout prevention interventions. The Committee on Dropout Prevention shall report its selected grantees and the reasons why they were chosen to the Joint Legislative Education Oversight Committee and the Joint Legislative Commission on Dropout Prevention and High School Graduation by March 15, 2011.

SECTION 7.19.(c) Section 7.13(b) of S.L. 2009-451 reads as rewritten:

"**SECTION 7.13.(b)** Criteria for Dropout Prevention Grants. – The following criteria apply to all types of dropout prevention grants approved by the Committee:

- ...
- (13) Grants shall be made no later than ~~November 1, 2009~~ November 1, 2010 and subsequent years.

The Committee shall report to the Joint Legislative Commission on Dropout Prevention and High School Graduation and the Joint Legislative Education Oversight Committee on the grants awarded under this section by ~~March 1, 2010~~ March 1, 2010 and annually thereafter."

SECTION 7.19.(d) Section 7.13(c) of S.L. 2009-451 reads as rewritten:

"**SECTION 7.13.(c)** Evaluation. – The Committee shall evaluate the impact of the dropout prevention grants awarded under this section. In evaluating the impact of the grants, the Committee shall consider:

- (1) How grant funds were used, including the services provided for teen pregnancy prevention and for pregnant and parenting teens;
- (2) The success of the program or initiative, as indicated by the evaluation process stated in its grant application;
- (3) The extent to which the program or initiative has improved students' attendance, test scores, persistence, and graduation rates;
- (4) How the program or initiative was coordinated to enhance the effectiveness of existing programs, initiatives, or services in the community;
- (5) What, if any, other resources were used in conjunction with the grant funds;

- (6) The sustainability of the program;
- (7) The number, gender, ethnicity, and grade level of students being served as well as whether the students left school due to pregnancy or parenting responsibilities;
- (8) The potential for the program to serve as a model for achieving successful academic progress for at-risk students; and
- (9) Other indicators of the impact of the grant on dropout prevention.

The recipients of the dropout prevention grants awarded under this section shall report to the Committee on Dropout Prevention by January 31, 2011, ~~and by September 30, 2011, and annually thereafter.~~ The reports shall provide information to assist the Committee in conducting its evaluation. The reports shall include a statement that the recipients used grant funds for the purposes appropriated by the General Assembly and complied with applicable laws, regulations, and terms and conditions of the grant documents. The Committee shall make an interim report of the results of its evaluation of the grants awarded under this section by March 31, 2011, to the Joint Legislative Commission on Dropout Prevention and High School Graduation and to the Joint Legislative Education Oversight Committee. The Committee shall make a final report of the results of its evaluation of the grants awarded under subsection (c) of this section by November 15, 2011, to the Joint Legislative Commission on Dropout Prevention and High School Graduation and to the Joint Legislative Education Oversight Committee."

SECTION 7.19.(e) Section 7.32(e) of S.L. 2007-323, as rewritten by Section 7.14(a) of S.L. 2008-107, reads as rewritten:

"**SECTION 7.32.(e)** Report. – The Committee shall report to the Joint Legislative Commission on Dropout Prevention and High School Graduation created in subsection (f) of this section by December 1, 2007, on the grants awarded under subsection (d) of this section. ~~The Committee shall terminate on December 31, 2010.~~"

SECTION 7.19.(f) Section 7.32(f)(8) of S.L. 2007-323, as rewritten by Section 35.1 of S.L. 2008-181, reads as rewritten:

- "(8) The Commission ~~shall submit an interim written~~ may report of its findings and ~~recommendations on or before the convening of the 2009 Session of the General Assembly. The Commission may submit an interim report, including any recommendations and recommendations, including any proposed legislation, to the Joint Legislative Education Oversight Committee and the General Assembly by May 1, 2010, and shall submit a final written report of its findings and recommendations on or before the convening of the 2011 Session of the General Assembly. Assembly. All reports shall be filed with the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Legislative Librarian. Upon filing its final report, the Commission shall terminate.~~"

SECTION 7.19.(g) Section 7.32(c) of S.L. 2007-323, as rewritten by S.L. 2008-107, reads as rewritten:

"**SECTION 7.32.(c)** Committee. – There is established the Committee on Dropout Prevention. The Committee shall be located administratively in the Department of Public Instruction but shall exercise its powers and duties independently of the Department of Public Instruction. The Department of Public Instruction shall provide for the administrative costs of the Committee and shall provide staff to the Committee.

The Committee shall determine which local school administrative units, schools, agencies, and nonprofits shall receive dropout prevention grants under subsection (d) of this section, the amount of each grant, and eligible uses of the grant funding. The Committee shall consist of the following 15 members:

- (1) The Governor shall appoint five members, of whom one is a superintendent of schools, one is a representative of a nonprofit, and one is a school social worker;

- (2) The General Assembly upon the recommendation of the President Pro Tempore of the Senate shall appoint five members, of whom one is a principal, one is a representative of a school of education, and one is a school counselor; and
- (3) The General Assembly upon the recommendation of the Speaker of the House of Representatives shall appoint five members, of whom one is a teacher, one is a member of the business community, and one is a representative of the juvenile justice system.

The terms of the initial appointees expire December 1, 2010. Subsequent appointees shall serve for four-year terms.

The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Committee. The members of the Committee shall assure they are in compliance with laws and rules governing conflicts of interest."

UNIFORM EDUCATION REPORTING SYSTEM (UERS) FUNDS

SECTION 7.20.(a) Funds appropriated for the Uniform Education Reporting System shall not revert at the end of the 2009-2010 fiscal year.

SECTION 7.20.(b) This section becomes effective June 30, 2010.

COOPERATIVE AND INNOVATIVE HIGH SCHOOLS

SECTION 7.21.(a) G.S. 115C-238.50(e) reads as rewritten:

"(e) Cooperative innovative high school programs may include the creation of a school within a school, a technical high school, ~~or~~ a high school or technical center located on the campus of a college or ~~university~~. university, or a five-year career academy operating as part of an existing high school."

SECTION 7.21.(b) G.S. 115C-238.54 reads as rewritten:

"§ **115C-238.54. Funds for programs.**

(a) The Department of Public Instruction shall assign a school code for each program that is approved under this ~~Part~~. Part, with the exception of a five-year career academy operating as part of an existing high school, which shall continue to use the existing school code. All positions and other State and federal allotments that are generated for this program shall be assigned to that school code. Notwithstanding G.S. 115C-105.25, once funds are assigned to that school code, the local board of education may use these funds for the program and may transfer these funds between funding allotment categories.

(a1) A five-year career academy operating as part of an existing high school shall maintain records to identify and evaluate students enrolled in the five-year career academy program distinct from the general school population.

...."

SECTION 7.21.(c) G.S. 115C-238.50A(3) reads as rewritten:

"(3) Governing board. – ~~The~~ The State Board of Education, the State Board of Community Colleges, the Board of Governors of The University of North Carolina, or the Board of the North Carolina Independent Colleges and Universities."

SECTION 7.21.(d) The Department of Public Instruction shall study the fiscal impacts of the Cooperative and Innovative High School Act (Part 9 of Article 16 of Chapter 115C of the General Statutes). The Department shall report the results of its study to the Joint Legislative Education Oversight Committee and the Fiscal Research Division by March 15, 2011. The report shall include historical data on the number of new schools created each fiscal year attributable to the Cooperative and Innovative High School Act (Part 9 of Article 16 of Chapter 115C of the General Statutes).

SECTION 7.21.(e) The State Board of Education shall not approve any additional schools under the Cooperative and Innovative High School Act (Part 9 of Article 16 of Chapter 115C of the General Statutes) after July 1, 2010, unless the school has received an explicit appropriation from the General Assembly.

SECTION 7.21.(f) Subsections (a) through (c) of this section are effective when this act becomes law and apply beginning with the 2010-2011 school year.

ELIMINATION OF CERTAIN REPORTS

SECTION 7.22.(a) G.S. 115C-301(g) reads as rewritten:

"(g) Waivers and Allotment Adjustments. – Local boards of education shall report exceptions to the State Board of Education as provided in G.S. 115C-47(10), and shall request allotment adjustments or waivers from the standards set out above. Within 45 days of receipt of reports, the State Board of Education, within funds available, may allot additional positions or grant waivers for the excess class size or daily load.

(1) If the exception resulted from (i) exceptional circumstances, emergencies, or acts of God, (ii) large changes in student population, (iii) organizational problems caused by remote geographic location, or (iv) classes organized for a solitary curricular area, and

(2) If the local board cannot organizationally correct the exception.

~~All allotment adjustments and waivers submitted under this provision shall be reported to the Director of the Budget and to the General Assembly by May 15 of each year."~~

SECTION 7.22.(b) Sections 4 through 6 of S.L. 2007-453 are repealed.

SECTION 7.22.(c) Section 7.60 of S.L. 2005-276 is repealed.

SECTION 7.22.(d) Section 7.61(b) of S.L. 2005-276 reads as rewritten:

"SECTION 7.61.(b) To remain eligible for funds appropriated for the At-Risk/Alternative Schools allotment and the Improving Student Accountability allotment, local school administrative units must submit a report to the State Board of Education by October 31 of each year detailing the expenditure of the funds and the impact of these funds on student achievement. ~~The State Board of Education shall report this information annually by October 31 to the Office of State Budget and Management, the Joint Legislative Education Oversight Committee, and the Fiscal Research Division."~~

DISADVANTAGED STUDENTS SUPPLEMENTAL FUNDING

SECTION 7.23. In determining whether to approve a local school administrative unit's plan for the expenditure of funds allocated to it for disadvantaged student supplemental funding, the State Board of Education shall take into consideration the extent to which the local school administrative unit's policies or expenditures have contributed to or is contributing to increased segregation of schools on the basis of race or socioeconomic status.

HIGHER EDUCATION COURSES FOR HIGH SCHOOL STUDENTS

SECTION 7.24.(a) It is the intent of the General Assembly to implement a funding formula in the 2011-2012 school year that will provide money to local school administrative units for the purpose of paying the tuition of high school students taking higher education courses for which tuition is required.

SECTION 7.24.(b) It is the intent of the General Assembly to eliminate the tuition waiver for courses taken by high school students at community colleges set forth in G.S. 115D-5(b) effective July 1, 2011, except for the waiver that applies to students in cooperative innovative high school programs established pursuant to Part 9 of Article 16 of Chapter 115C of the General Statutes. Tuition shall continue to be waived for students in cooperative innovative high school programs.

SECTION 7.24.(c) For the 2011-2012 school year, the North Carolina Community College System General Fund appropriations shall be reduced by an amount calculated by multiplying the number of FTE high school students for whom tuition is required by the per capita budgeted receipts for community college curriculum instruction. This amount of funds shall be transferred to the State Board of Education for distribution to the local school administrative units.

SECTION 7.24.(d) For the 2011-2012 school year, the General Fund appropriation for Learn and Earn Online shall be available to the State Board of Education for distribution to the local school administrative units.

SECTION 7.24.(e) For the 2011-2012 school year, the State Public School Fund shall be reduced by an amount calculated by (i) subtracting the per capita budgeted receipts for community college curriculum instruction from the in-State tuition amount per FTE and (ii) multiplying the result by the number of FTE high school students for whom tuition is required. This amount of funds shall be available to the State Board of Education for distribution to the local school administrative units.

The State Board of Education shall ensure that appropriate and reliable data is collected in order to implement this section.

SECTION 7.24.(f) The amounts transferred to the State Board of Education under subsections (c), (d), and (e) of this section shall be distributed to local school administrative units based on the pro rata share of each local school administrative unit's number of FTE high school students for whom tuition is required.

SECTION 7.24.(g) The amounts allocated to local school administrative units under this section shall not be transferred to other uses and shall only be available for paying the tuition of high school students taking higher education courses for which tuition is required.

SECTION 7.24.(h) Beginning with the 2010-2011 school year, courses provided in (i) general education, except for mathematics, science, and technology, (ii) physical education, and (iii) college success skills courses offered to high school students shall no longer generate State funding through budget FTE. If an institute of higher education offers these courses to high school students, the colleges may charge an amount sufficient to cover the costs of the courses.

This subsection does not apply to courses provided to students of Early and Middle College High Schools.

ENVIRONMENTAL ENGINEER/SUPPORT SERVICES DIVISION

SECTION 7.25. The State Board of Education may use up to two hundred thousand dollars (\$200,000) of funds available to provide an environmental engineer in the Department of Public Instruction, Support Services Division, to address increasing environmental concerns in the public schools of North Carolina.

COMPONENTS OF THE TESTING PROGRAM

SECTION 7.30. G.S. 115C-174.11(a) reads as rewritten:

"(a) Assessment Instruments for First and Second Grades. – The State Board of Education shall adopt and provide to the local school administrative units developmentally appropriate individualized assessment instruments consistent with the Basic Education Program for the first and second grades, rather than standardized tests. Local school administrative units may use these assessment instruments provided to them by the State Board for first and second grade students, and shall not use standardized tests except as required as a condition of receiving a federal grant under the Reading First Program federal grants."

ADDITIONAL FEDERAL FUNDS FOR EDUCATION

SECTION 7.31.(a) Federal funds for local school administrative units that are not specified in this act are hereby appropriated in the amounts provided. To the extent that the federal laws and regulations permit, the Director of the Budget shall use these funds only in the following priority order:

- (1) To eliminate the LEA Adjustment in its entirety.
- (2) To eliminate all reductions to the State Public School Fund provided for in this act.
- (3) To eliminate all reductions to the State Public School Fund provided for in S.L. 2009-451.

(4) For expansion items.

SECTION 7.31.(b) The Director of the Budget shall not reduce any General Fund appropriations to the Department of Public Instruction or to local school administrative units as a result of the receipt of any additional federal funds appropriated in this section.

PART VIII. COMMUNITY COLLEGES

CARRYFORWARD OF COLLEGE INFORMATION SYSTEM FUNDS

SECTION 8.1.(a) Of the funds appropriated to the Community Colleges System Office for the 2009-2011 fiscal biennium for the College Information System, up to one million two hundred fifty thousand dollars (\$1,250,000) shall not revert at the end of each fiscal year but shall remain available until expended. These funds may only be used to purchase periodic system upgrades.

SECTION 8.1.(b) This section becomes effective June 30, 2010.

STATE AID BUDGET FLEXIBILITY

SECTION 8.2. G.S. 115D-31 is amended by adding a new subsection to read:

"(b1) A local community college may use all State funds allocated to it, except for Literacy funds and Customized Training funds, for any authorized purpose that is consistent with the college's Institutional Effectiveness Plan. Each local community college shall include in its Institutional Effectiveness Plan a section on how funding flexibility allows the college to meet the demands of the local community and to maintain a presence in all previously funded categorical programs."

EDUCATION FOR PRISON INMATES

SECTION 8.3.(a) Funds appropriated for community college courses for prison inmates shall be used only for inmates in State prisons. The first priority for the use of these funds shall be to restore the FTE for basic skills courses to the FY 2008-2009 level. Funds not needed for this purpose may be used for continuing education and curriculum courses related to job skills training. These funds shall not be used for Associate of Arts, Associate of Science, or Associate of General Education degrees.

SECTION 8.3.(b) Courses in federal prisons or local jails shall not earn regular budget full-time equivalents, but may be offered on a self-supporting basis.

SECTION 8.3.(c) The Department of Correction and the Community Colleges System Office shall report to the 2011 General Assembly on:

- (1) The implementation of the new funding structure and requirements.
- (2) Strategies for implementing their recommendations to:
 - a. Enhance measurable goals, objectives, and outcomes.
 - b. Enhance and standardize data collection.
 - c. Strengthen the continuum of programming from entry to exit, based on assessment of skills and needs.
 - d. Give individuals the opportunity to use specific skills through work assignments that meet system needs.
 - e. Tailor programs to specific inmate needs.
 - f. Increase Cognitive Behavioral Interventions (CBI) courses.
 - g. Develop an offender-specific human resources development course.
 - h. Explore additional funding sources.
 - i. Explore federal grant for wiring courses.
- (3) Strategies for reasonably limiting the number of courses an individual takes while in prison.

SECTION 8.3.(d) G.S. 115D-5(c) reads as rewritten:

"(c) No course of instruction shall be offered by any community college at State expense or partial State expense to any captive or co-opted group of students, as defined by the State

Board of Community Colleges, without prior approval of the State Board of Community Colleges. All course offerings approved for State prison inmates must be tied to clearly identified job skills, transition needs, or both. Approval by the State Board of Community Colleges shall be presumed to constitute approval of both the course and the group served by that institution. The State Board of Community Colleges may delegate to the President the power to make an initial approval, with final approval to be made by the State Board of Community Colleges. A course taught without such approval will not yield any full-time equivalent students, as defined by the State Board of Community Colleges."

TUITION WAIVERS

SECTION 8.4.(a) G.S. 115D-5(b) reads as rewritten:

"(b) In order to make instruction as accessible as possible to all citizens, the teaching of curricular courses and of noncurricular extension courses at convenient locations away from institution campuses as well as on campuses is authorized and shall be encouraged. A pro rata portion of the established regular tuition rate charged a full-time student shall be charged a part-time student taking any curriculum course. In lieu of any tuition charge, the State Board of Community Colleges shall establish a uniform registration fee, or a schedule of uniform registration fees, to be charged students enrolling in extension courses for which instruction is financed primarily from State funds; ~~provided, however, that the funds.~~ The State Board of Community Colleges may provide by general and uniform regulations for waiver of tuition and registration fees for persons for:

- (1) Persons not enrolled in elementary or secondary schools taking courses leading to a high school diploma or equivalent ~~certificate, for training certificate;~~
- (2) Training courses for (i) volunteer firemen, (ii) local fire department personnel, (iii) volunteer rescue and lifesaving department personnel, (iv) local rescue and lifesaving department personnel, (v) Radio Emergency Associated Citizens Team (REACT) members when the REACT team is under contract to a county as an emergency response agency, ~~local~~ (vi) municipal, county, or State law-enforcement officers, ~~patients in State alcoholic rehabilitation centers,~~ (vii) all full-time custodial employees of the Department of Correction, and (viii) employees of the Department's Division of Community Corrections and employees of the Department of Juvenile Justice and Delinquency Prevention required to be certified under Chapter 17C of the General Statutes and the rules of the Criminal Justice and Training Standards Commission, ~~Commission;~~
- (3) Patients in State alcoholic rehabilitation centers; ~~trainees~~
- (4) Trainees enrolled in courses conducted under the ~~New and Expanding Industry Program,~~ clients Customized Training Program;
- (5) Clients of sheltered ~~workshops,~~ clients ~~workshops;~~
- (6) Clients of adult developmental activity ~~programs,~~ students ~~programs;~~
- (7) Students in Health and Human Services Development ~~Programs,~~ juveniles ~~Programs;~~
- (8) Juveniles of any age committed to the Department of Juvenile Justice and Delinquency Prevention by a court of competent ~~jurisdiction,~~ members ~~jurisdiction;~~
- (9) Members of the North Carolina State Defense Militia as defined in G.S. 127A-5 and as administered under Article 5 of Chapter 127A of the General ~~Statutes, and elementary~~ Statutes;
- (10) Elementary and secondary school employees enrolled in courses in first aid or cardiopulmonary resuscitation (CPR). ~~Provided further, tuition shall be waived for up~~ (CPR);

- (11) Up to six hours of credit instruction and 96 contact hours one course of noncredit instruction per academic semester for senior citizens age 65 or older who are qualified as legal residents of North Carolina. Provided further, tuition shall also be waived for all Carolina;
- (12) All curriculum courses taken by high school students at community colleges, including students in early college and middle college high school programs, in accordance with G.S. 115D-20(4) and this section."section;
- (13) Human resources development courses for any individual who (i) is unemployed; (ii) has received notification of a pending layoff; (iii) is working and is eligible for the Federal Earned Income Tax Credit (FEITC); or (iv) is working and earning wages at or below two hundred percent (200%) of the federal poverty guidelines; and
- (14) Prison inmates."

SECTION 8.4.(b) G.S. 115D-39 is amended by adding a new subsection to read:

"(a1) In addition, any federal law enforcement officer whose permanent duty station is within North Carolina shall also be eligible for the State resident community college tuition rate for law enforcement training courses."

SECTION 8.4.(c) The Community Colleges System Office shall report to the 2011 General Assembly on the number and cost of courses taken by State law enforcement officers and of courses taken by local law enforcement officers.

SECTION 8.4.(d) The Fiscal Research Division, in consultation with the Community Colleges System Office, shall make a comprehensive study of the currently authorized tuition waivers and shall report to the 2011 General Assembly on waivers that should be modified or abolished because they are not being used or for other reasons.

COMMUNITY COLLEGE FINANCIAL AID LOANS

SECTION 8.5.(a) The State Board of Community Colleges shall permanently realign its funding formula by increasing the amount allocated in the funding formula for students' services by fifty million dollars (\$50,000,000) and by reducing the amount in the funding formula for curriculum and continuing education instruction by a commensurate amount. The revised formula shall ensure that community colleges have the adequate funds and resources necessary to administer and provide financial aid services to students.

SECTION 8.5.(b) G.S. 115D-40.1 reads as rewritten:

"§ 115D-40.1. **Financial Assistance for Community College Students.**

(a) **Need-Based Assistance Program.** – It is the intent of the General Assembly that the Community College System make these financial aid funds available to the neediest students who are not eligible for other financial aid programs that fully cover the required educational expenses of these students. The State Board may use some of these funds as short-term loans to students who anticipate receiving the federal HOPE or Lifetime Learning Tax Credits.

(b) **Targeted Assistance.** – Notwithstanding subsection (a) of this section, the State Board may allocate no more than ten percent (10%) of the funds appropriated for Financial Assistance for Community College Students to:

- (1) Students who do not qualify for need-based assistance but who enroll in low-enrollment programs that prepare students for high-demand occupations, and
- (2) Students with disabilities who have been referred by the Division of Vocational Rehabilitation and are enrolled in a community college.

(c) **Administration of Program.** – The State Board shall adopt rules and policies for the disbursement of the financial assistance provided in subsections (a) and (b) of this section. Degree, diploma, and certificate students must complete a Free Application for Federal Student Aid (FAFSA) to be eligible for financial assistance. The State Board may contract with the State Education Assistance Authority for administration of these financial assistance funds.

These funds shall not revert at the end of each fiscal year but shall remain available until expended for need-based financial assistance. The

~~The State Board shall ensure that at least one counselor is available at each college to inform students about federal programs and funds available to assist community college students including, but not limited to, Pell Grants and HOPE and Lifetime Learning Tax Credits and to actively encourage students to utilize these federal programs and funds. The interest earned on the funds provided in subsections (a) and (b) of this section may be used to support the costs of administering the Community College Grant Program.~~

(d) Participation in Federal Loan Programs. – All community colleges shall participate in the William D. Ford Federal Direct Loan Program. The State Board shall ensure that at least one counselor is available at each college to inform students about federal programs and funds available to assist community college students, including, but not limited to, Pell Grants, HOPE and Lifetime Learning Tax Credits, and the William D. Ford Federal Direct Loan Program, and to actively encourage students to utilize these federal programs and funds."

SECTION 8.5.(c) Subsection (b) of this section becomes effective July 1, 2011. The remainder of this section becomes effective July 1, 2010.

TUITION REFUNDS

SECTION 8.6.(a) A refund of community college tuition shall not be made except under the following circumstances:

- (1) A one hundred percent (100%) refund shall be made if the student officially withdraws prior to the first day of class of the academic semester or term as noted in the college calendar. Also, a student is eligible for a 100 percent refund if the class in which the student is officially registered is cancelled due to insufficient enrollment.
- (2) A seventy-five percent (75%) refund shall be made if the student officially withdraws from the class prior to or on the official ten percent (10%) point of the semester.
- (3) For classes beginning at times other than the first week (seven calendar days) of a semester a one hundred percent (100%) refund shall be made if the student officially withdraws from the class prior to the first class meeting. A seventy-five percent (75%) refund shall be made if the student officially withdraws from the class prior to or on the ten percent (10%) point of the class.
- (4) A one hundred percent (100%) refund shall be made if the student officially withdraws from a contact hour class prior to the first day of class of the academic semester or term or if the college cancels the class. A seventy-five percent (75%) shall be made if the student officially withdraws from a contact hour class on or before the tenth calendar day of the class.

SECTION 8.6.(b) To comply with applicable federal regulations regarding refunds, federal regulations supersede the provisions of this section.

SECTION 8.6.(c) Where a student, having paid the required tuition for a semester, dies during that semester (prior to or on the last day of examinations of the college the student was attending), all tuition and fees for that semester may be refunded to the estate of the deceased.

SECTION 8.6.(d) Community colleges shall adopt local refund policies for classes for which they collect receipts which are not required to be deposited into the State Treasury account.

MANAGEMENT FLEXIBILITY REDUCTION/COMMUNITY COLLEGES

SECTION 8.7. Section 8.24 of S.L. 2009-451 reads as rewritten:

"SECTION 8.24. The management flexibility reduction for the North Carolina Community College System shall be allocated by the State Board of Community Colleges in a manner that

accounts for the unique needs of each college and provides for the equitable distribution of funds to the institutions consistent with G.S. 115D-5(a). Before taking reductions to instructional budgets, the community colleges shall consider reducing budgets for senior and middle management personnel and for programs that have both low-enrollment and low-postgraduate success. Colleges shall minimize the impact on student support services and on the retraining of dislocated workers. Colleges shall not reduce funding for the Small Business Centers. The community colleges shall also review their institutional funds to determine whether there are monies available in those funds that can be used to assist with operating costs before taking reductions in instructional budgets."

CATAWBA VALLEY COMMUNITY COLLEGE MANUFACTURING SOLUTIONS CENTER

SECTION 8.8.(a) G.S. 115D-67.2(b)(7) reads as rewritten:

"(7) The Director of the ~~Hosiery Technology Center~~Manufacturing Solutions Center at Catawba Valley Community College who shall serve ex officio as a nonvoting member."

SECTION 8.8.(b) Notwithstanding any other provision of law, all fees collected by the Manufacturing Solutions Center of Catawba Valley Community College for the testing of products shall be retained by the Center and used for the operations of the Center. Purchases made by the Center using these funds are not subject to the provisions of Article 3 of Chapter 143 of the General Statutes.

COMMUNITY COLLEGE EQUIPMENT FUNDS

SECTION 8.9. Of the funds appropriated for the 2010-2011 fiscal year for community college equipment, up to two hundred fifty thousand dollars (\$250,000) may be used for virtual 3-D equipment.

BASIC SKILLS PLUS

SECTION 8.10. Section 8.2 of S.L. 2009-451 reads as rewritten:

~~"SECTION 8.2."~~**SECTION 8.2.(a)** Notwithstanding any other provision of law, a local community college may use up to five percent (5%) of the Literacy Funds allocated to it by the State Board of Community Colleges to procure instructional technology for literacy labs. This technology may include computers, instructional software and software licenses, scanners for testing, and classroom projection equipment. The State Board may also authorize a local community college to use up to twenty percent (20%) of the State Literacy Funds allocated to it to provide employability skills, job-specific occupational and technical skills, and developmental education instruction to students concurrently enrolled in a community college course leading to a high school diploma or equivalent certificate.

"SECTION 8.2.(b) Notwithstanding any other provision of law, if a community college provides employability skills, job-specific occupational or technical skills, or developmental education instruction, to students concurrently enrolled in a community college course leading to a high school diploma or equivalent certificate, the college may waive the tuition and registration fees associated with this instruction."

MULTICAMPUS FUNDS

SECTION 8.11. G.S. 115D-5(o) reads as rewritten:

"(o) The General Assembly finds that additional data are needed to determine the adequacy of multicampus and off-campus center funds; therefore, multicampus colleges and colleges with off-campus centers shall report annually, beginning September 1, 2005, to the Community Colleges System Office on all expenditures by line item of funds used to support their multicampuses and off-campus centers. The Community Colleges System Office shall report on these expenditures to the Education Appropriation Subcommittees of the House of

Representatives and the Senate, the Office of State Budget and Management, and the Fiscal Research Division by December 1 of each year.

The State Board of Community Colleges shall not approve any additional multicampus centers without identified recurring sources of funding."

PART IX. UNIVERSITIES

REPEAL ESCHEAT FUND APPROPRIATION FOR MILLENNIUM TEACHING SCHOLARSHIP LOAN PROGRAM

SECTION 9.1. Section 9.1.(c) of S.L. 2009-451 is repealed.

STUDY FINANCIAL AID CONSOLIDATION

SECTION 9.2.(a) The State Education Assistance Authority, The University of North Carolina, the North Carolina Community College System, and the Fiscal Research Division of the General Assembly shall establish a work group to study jointly the simplification and consolidation of State-funded financial aid for students. North Carolina Independent Colleges and Universities, Inc., shall also be included as a joint member of the work group if it chooses to participate in the study. The State Education Assistance Authority shall be the lead agency for the work group and study.

SECTION 9.2.(b) The purpose of the study is to develop recommendations and options for simplifying and consolidating the delivery of, administration of, and access to State-funded financial aid for students. In conducting the study, the work group shall consider the State's current student financial aid programs and how to consolidate those programs into two categories of State-funded student aid programs: one program that consolidates the State's major need-based programs and one program that consolidates many of the State's scholarship and forgivable loan programs currently available to students who plan to earn degrees and pursue careers in certain professional areas. More specifically the work group shall do the following:

- (1) Design a unified need-based financial aid program that combines at a minimum the following three programs into a single need-based financial aid program: The University of North Carolina Need-Based Grant program, the North Carolina Community College Grant program, and the North Carolina Education Lottery Scholarship program established under Article 35A of Chapter 115C of the General Statutes. Currently each of these programs has its own award criteria, formulas, target populations, and funding sources (Escheat Fund, General Fund, and Lottery Funds). As part of its study, the work group shall determine what the appropriate parameters may be for such a unified program by using models that take into account income, expected family contribution, college expenses, type of college attended, and any other factors the work group deems relevant. In designing the program, the work group shall address the issue of proportionality of funding and shall take into account all of the following in its consideration of that issue: the proportionality of funding that currently exists among The University of North Carolina, the North Carolina Community College System, and the North Carolina private colleges and universities; funding sources; accounting for student enrollment change; monetary differences between certain categories of students and whether based on those monetary differences student financial aid should be based on cost of attendance or tuition and fees. The work group may also consider whether it is appropriate to redefine "need" for purposes of student financial aid and to develop a common formula for the distribution of financial aid and the consequences of any proposed modifications if the decision is made to redefine "need" and develop a common formula. The program shall be designed to: (i) distribute

funds in a manner that is consistent with legislative intent, but more easily understood by potential students, and (ii) retain the ability to track lottery funds.

- (2) Design a "forgivable loans for service" program that combines at a minimum the following existing programs into one consolidated program that focuses on loans for services: the Nurse Educators of Tomorrow; Nurse Scholars Program; Nurse Education Scholarship Loan Program; Board of Governors Medical Scholarship Loans; Board of Governors Dental Scholarship Loans; Health, Science and Mathematics Student Loan Program; Prospective Teacher Scholarship Loan Program; and the Teacher Assistant Scholarship Program. This single consolidated program shall initially focus on two high area needs: teaching and health professions (including nursing, allied health and medical, dental, and pharmacy careers). In designing this program, the work group may consider the current allocation of funds among the various scholarship and forgivable loan programs, whether it would be appropriate to allow the reallocation and award of funds not distributed as forgivable loans in a specific service area to be awarded as forgivable loans in a different service area, and, if so, what procedure and methodology would be appropriate to trigger the reallocation of funds and provide for the distribution of those funds as awards in a different service area.

SECTION 9.2.(c) In addition to the considerations set out in subsection (b) of this section, the work group shall also consider all of the following:

- (1) The time period required to phase out student loans from any of the programs affected by the program consolidation.
- (2) How federal funding may affect student financial aid services.
- (3) How to deal with current recipients of funds from programs affected by the consolidation.
- (4) How to deal with recipients who are paying back loans made through programs affected by the consolidation.
- (5) Whether the State Education Assistance Authority should be authorized to extend the repayment period for forgivable loans in hardship circumstances when a good faith effort has been made to repay the loan in a timely manner, and if so, what the appropriate procedure may be for making that determination and extending the repayment period.
- (6) Whether there are, and if so how to address, any significant abuses of the financial aid system, particularly by persons who intentionally apply for and receive financial aid but who intend to drop out of school after securing financial aid funds.
- (7) Any other issues the work group deems relevant to this study.

SECTION 9.2.(d) The work group shall present its proposed program designs and report its findings and recommendations to the Joint Select Committee on State Funded Student Financial Aid by October 1, 2010. In its report the work group shall also identify options that may vary from the proposed program designs but that are alternatives that the work group determines may also be workable and consistent with the legislative intent of this study. The work group shall also include in the report any legislative changes that may be needed to implement the program designs and work group recommendations.

COORDINATE THE REPORT DUE DATES FOR VARIOUS TEACHER EDUCATION REPORTS

SECTION 9.3.(a) G.S. 116-11 is amended by adding a new subdivision to read:

"(12d) The Board of Governors shall provide a comprehensive annual report on teacher education efforts at The University of North Carolina. The report shall include information about teacher education and recruitment, 2+2

initiatives, distance education programs focused on teacher education, and professional development programs for teachers and school administrators. The teacher education report shall be due on April 15 of each year to the Joint Legislative Education Oversight Committee and the State Board of Education."

SECTION 9.3.(b) G.S. 116-74.21(c) reads as rewritten:

"(c) The Board of Governors shall study the issue of supply and demand of school administrators to determine the number of school administrators to be trained in the programs in each year of the biennium and report the results of this study to the Joint Legislative Education Oversight Committee no later than ~~March 1~~ April 15 annually."

SECTION 9.3.(c) Section 9.7.(c) of S.L. 2008-107 reads as rewritten:

"**SECTION 9.7.(c)** The University of North Carolina and Community Colleges System Office shall report by ~~September 1, 2008, April 15, 2011,~~ and annually thereafter, to the Joint Legislative Education Oversight ~~Commission, Committee,~~ the State Board of Education, the Office of State Budget and Management, and the Fiscal Research Division of the General Assembly on the implementation of the UNC-NCCCS 2+2 E-Learning Initiative. This report shall include:

- (1) The courses and programs within the 2+2 E-Learning Initiative;
- (2) The total number of prospective teachers that have taken or are taking part in this initiative to date broken down by the current academic period and each of the previous academic periods since the program's inception;
- (3) The total number of teachers currently in the State's classrooms, by local school administrative unit, who have taken part in this initiative;
- (4) The change in the number of teachers available to schools since the program's inception;
- (5) The qualitative data from students, teachers, local school administrative unit personnel, university personnel, and community college personnel as to the impact of this initiative on our State's teaching pool; and
- (6) An explanation of the expenditures and collaborative programs between the North Carolina Community College System and The University of North Carolina, including recommendations for improvement."

SECTION 9.3.(d) Section 9.3.(c) of S.L. 2005-276 reads as rewritten:

"**SECTION 9.3.(c)** These results shall be reported by ~~September 1, 2006, April 15, 2011,~~ and annually thereafter to the State Board of Education, the Board of Governors of The University of North Carolina, the State Board of Community Colleges, the Education Cabinet, the Joint Legislative Education Oversight ~~Commission, Committee,~~ and the Office of State Budget and Management."

SECTION 9.3.(e) Section 9.9 of S.L. 2002-126 reads as rewritten:

"**SECTION 9.9.** The Board of Governors of The University of North Carolina may allow Elizabeth City State University, the University of North Carolina at Pembroke, and Western Carolina University each to allocate up to one hundred seventy-eight thousand three hundred eighty dollars (\$178,380) of the funds allocated to them for focused enrollment growth for a maximum of 20 Prospective Teacher Scholars. These funds may be used to recruit new nonresident students to enter into agreements to: (i) pursue a full-time course of study that will lead to teacher certification in North Carolina and (ii) teach in a North Carolina public school or a school operated by the United States government in North Carolina for one year for each year that they receive this benefit. The Board of Governors shall establish guidelines and regulations for this pilot program, including methodology for determining its success in increasing the supply of qualified teachers for North Carolina public schools. The Board shall report its guidelines and regulations to guide these pilot programs to the Joint Legislative Education Oversight Committee by ~~November 15, 2002, April 15, 2011.~~ The Board shall report annually to the Committee on the progress of the pilot programs and their costs."

ELIMINATE BIENNIAL DISTANCE EDUCATION REPORTS

SECTION 9.4. Section 11.7 of S.L. 1998-212 reads as rewritten:

"Section 11.7. This act provides funding to The University of North Carolina Board of Governors for degree-related courses provided away from the campus sites of the constituent institutions of The University of North Carolina. The intent of this commitment is to provide expanded opportunities for higher education to more North Carolina residents, including nontraditional students, and to increase the number of North Carolina residents who earn post-secondary degrees.

These funds shall be used for the provision of off-campus higher education programs, including the costs for the development or adaptation of programs for this purpose, and the funds may be used for the costs of providing space and services at the off-campus sites.

Prior to approving funding for off-campus programs in nursing, the Board shall consult with the central office of the Area Health Education Centers (AHEC) to obtain information about regional needs and priorities and to coordinate funding with AHEC efforts in nursing education.

The Board of Governors shall track these funds separately in order to provide data on the costs of providing these programs, including the different costs for various methods of delivery of educational programs. The Board of Governors shall provide for evaluation of these off-campus programs, including comparisons to the costs and quality of on-campus delivery of similar programs, as well as the impact on access to higher education and the educational attainment levels of North Carolina residents. ~~The Board shall provide a preliminary report to the General Assembly by May 1, 2000, and subsequent evaluations, including recommendations for changes, shall be made at least biennially to the Joint Legislative Education Oversight Committee."~~

REPEAL DUPLICATE STUDY/STATE-FUNDED STUDENT FINANCIAL AID

SECTION 9.5. Section 9.24 of S.L. 2009-451 is repealed.

PERMANENT TRANSFER OF FUNDING TO ROANOKE ISLAND COMMISSION FOR PERFORMING ARTS

SECTION 9.6. Section 9.4 of S.L. 2009-451 reads as rewritten:

"**SECTION 9.4.** The General Assembly finds that in order to expand opportunities for students involved in the performing arts, existing funding for the Summer Institute on Roanoke Island should not be allocated to one specific University of North Carolina institution but instead be allocated directly to the Roanoke Island Commission, so that any interested University of North Carolina institution may have the opportunity to participate in summer arts enrichment and education programs. Therefore, of the funds appropriated by this act to the Board of Governors of The University of North Carolina and allocated to the Summer Institute of the University of North Carolina School of the Arts on Roanoke Island program for the 2009-2011 fiscal biennium, the sum of four hundred sixty-one thousand six hundred forty-six dollars (\$461,646) shall be transferred for the 2009-2010 fiscal year to the Roanoke Island Commission, and the ~~sum of four hundred sixty-one thousand six hundred forty-six dollars (\$461,646) shall be transferred for the 2010-2011 fiscal year to the Roanoke Island Commission.~~ recurring funds appropriated for the 2010-2011 fiscal year to the Board of Governors of The University of North Carolina and allocated to the University of North Carolina School of the Arts for the Summer Institute on Roanoke Island program shall be permanently transferred to the Department of Cultural Resources and allocated to the Roanoke Island Commission. The amount to be transferred shall be equal to the amount of the appropriation remaining after all reductions, prior to and included in the act, are incorporated. The Roanoke Island Commission may use these funds to purchase equipment and to contract with any of the constituent institutions of The University of North Carolina System to provide music and drama students an education in a professional performing environment while providing a public service to the State. Any available funds may be used to contract with

community-based or nonprofit performing arts groups or other performing arts groups supported with State or local funds to provide music and drama on Roanoke Island."

REVIEW OF UNC SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS (STEM) PROGRAMS

SECTION 9.7.(a) In order to assess the effectiveness of the science, technology, engineering, and mathematics (STEM) programs administered by The University of North Carolina, General Administration shall compile a comprehensive list of the programs within The University System whose primary objective is to provide community outreach in the form of either (i) teacher professional development programs to strengthen the quality of science or mathematics instruction in the public schools; or (ii) K-12 student enrichment programs in the areas of science, technology, engineering, or mathematics. The University of North Carolina General Administration shall submit the list of STEM programs compiled pursuant to this subsection to the Office of State Budget and Management and the Fiscal Research Division by February 15, 2011.

At a minimum, all of the following programs shall be included in the list:

- (1) Pre-College and Teacher Professional Development programs administered through the North Carolina Mathematics and Science Education Network (NC-MSEN).
- (2) Summer Ventures Program.
- (3) North Carolina Central University Center for Science, Math and Technology Education.
- (4) Fayetteville State University CHEER Summer Bridges.

SECTION 9.7.(b) The University of North Carolina General Administration shall conduct a review of each of the programs identified pursuant to subsection (a) of this section and shall report the results to the Office of State Budget and Management and the Fiscal Research Division no later than September 30, 2011, to assist with future funding decisions. The report shall contain the following information for each program:

- (1) A description of the program mission, goals, and objectives.
- (2) The statutory objectives for the program if applicable.
- (3) Annual State appropriation and receipt funding for the program.
- (4) Program effectiveness measures for Teacher Professional Development programs to include at a minimum:
 - a. A measure of teachers' classroom effectiveness in STEM areas before and after attending a university professional development program.
 - b. A measure of math and science educators retained as a result of attending a UNC professional development program.
- (5) Program effectiveness measures for student enrichment programs to include at a minimum:
 - a. A measure of students' expected college and career aspirations before and after attending a STEM program.
 - b. A measure of students' math and science performance on standardized tests before and after attending a STEM program.
 - c. A measure of declared STEM majors within the UNC system who attended a UNC-sponsored STEM program.

SECTION 9.7.(c) In addition, the Department of Public Instruction shall survey math and science educators in North Carolina to identify the number of current math and science educators who attended a Pre-College or Summer Ventures program sponsored by The University of North Carolina before entering college. The survey may be conducted in cooperation with ongoing data collection efforts within The University of North Carolina System. The data shall be reported to the Office of State Budget and Management and the Fiscal Research Division by February 15, 2011.

TRANSFER OF A+ SCHOOLS FROM UNC-GREENSBORO TO DEPARTMENT OF CULTURAL RESOURCES

SECTION 9.8. The A+ Schools program is transferred from the University of North Carolina at Greensboro to the North Carolina Arts Council in the Department of Cultural Resources, as if by a Type I transfer as defined in G.S. 143A-6, with all the elements of such a transfer. The program transfer shall include the sum of fifty-eight thousand six hundred thirty-eight dollars (\$58,638).

COASTAL DEMONSTRATION WIND TURBINES

SECTION 9.9. Section 9.14 of S.L. 2009-451 reads as rewritten:

"SECTION 9.14.(a) Of the funds received by the State and appropriated by United States Public Law 111-005, the American Recovery and Reinvestment Act of 2009, and appropriated in this act to the State Energy Office for the 2009-2010 fiscal year, the sum of three hundred thousand dollars (\$300,000) in nonrecurring funds shall be allocated to The University of North Carolina to continue the coastal sounds wind energy study set forth in Section 9.12 of S.L. 2008-107. The University shall contract with a third party by October 1, 2009, to design, permit, procure, construct, establish, ~~operate, and reclaim as appropriate at the end of their economic life~~ and operate up to three demonstration turbines and necessary support facilities in the sounds or off the coast of ~~North Carolina by September 1, 2010.~~ North Carolina. The contract shall provide for the reclamation and decommissioning of the project at the end of its economic life. The demonstration project shall commence operations as soon as practicable, and, in any event, no later than December 31, 2011.

Any contract entered into between The University and a third party pursuant to this section shall ensure that The University is provided appropriate access to the demonstration turbines and necessary support facilities for research purposes. The actual number and placement of the wind turbines and necessary support facilities shall be determined by the coastal sounds wind energy study in coordination with participating entities. The Director of the Budget shall ensure that any available federal funds are secured by the State to construct the demonstration turbines and necessary support facilities. The University may negotiate and execute any rights-of-way, easements, leases, and any other agreements necessary to construct, establish, and operate the demonstration turbines and supporting facilities, notwithstanding any other provisions of law governing such negotiation and execution of any rights-of-way, easements, leases, or other required agreements required for the facilities authorized under this section.

...
"SECTION 9.14.(c) The North Carolina Utilities Commission is directed to facilitate and expedite wind energy pilot projects developed pursuant to this act that come within its jurisdiction to the extent allowed by law and consistent with State statute. A wind turbine constructed pursuant to this section shall be exempt from the requirements of G.S. 62-110.1. For such wind turbines owned by a public utility, upon an application by the public utility seeking a rider to recover the costs of such project, the Utilities Commission shall establish an annual rider for the public utility to recover the just and reasonable costs, including the utility's cost of debt and equity, of such project upon completion. Should the project development and construction of the demonstration wind turbines be unreasonably delayed beyond the date set forth in subsection (a) of this section for reasons outside the control of the public utility, all just and reasonable costs incurred by the public utility during project development and construction shall nonetheless be recoverable through an annual rider under this subsection, provided that the public utility shall bear the burden of proving by a preponderance of the evidence that the reasons for the delay were beyond its control and its execution of the project was reasonable and prudent. Should the demonstration wind turbines be abandoned prior to completion, the capital costs and AFUDC related to the project, less any salvage value received, shall nonetheless be recoverable under this Article, provided that the utility shall bear the burden of proving by a preponderance of the evidence that the decision to abandon construction of the project was prudent.

...."

COASTAL WAVE ENERGY RESEARCH AND PROTOTYPE PROJECT

SECTION 9.10.(a) The General Assembly finds that strengthening research and development efforts on renewable energy sources is critical to North Carolina's environment and economy, and that recent events resulting from the British Petroleum oil spill amplify the need for North Carolina's innovators and scientists to enhance their efforts to develop sustainable energy sources and technologies that do not threaten the health and well-being of the State's waters, sensitive lands, and residents. In order to provide opportunities for research into tidal, wave, and other ocean-based sources of alternative energy, the University of North Carolina Coastal Studies Institute shall form a consortium with the Colleges of Engineering at North Carolina State University, North Carolina Agricultural and Technical State University, and the University of North Carolina at Charlotte to study the capture of energy from ocean waves. The Coastal Studies Institute shall be designated the lead agency in coordinating these efforts. Funding appropriated by this act shall be used by university scientists to conceptualize, design, construct, operate, and market new and innovative technologies designed to harness and maximize the energy of the ocean in order to provide substantial power generation for the State. Funding may be used to leverage federal or private research funding for this purpose, but may not be used to purchase and utilize technology that has already been developed by others unless that technology is a critical component to North Carolina's research efforts. Wave energy technologies developed and used for this research may be attached to or staged from an existing State-owned structure located in the ocean waters of the State, and data generated by these technologies shall be available at this structure for public education and awareness. It is the intent of the General Assembly that North Carolina become the focal point for marine-based ocean research collaborations involving the nation's public and private universities.

SECTION 9.10.(b) With respect to the demonstration wave energy facility and necessary support facilities authorized by subsection (a) of this section, the facilities authorized under this act shall be constructed in accordance with the provisions of general law applicable to the construction of State facilities, except that the State Property Office shall expedite and grant all easements and use agreements required for construction of the facilities without payment of any fee, royalty, or other cost. Notwithstanding any other provision of law, construction of the facilities authorized by this section shall be exempt from the following statutes and rules implementing those statutes: G.S. 143-48 through 143-64, 143-128, 143-129, 143-132, 113A-1 through 113A-10, 113A-50 through 113A-66, and 113A-116 through 113A-128. With respect to any other environmental permits required for construction of the facilities, the Department of Environment and Natural Resources is directed to expedite permitting of the project to the extent allowed by law and shall waive any application fees that would be otherwise applicable to applications for permits required for the facilities and, where possible under applicable law, issue all permits within 40 days of receipt of a complete application.

UNIVERSITY OF NORTH CAROLINA HEALTH CARE SYSTEM

SECTION 9.11. G.S. 116-37 reads as rewritten:

"§ 116-37. **University of North Carolina Health Care System.**

(a) Creation of System. –

...

(4) With respect to the provisions of subsections (d), (e), (f), (h), (i), (j), and (k) of this section, the board of directors may adopt policies that make the authorities and responsibilities established by one or more of said subsections ~~separately applicable either to the University of North Carolina Hospitals at Chapel Hill or Hill, to the clinical patient care programs of the School of Medicine of the University of North Carolina at Chapel Hill, or to both~~ to both, or to other persons or entities affiliated with or under the control of the University of North Carolina Health Care System.

...

(b) Board of Directors. – There is hereby established a board of directors of the University of North Carolina Health Care System, effective November 1, 1998.

(1) The board of directors ~~initially~~ shall be composed as follows:

- a. A minimum of six members ex officio of said board shall be the President of The University of North Carolina (or the President's designee); the Chief Executive Officer of the University of North Carolina Health Care System; ~~two~~ the Chancellor of the University of North Carolina at Chapel Hill and one additional administrative officers-officer of the University of North Carolina at Chapel Hill designated by the ~~Chancellor of that institution;~~ Chancellor; and two members of the faculty of the School of Medicine of the University of North Carolina at Chapel Hill designated by the Dean of the School of Medicine; provided, that if not such a member ex officio by virtue of holding one or more of the offices aforementioned, additional ex officio memberships shall be held by the President of the University of North Carolina Hospitals at Chapel ~~Hill-Hill~~, the faculty member responsible for leading the clinical patient care programs of the School of Medicine, and the Dean of the School of Medicine of the University of North Carolina at Chapel ~~Hill~~, for a total potential ex-officio membership of eight.Hill.
- b. No less than nine and no more than 21 members at large, which number shall be determined by the board of directors, shall be appointed for four-year terms, commencing on November 1 of the year of appointment; provided, that the initial class of at-large members shall include the persons who hold the appointed memberships on the board of directors of the University of North Carolina Hospitals at Chapel Hill incumbent as of October 31, 1998, with their terms of membership on the board of directors of the University of North Carolina Health Care System to expire on the last day of October of the year in which their term as a member of the board of directors of the University of North Carolina Hospitals at Chapel Hill would have expired. Vacant at-large positions shall be filled by the appointment of persons from the business and professional public at large who have special competence in business management, hospital administration, health care delivery, or medical practice or who otherwise have demonstrated dedication to the improvement of health care in North Carolina, and who are neither members of the Board of Governors, members of the board of trustees of a constituent institution of The University of North Carolina, nor officers or employees of the State. Members shall be appointed by the President of the University, and ratified by the Board of Governors, from among a slate of nominations made by the board of directors of the University of North Carolina Health Care ~~System, said slate to include at least twice as many nominees as there are vacant positions to be filled.~~ System. No member may be appointed to more than two full four-year terms in succession; provided, that persons holding appointed memberships on November 1, 1998, by virtue of their previous membership on the board of directors of the University of North Carolina Hospitals at Chapel Hill, shall not be eligible, for a period of one year following expiration of their term, to be reappointed to the board of directors of the University of North Carolina Health Care System. Any vacancy in an unexpired term shall be filled by an appointment made by the

President, and ratified by the Board of Governors, upon the nomination of the board of directors, for the balance of the term remaining.

- (2) The board of directors, with each ex officio and at-large member having a vote, shall elect a chairman only from among the at-large members, for a term of two ~~years; no~~ years. Notwithstanding the foregoing limitation, the Chancellor of the University of North Carolina at Chapel Hill may serve as Chairman. No person shall be eligible to serve as chairman for more than three terms in succession.

...

- (4) In meeting the patient-care, educational, research, and public-service goals of the University of North Carolina Health Care System, the board of directors is authorized to exercise such authority and responsibility and adopt such policies, rules, and regulations as it deems necessary and appropriate, not inconsistent with the provisions of this section or the policies of the Board of ~~Governors.~~ Governors or, to the extent the board's actions affect employees of the University of North Carolina at Chapel Hill, the policies of the University of North Carolina at Chapel Hill. The board may authorize any component of the University of North Carolina Health Care System, including the University of North Carolina Hospitals at Chapel Hill, to contract in its individual capacity, subject to such policies and procedures as the board of directors may direct. The board of directors may enter into formal agreements with the University of North Carolina at Chapel Hill with respect to the provision of clinical experience for students and for the provision of maintenance and supporting services. The board's action on matters within its jurisdiction is final, except that appeals may be made, in writing, to the Board of Governors with a copy of the appeal to the Chancellor of the University of North Carolina at Chapel Hill. The board of directors shall keep the Board of Governors and the board of trustees of the University of North Carolina at Chapel Hill fully informed about health care policy and recommend changes necessary to maintain adequate health care delivery, education, and research for improvement of the health of the citizens of North Carolina.

(c) Officers. –

- (1) The executive and administrative head of the University of North Carolina Health Care System shall have the title of "Chief Executive Officer." The board of directors, ~~in cooperation with the board of trustees~~ trustees, and the Chancellor of the University of North Carolina at Chapel Hill, following such search process as the boards and the Chancellor deem appropriate, shall ~~identify, in cooperation with the Chancellor,~~ identify two or more persons as candidates for the office, who, pursuant to criteria agreed upon by the boards and the Chancellor, have the qualifications for both the positions of Chief Executive Officer of the University of North Carolina Health Care System and Vice-Chancellor for Medical Affairs of the University of North Carolina at Chapel Hill. The names of the candidates so ~~identified~~ identified, once approved by the board of directors and the board of trustees, shall be forwarded by the Chancellor to the President of The University of North Carolina, who if satisfied with the quality of one or more of the candidates, will nominate one as Chief Executive Officer, subject to selection by the Board of Governors. The individual serving as Chief Executive Officer shall have complete executive and administrative authority to formulate proposals for, recommend the adoption of, and implement policies governing the programs and activities of the University of North Carolina Health Care

System, subject to all requirements of the board of directors. That same individual, when serving as Vice-Chancellor for Medical Affairs, shall have all authorities, rights, and responsibilities of a vice-chancellor of the University of North Carolina at Chapel Hill.

...

- (3) The board of directors shall elect, on nomination of the Chief Executive Officer, the President of the University of North Carolina Hospitals at Chapel Hill, and such additional administrative and professional staff employees of the University of North Carolina Health Care System as may be deemed necessary to assist in fulfilling the duties of the office of the Chief Executive Officer, all of whom shall serve at the pleasure of the Chief Executive Officer.

...."

UNIVERSITY CANCER RESEARCH FUND

SECTION 9.12. G.S. 116-29.1 reads as rewritten:

"§ 116-29.1. University Cancer Research Fund.

...

(c) Cancer Research Fund Committee. – The Cancer Research Fund Committee shall consist of five ex officio members and two appointed members. The five ex officio members shall consist of the following: (i) one member shall be the ~~President of The University of North Carolina,~~ Chancellor of the University of North Carolina at Chapel Hill, (ii) one member shall be the Director of the Lineberger Comprehensive Cancer Center, (iii) one member shall be the Dean of the School of Medicine at The University of North Carolina, (iv) one member shall be the Dean of the School of Pharmacy at The University of North Carolina, and (v) one member shall be the Dean of the School of Public Health at The University of North Carolina. The remaining two members shall be appointed by a majority vote of the standing members of the Committee and shall be selected from persons holding a leadership position in a nationally prominent cancer program.

If any of the specified positions cease to exist, then the successor position shall be deemed to be substituted in the place of the former one, and the person holding the successor position shall become an ex officio member of the Committee.

(d) Chair. – The chair shall be the ~~President of The University of North Carolina,~~ Chancellor of the University of North Carolina at Chapel Hill.

...."

UNC MANAGEMENT FLEXIBILITY REDUCTION

SECTION 9.13. Section 9.19 of S.L. 2009-451 reads as rewritten:

"SECTION 9.19. The management flexibility reduction for The University of North Carolina shall not be allocated by the Board of Governors to the constituent institutions and affiliated entities using an across-the-board method but in a manner that recognizes the importance of the academic mission and differences among The University of North Carolina entities. Before taking reductions in instructional budgets, the Board of Governors and the campuses of the constituent institutions shall consider reducing budgets for senior and middle management personnel, centers and institutes, low enrollment degree programs, speaker series, and nonacademic activities. The Board of Governors and the campuses of the constituent institutions also shall review the institutional trust funds and the special funds held by or on behalf of ~~the~~ The University of North Carolina and its constituent institutions to determine whether there are monies available in those funds that can be used to assist with operating costs before taking reductions in instructional budgets. In addition, the campuses of the constituent institutions also shall require their faculty to have a teaching workload equal to the national average in their Carnegie classification. Budget reductions shall not be considered in funding available for need-based financial aid.

Notwithstanding any other provision of law, for the 2010-2011 fiscal year only, the constituent institutions may, with the approval of the President of The University of North Carolina, increase tuition by up to seven hundred fifty dollars (\$750.00) per academic year. This increase shall be in addition to other increases authorized for the fiscal year. At least twenty percent (20%) of these funds shall be used to provide need-based financial aid to students. The remaining balance of these funds shall be used only to offset the institutions' management flexibility reductions."

INSTITUTE OF OUTDOOR DRAMA

SECTION 9.14.(a) The Institute of Outdoor Drama shall be transferred from the University of North Carolina at Chapel Hill to East Carolina University. Any unexpended balances of General Fund appropriations or other funds for the Institute of Outdoor Drama shall also be transferred from the University of North Carolina at Chapel Hill to East Carolina University.

SECTION 9.14.(b) Of the funds appropriated by this act to the Board of Governors of The University of North Carolina for the 2010-2011 fiscal year, the sum of one hundred fifty thousand dollars (\$150,000) shall be used for the Institute of Outdoor Drama at East Carolina University.

SECTION 9.14.(c) It is the intent of the General Assembly that the Institute for Outdoor Drama at East Carolina University become receipt supported by the 2011-2012 fiscal year.

RECRUITMENT OF PHARMACY STUDENTS

SECTION 9.15.(a) The University of North Carolina at Chapel Hill shall collaborate with the University of North Carolina at Asheville and Elizabeth City State University regarding the recruitment of students of pharmacy. The universities shall develop and institute a plan in which potential pharmacy students are informed of the pharmacy programs at each of the public universities in an effort to recruit those students to State schools.

SECTION 9.15.(b) Of the funds appropriated by this act to the Board of Governors of The University of North Carolina for the 2010-2011 fiscal year, the Board of Governors shall use forty-four thousand dollars (\$44,000) for the recruitment and academic support of pharmacy students at the University of North Carolina at Asheville and Elizabeth City State University.

SUCCESS NC REPORT

SECTION 9.16. The University of North Carolina General Administration and the North Carolina Community College System shall report to the Joint Legislative Education Oversight Committee by December 1, 2010, regarding the progress in implementing Success NC. Success NC is a program that represents a collaborative effort between The University of North Carolina and the North Carolina Community College System with the goal of increasing the number of North Carolinians with college degrees and workplace relevant credentials to prepare them for success in today's 21st century knowledge-based workforce.

ECU DENTAL SCHOOL FUNDS/CONTINUING STATE FINANCIAL SUPPORT TO HELP SECURE ACCREDITATION

SECTION 9.18. It is the intent of the General Assembly to appropriate funds in the amount of three million five hundred thousand dollars (\$3,500,000) for the 2011-2012 fiscal year and the sum of one million five hundred thousand dollars (\$1,500,000) for the 2012-2013 fiscal year to the Board of Governors of The University of North Carolina for East Carolina University to provide continuing State financial support of the School of Dentistry at East Carolina University in future fiscal years and to help secure accreditation of the School of Dentistry by the American Dental Association's Commission on Accreditation.

TRANSFER SURPLUS IN LEGISLATIVE TUITION GRANTS AND STATE GRANTS TO STUDENTS AT CERTAIN PRIVATE INSTITUTIONS OF HIGHER EDUCATION TO CONTRACTUAL SCHOLARSHIP FUND

SECTION 9.19.(a) Notwithstanding any other provision of law, if the amount appropriated by this act to the State Education Assistance Authority for the 2010-2011 fiscal year for legislative tuition grants exceeds the amount required to pay the legislative tuition grants in the amount of one thousand eight hundred fifty dollars (\$1,850) to each North Carolina resident student attending the State's private colleges, then the State Education Assistance Authority shall deposit the surplus balance of the funds into the State Contractual Scholarship Fund and may use those funds to provide additional scholarships for or to increase the scholarship amounts awarded to students who have financial need.

SECTION 9.19.(b) Notwithstanding any other provision of law, if the amount appropriated by this act to the State Education Assistance Authority for the 2010-2011 fiscal year for State grants awarded under G.S. 116-43.5 exceeds the amount required to pay those grants in the amount of one thousand eight hundred fifty dollars (\$1,850) to each North Carolina resident student attending the State's eligible institutions as defined by G.S. 116-43.5, then the State Education Assistance Authority shall deposit the surplus balance of the funds into the State Contractual Scholarship Fund and may use those funds to provide additional scholarships for or to increase the scholarship amounts awarded to students who have financial need.

CAMPUS INITIATED TUITION INCREASES/TWENTY-FIVE PERCENT FOR STUDENT FINANCIAL AID

SECTION 9.20.(a) Section 9.23 of S.L. 2009-451 is repealed.

SECTION 9.20.(b) All campus initiated tuition increases approved by the Board of Governors of The University of North Carolina may be implemented; however, each campus that implements the tuition increase shall expend at least twenty-five percent (25%) of the increase on need-based student financial aid and may use as much of the remaining tuition income as needed to fully meet need-based student financial aid needs on that campus.

UNC ENROLLMENT GROWTH

SECTION 9.22. In considering potential increases in enrollment growth for The University of North Carolina for the 2011-2013 fiscal biennium, the Board of Governors shall consider all of the following items:

- (1) The general economic conditions of the State as reported by the Office of State Budget and Management and the Fiscal Research Division.
- (2) The possible increases and decreases in the State's revenue, particularly General Fund revenue as reported by the Office of State Budget and Management and the Fiscal Research Division.
- (3) Any other non-State revenue resources available to The University of North Carolina that may be used to assist with the recurring costs of enrollment growth.

NCSU/RESTORE MASTER GARDENER FUNDS

SECTION 9.24. Of the funds appropriated by this act to the Board of Governors of The University of North Carolina and allocated to North Carolina State University for the 2010-2011 fiscal year the sum of forty-eight thousand eight hundred seventy-eight dollars (\$48,878) shall be restored to the master gardener account.

ELIMINATE IN-STATE TUITION FOR NON-RESIDENT ATHLETIC SCHOLARSHIPS

SECTION 9.25. G.S. 116-143.6(a) reads as rewritten:

"(a) Notwithstanding any other provision of law, if the Board of Trustees of a constituent institution of The University of North Carolina elects to do so, it may by resolution adopted consider as residents of North Carolina all persons who receive full ~~scholarships~~ scholarships, unless the scholarship is for athletics, to the institution from entities recognized by the institution and attend the institution as undergraduate students. The aforesaid persons shall be considered residents of North Carolina for all purposes by The University of North Carolina."

AMEND TUITION WAIVER

SECTION 9.26. G.S. 115B-2(a) reads as rewritten:

"(a) The constituent institutions of The University of North Carolina and the community colleges as defined in G.S. 115D-2(2) shall permit the following persons to attend classes for credit or noncredit purposes without the required payment of tuition:

- (1) Repealed by Session Laws 2009-451, s. 8.11(a), effective July 1, 2009.
- (2) Any person who is the survivor of a law enforcement officer, firefighter, volunteer firefighter, or rescue squad worker killed as a direct result of a traumatic injury sustained in the line of duty.
- (3) The spouse of a law enforcement officer, firefighter, volunteer firefighter, or rescue squad worker who is permanently and totally disabled as a direct result of a traumatic injury sustained in the line of duty.
- (4) Any child, if the child is at least 17 years old but not yet ~~23 years old~~, 24 years old, whose parent is a law enforcement officer, firefighter, volunteer firefighter, or rescue squad worker who is permanently and totally disabled as a direct result of a traumatic injury sustained in the line of duty. However, a child's eligibility for a waiver of tuition under this Chapter shall not exceed: (i) ~~48 months~~, 54 months, if the child is seeking a baccalaureate degree, or (ii) if the child is not seeking a baccalaureate degree, the number of months required to complete the educational program to which the child is applying.
- (5) Any child, if the child (i) is at least 17 years old but not yet ~~23 years old~~, 24 years old, (ii) is a ward of North Carolina or was a ward of the State at the time the child reached the age of 18, (iii) is a resident of the State; and (iv) is eligible for services under the Chaffee Education and Training Vouchers Program; but the waiver shall only be to the extent that there is any tuition still payable after receipt of other financial aid received by the student."

UNC BUILDING RESERVE/ALLOCATION OF FUNDS AMONG CONSTITUENT INSTITUTIONS AND UNC AFFILIATED INSTITUTIONS

SECTION 9.27. Funds appropriated by this act to the Board of Governors of The University of North Carolina for the 2010-2011 fiscal year for the Building Reserve shall be allocated among the following constituent institutions and affiliate institutions of The University of North Carolina for the projects listed below in the amounts indicated:

- | | | | | |
|-------------------------------------|-------------|---|-----------|----|
| (1) Appalachian State University | | | | |
| Beasley Broadcast Complex | \$30,711 | R | \$56,770 | NR |
| College of Education Bldg | \$102,884 | R | \$291,753 | NR |
| (2) East Carolina University | | | | |
| Heart Center | \$112,678 | R | \$0 | NR |
| Family Medicine Center | \$1,785,786 | R | \$290,258 | NR |
| (3) Elizabeth City State University | | | | |
| School of Pharmacy | \$532,046 | R | \$2,308 | NR |
| (4) Fayetteville State University | | | | |
| Lilly Gym | \$91,326 | R | \$0 | NR |
| Nursing Education Building | \$416,570 | R | \$99,424 | NR |
| (5) NC A&T State University | | | | |

	Barnes Hall Renovation	\$128,106	R	\$109,808	NR
	Cherry Hall Minor Addition	\$121,344	R	\$31,483	NR
	Cherry Hall Renovation	\$250,404	R	\$136,706	NR
(6)	North Carolina Central University Pearson Cafeteria Culinary Arts Teaching Lab	\$66,924	R	\$9,659	NR
(7)	NC State University Academic Affairs Math and Statistics Bldg Council Building Engineering Complex III Terry Animal Medical Center Avent Ferry Administration Center CBC Substation Infrastructure CVM Finger Barns HVAC Parks Shops Renovation Hunt Library Infrastructure Terry Center Infrastructure Yarborough Steam Plant Infrastructure Engineering Complex III Infrastructure Eastern 4-H Conference Center	\$581,612 \$323,858 \$3,443,092 \$958,765 \$398,384 \$110,266 \$84,132 \$383,551 \$258,846 \$176,204 \$105,811 \$246,100 \$222,215	R R R R R R R R R R R R R R	\$13,776 \$122,974 \$687,096 \$738,556 \$0 \$0 \$0 \$58,813 \$0 \$0 \$0 \$0 \$0	NR NR NR NR NR NR NR NR NR NR NR NR NR NR
(8)	UNC-Asheville Res NC Center for Health & Wellness Rhoades Hall and Tower Renovations	\$304,599 \$85,593	R R	\$246,664 \$40,104	NR NR
(9)	UNC-Chapel Hill Academic Arts Common – Phase I Duke Energy Building Science Complex Phase II-"New Venable"	\$218,703 \$242,105 \$1,730,537	R R R	\$5,048 \$51,481 \$246,277	NR NR NR
(10)	UNC-Chapel Hill Health Affairs Berryhill Renovation	\$125,319	R	\$0	NR
(11)	UNC-Charlotte Bioinformatics Building Center City Building Cone Center Memorial Hall	\$2,206,350 \$358,240 \$607,668 \$123,297	R R R R	\$317,637 \$490,355 \$91,374 \$47,733	NR NR NR NR
(12)	UNC-Greensboro New Classroom and Office	\$373,105	R	\$218,800	NR
(13)	UNC-Pembroke Magnolia Property Purchase	\$22,100	R	\$27,055	NR
(14)	UNC – School of the Arts 172 Waughtown Street	\$72,993	R	\$26,882	NR
(15)	UNC-Wilmington School of Nursing Oyster Hatchery Research Lab	\$1,158,587 \$225,296	R R	\$197,475 \$62,978	NR NR
(16)	Western Carolina University Campus Recreation Center	\$390,576	R	\$109,212	NR

PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES

ELECTRONIC BENEFITS TRANSFER SYSTEM

SECTION 10.1. The Department of Health and Human Services, Division of Child Development, shall implement an Electronic Benefits Transfer system for child care subsidy. The Department shall review all current electronic card system operations as related to Child

Support Enforcement and Food and Nutrition to determine whether coordination may occur among the three-card systems that result in cost-savings.

The Department shall monitor the implementation of the "smart card" system pilot program in Georgia and implementation of the Medicaid Access Card in Texas. The Department shall submit a report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on the implementation of Georgia's pilot program and Texas' Medicaid Access Card and provide any recommendations for a card system program in this State by May 1, 2011.

REPEAL POLICIES TO FACILITATE AND EXPEDITE USE OF CHILD CARE SUBSIDY FUNDS

SECTION 10.2. Section 10.4 of S.L. 2009-451 is repealed.

EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES ENHANCEMENTS

SECTION 10.3. Section 10.7.(g) of S.L. 2009-451 reads as rewritten:

"**SECTION 10.7.(g)** For fiscal years 2009-2010 and 2010-2011, the local partnerships shall spend an amount for child care subsidies that provides at least fifty-two million dollars (\$52,000,000) for the TANF maintenance of effort requirement and the Child Care Development Fund and Block Grant match requirement. ~~The Department of Health and Human Services shall determine the level of funds that need to be expended in order to draw down all federal recovery funds and shall direct the local partnerships to spend at least at the determined level. The local partnerships shall not spend at a level less than that directed by the Department.~~"

ADMINISTRATIVE ALLOWANCE FOR COUNTY DEPARTMENTS OF SOCIAL SERVICES

SECTION 10.5. Section 10.10 of S.L. 2009-451 reads as rewritten:

"**SECTION 10.10.** The Division of Child Development of the Department of Health and Human Services shall increase the allowance that county departments of social services may use for administrative costs from four percent (4%) to five percent (5%) of the county's total child care subsidy funds allocated in the Child Care Development Fund Block Grant plan. The increase shall be effective for the 2009-2010 ~~fiscal year~~ and 2010-2011 fiscal years."

REPORT ON DHHS POSITION ELIMINATIONS

SECTION 10.5A. The Secretary of the Department of Health and Human Services may achieve savings from position eliminations within the Divisions under the supervision of the Secretary by reducing a greater or lesser number of positions than prescribed for the Department in the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets for the 2010-2011 fiscal year. The Secretary shall report on the number of positions eliminated in the budget for the 2010-2011 fiscal year. The report shall include the total number of positions, including positions filled and vacant positions, and savings generated through salary and fringe benefits and any severance paid out. The Secretary shall submit the report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on or before March 1, 2011.

MENTAL HEALTH CHANGES

SECTION 10.6.(a) Section 10.12.(b) of S.L. 2009-451 reads as rewritten:

"**SECTION 10.12.(b)** Of the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the sum of twenty million one hundred twenty-one thousand six hundred

forty-four dollars (\$20,121,644) for the 2009-2010 fiscal year and the sum of ~~twenty million one hundred twenty one thousand six hundred forty four dollars (\$20,121,644)~~ twenty-nine million one hundred twenty-one thousand six hundred forty-four dollars (\$29,121,644) for the 2010-2011 fiscal year shall be allocated for the purchase of local inpatient psychiatric beds or bed days. These beds or bed days shall be distributed across the State in LME catchment areas and according to need as determined by the Department. The Department shall enter into contracts with the LMEs and community hospitals for the management of these beds or bed days. The Department shall work to ensure that these contracts are awarded equitably around all regions of the State. Local inpatient psychiatric beds or bed days shall be managed and controlled by the LME, including the determination of which local or State hospital the individual should be admitted to pursuant to an involuntary commitment order. Funds shall not be allocated to LMEs but shall be held in a statewide reserve at the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to pay for services authorized by the LMEs and billed by the hospitals through the LMEs. LMEs shall remit claims for payment to the Division within 15 working days of receipt of a clean claim from the hospital and shall pay the hospital within 30 working days of receipt of payment from the Division. If the Department determines (i) that an LME is not effectively managing the beds or bed days for which it has responsibility, as evidenced by beds or bed days in the local hospital not being utilized while demand for services at the State psychiatric hospitals has not reduced, or (ii) the LME has failed to comply with the prompt payment provisions of this subsection, the Department may contract with another LME to manage the beds or bed days, or, notwithstanding any other provision of law to the contrary, may pay the hospital directly. The Department shall develop reporting requirements for LMEs regarding the utilization of the beds or bed days. Funds appropriated in this section for the purchase of local inpatient psychiatric beds or bed days shall be used to purchase additional beds or bed days not currently funded by or through LMEs and shall not be used to supplant other funds available or otherwise appropriated for the purchase of psychiatric inpatient services under contract with community hospitals, including beds or bed days being purchased through Hospital Utilization Pilot funds appropriated in S.L. 2007-323. Not later than March 1, 2010, the Department shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division on a uniform system for beds or bed days purchased (i) with local funds, (ii) from existing State appropriations, (iii) under the Hospital Utilization Pilot, and (iv) purchased using funds appropriated under this subsection.

SECTION 10.6.(b) Section 10.12.(f) of S.L. 2009-451 reads as rewritten:

"SECTION 10.12.(f)

- (1) The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall continue implementation of the current Supports Intensity Scale (SIS) assessment tool pilot project if the pilot project has demonstrated that the SIS tool:
 - a. Is effective in identifying the appropriate array and intensity of services, including residential supports or placement, for individuals assessed.
 - b. Is valid for determining intensity of support related to resource allocation for CAP-MR/DD, public and private ICF-MR facilities, developmental disability group homes, and other State- or federally funded services.
 - c. Is used by an assessor that does not have a pecuniary interest in the determinations resulting from the assessment.
 - d. Determines the level of intensity and type of services needed from developmental disability service providers.

- (1a) The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall require the seven LMEs participating in the current Supports Intensity Scale (SIS) assessment tool pilot project to administer a SIS assessment to all clients with developmental disabilities no later than October 1, 2010. The participating LMEs shall use the results of the SIS assessment to assign clients with developmental disabilities to one of the tiers within the CAP-MR/DD Waiver and to other needed services, according to their relative intensity of need.
- (2) The Department shall report on the progress of the pilot project by ~~May 1, 2010~~ April 1, 2011. The Department shall submit the report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division. The report shall include the following:
- a. The infrastructure that will be needed to assure that the administration of the assessment tool is independent from service delivery, the qualifications of assessors, training and management of data, and test-retest accountability.
 - b. The cost to (i) purchase the tool, (ii) implement the tool, (iii) provide training, and (iv) provide for future expansion of the tool statewide.
 - c. Information about compliance with the requirements specified in subdivision (1a) of this section by the seven LMEs participating in the current SIS assessment tool pilot project."

JOHNSTON COUNTY LME ADMINISTRATIVE FUNDING

SECTION 10.6A. Notwithstanding G.S. 122C-115(a1), the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall not further reduce the allocation of administrative funding to the Johnston County Area Mental Health, Developmental Disabilities and Substance Abuse Authority for the 2010-2011 fiscal year as a consequence of the total population of the catchment area served.

TERM LIMITS FOR COUNTY COMMISSIONERS AND COUNTY MANAGERS ON AREA MENTAL HEALTH BOARDS

SECTION 10.7. G.S. 122C-118.1(d) reads as rewritten:

"(d) Any member of an area board who is a county commissioner serves on the board in an ex officio ~~capacity~~ capacity at the pleasure of the initial appointing authority, for a term not to exceed the member's service as a county commissioner. Any member of an area board who is a county manager serves on the board at the pleasure of the initial appointing authority, for a term not to exceed the duration of the member's employment as a county manager. ~~The terms of county commissioners on an area board are concurrent with their terms as county commissioners.~~ The terms of the other members on the area board shall be for three years, except that upon the initial formation of an area board one-third shall be appointed for one year, one-third for two years, and all remaining members for three years. ~~Members~~ Members, other than county commissioners and county managers, shall not be appointed for more than two consecutive terms. Board members serving as of July 1, 2006, may remain on the board for one additional term. This subsection applies to all area authority board members regardless of the procedure used to appoint members under subsection (a) of this section."

CAP-MR/DD SERVICE ELIGIBILITY

SECTION 10.7A. Section 10.21B of S.L. 2009-451 reads as rewritten:

~~"SECTION 10.21B"~~**SECTION 10.21B.(a)** Except as otherwise provided in this ~~section~~ subsection for former Thomas S. recipients, CAP-MR/DD recipients are not eligible for any State-funded services except for those services for which there is not a comparable service in the CAP-MR/DD waiver. The excepted services are limited to guardianship, room and board, and time-limited supplemental staffing to stabilize residential placement. Former Thomas S. recipients currently living in community placements may continue to receive State-funded services.

SECTION 10.21B.(b) The Department of Health and Human Services, Division of Medical Assistance, shall work with stakeholders to develop a new service definition within the CAP-MR/DD waiver to better meet the needs of individuals who (i) have a high intensity of behavioral needs, (ii) reside in small licensed residential placements, and (iii) require supervision 24 hours per day, seven days per week, three hundred sixty-five days per year. The Division shall apply to the Centers for Medicare and Medicaid Services (CMS) for an appropriate amendment to the CAP-MR/DD waiver if CMS approval is necessary to implement the new service definition. Not later than October 1, 2010, the Department shall report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on the development of the new service definition and the status of any necessary approval from CMS to implement the new service definition."

REPORT ON PROVISION OF BEHAVIORAL HEALTH CRISIS SERVICES BY HOSPITAL EMERGENCY DEPARTMENTS

SECTION 10.7B. The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall evaluate the provision of behavioral health crisis services by State and local hospital emergency departments, broken down by local management entity (LME) catchment area. The evaluation shall compare both Medicaid and non-Medicaid recipients whose care is managed by the 1915 (b)/(c) waiver program with Medicaid and non-Medicaid recipients whose care is managed by LMEs and other entities. The Division shall submit a report of the evaluation to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Subcommittee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division not later than March 1, 2011. The report shall include information on (i) the number of times State and local hospital emergency departments are utilized for behavioral health crisis services, (ii) the lengths of stay for patients admitted to these State and local hospital emergency departments, and (iii) the number of patients readmitted to these State and local hospital emergency departments within 30 days after discharge.

JOINT STUDY COMMITTEE ON AUTISM SPECTRUM DISORDERS AND PUBLIC SAFETY

SECTION 10.9. Section 10.21D(i) of S.L. 2009-451 reads as rewritten:

"SECTION 10.21D.(i) The Committee may submit an interim report on the results of its study, including any proposed legislation, to the members of the Senate and the House of Representatives on or before May 1, 2010, by filing a copy of the report with the Office of the President Pro Tempore of the Senate, the Office of the Speaker of the House of Representatives, and the Legislative Library. The Committee shall submit a final report on the results of its study, including any proposed legislation, to the members of the Senate and the House of Representatives ~~on or before December 31, 2010, upon the completion of its work~~ by filing a copy of the report with the Office of the President Pro Tempore of the Senate, the Office of the Speaker of the House of Representatives, and the Legislative Library. The Committee shall terminate ~~on December 31, 2010, or upon the filing of its final report, whichever occurs first, upon the completion of its work."~~

DOROTHEA DIX HOSPITAL

SECTION 10.10.(a) Not later than August 1, 2010, the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall submit an operations budget for Dorothea Dix Hospital for the 2010-2011 fiscal year to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

SECTION 10.10.(b) Notwithstanding any other provision of law, G.S. 122C-112.1(a)(30) and G.S. 122C-181 apply to Dorothea Dix Hospital.

CHANGE EFFECTIVE DATE FOR WELL TESTING

SECTION 10.10A. Section 4 of S.L. 2009-124 reads as rewritten:

"**SECTION 4.** Section 1 of this act becomes effective October 1, ~~2010~~2012. The remainder of the act is effective when it becomes law."

CHANGES TO COMMUNITY-FOCUSED ELIMINATING HEALTH DISPARITIES INITIATIVE

SECTION 10.11. Section 10.23(c) of S.L. 2009-451 reads as rewritten:

"**SECTION 10.23.(c)** The Department of Health and Human Services shall report on the following with respect to funds appropriated to the CFEHDI for the 2009-2010 fiscal year. The report shall address the following:

- (1) Which community programs and local health departments received CFEHDI grants.
- (2) The amount of funding each program or local health department received.
- (3) Which of the minority populations were served by the programs or local health departments.
- (4) Which counties were served by the programs or local health departments.
- (5) What activities were planned and implemented by the programs or local health departments to fulfill the community focus of the CFEHDI program.
- (6) How the activities implemented by the programs or local health departments fulfilled the goal of reducing health disparities among minority populations.

The report shall also include specific activities undertaken pursuant to subsection (a) of this section to address large gaps in health status among North Carolinians who are African-American and other minority populations in this State. The Department shall submit the report not later than ~~March 15, 2010~~March 14, 2011, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division."

IMMUNIZATION CHANGES

SECTION 10.13.(a) Section 10.29A of S.L. 2009-451 is amended by adding two new subsections to read:

"SECTION 10.29A.(c) The General Assembly finds that health insurers licensed to practice in this State currently provide reimbursement for the full series of standard immunizations recommended by the federal Centers for Disease Control and Prevention (CDC) and the American Academy of Family Physicians and required by the North Carolina Immunization Program. The covered immunizations include all of the following:

- (1) Diphtheria, Pertussis, Tetanus Toxoid (DPT).
- (2) Polio.
- (3) Measles, Mumps, Rubella (MMR).
- (4) Influenza.
- (5) Pneumococcal vaccine.
- (6) Human Papilloma virus (HPV).
- (7) Haemophilus Influenzae Type b (Hib) vaccine.

- (8) Hepatitis B.
- (9) Meningococcal vaccine.
- (10) Varicella.
- (11) Rotavirus.
- (12) Hepatitis A.
- (13) Tetanus, Diphtheria, Pertussis (TdaP).

The General Assembly also finds that, consistent with G.S. 130A-153, physicians and local health departments currently administer the required immunizations listed in subdivisions (1) through (11) of this subsection, which are supplied by the federal government at no cost through the Vaccine For Children (VFC) program, to uninsured and underinsured children with incomes below two hundred percent (200%) of the federal poverty level. Therefore, the General Assembly eliminates the State appropriation for the purchase of childhood vaccines for which health care providers, including local health departments, should be billing health insurers.

"SECTION 10.29A.(d) Of the funds appropriated in this act for the Childhood Immunization Program, the sum of three million dollars (\$3,000,000) in nonrecurring funds for the 2010-2011 fiscal year shall be used by the Division of Public Health on a onetime basis to provide for the stocking of required childhood vaccines for the 2010-2011 school year for children with health insurance coverage. Local health departments should seek reimbursement from licensed health insurers in order to maintain the necessary inventory of childhood vaccines."

SECTION 10.13.(b) G.S. 130A-153(a) reads as rewritten:

"(a) The required immunization may be obtained from a physician licensed to practice medicine or from a local health department. Local health departments shall administer required and State-supplied immunizations at no cost to uninsured or underinsured patients ~~who are uninsured or underinsured and have~~ with family incomes below two hundred percent (200%) of the federal poverty level. A local health department may redistribute these vaccines only in accordance with the rules of the Commission."

NORTH CAROLINA HEALTH CHOICE EMERGENCY ROOM VISIT CO-PAYMENTS

SECTION 10.14. Under the North Carolina Health Choice Program for Children, the co-payment for nonemergency visits to the emergency room for children whose family income is at or below one hundred fifty percent (150%) of the federal poverty level is ten dollars (\$10.00). The co-payment for children whose family income is between one hundred fifty-one percent (151%) and two hundred percent (200%) of the federal poverty level is twenty-five dollars (\$25.00).

COMMUNITY CARE OF NORTH CAROLINA

SECTION 10.15. Section 10.36 of S.L. 2009-451 reads as rewritten:

~~"SECTION 10.36.(a) Given the primary care case management foundation established by Community Care of North Carolina (CCNC), the Department shall build upon that foundation to ensure quality care and cost control of care provided to Medicaid patients.~~

~~"SECTION 10.36.(b) The Department shall contract with CCNC participating physicians and local CCNC networks to manage the care of Medicaid recipients through a per member per month reimbursement.~~

~~"SECTION 10.36.(c) The Department shall ensure that, through CCNC participating physicians and networks, the Department is striving to follow tenets adapted from the National Committee of Quality Assurance's (NCQA) national measures for patient-centered Medical Homes Models. The Department shall consult with local CCNC networks to achieve all of the following:~~

- ~~(1) Identify priority diseases, conditions, and patients for care management.~~

- (2) ~~Develop, adopt, and implement protocols for consistent and effective care management of those diseases, conditions, and patients.~~
- (3) ~~Identify data elements necessary for effective delivery and management of medical care and care management services.~~
- (4) ~~Develop and implement a system to measure, analyze, and report clinical performance and service performance by physicians and networks.~~

~~"SECTION 10.36.(d) Consistent with subdivision (1) of subsection (c) of this section, the Department shall (i) identify baseline data on priority diseases, conditions, patients, and populations, and on physicians and networks; (ii) identify patient, physician, and network performance measures, and (iii) develop and implement data systems to gather, analyze, and report on those performance measures. The Department shall begin work immediately to implement this subsection.~~

~~"SECTION 10.36.(e) The Department shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division no later than December 31, 2009, on the performance measures adopted pursuant to subsection (d) of this section. Beginning July 1, 2010, and every six months thereafter, the Department shall submit a report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division evaluating the performance of each of the 14 CCNC Networks based on the performance measures adopted pursuant to subsection (d) of this section.~~

"SECTION 10.36.(f) The Department of Health and Human Services (Department) shall conduct a Request for Proposal process to solicit bids from qualified outside entities with proven experience in conducting actuarial and health care studies and evaluations to annually report on the Medicaid cost savings achieved by the CCNC-Community Care of North Carolina (CCNC) networks during a 12-month period. Beginning December 31, 2010, March 1, 2011, and every year thereafter, the Department shall submit a report on the Medicaid cost savings achieved by the CCNC networks, which shall include children, adults, and the aged, blind, and disabled, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

"SECTION 10.36.(g) By October 1, 2010, the Department and the Division of Medical Assistance (DMA) shall contract with North Carolina Community Care Networks, Inc. (NCCCN, Inc.) and the 14 participating local CCNC networks represented by NCCCN, Inc., to provide standardized clinical and budgetary coordination, oversight, and reporting for a statewide Enhanced Primary Care Case Management System for Medicaid enrollees. The contract with NCCCN, Inc., shall build upon and expand the existing successful CCNC primary care case management model to include comprehensive statewide quantitative performance goals and deliverables which shall include all of the following areas: (i) service utilization management, (ii) budget analytics, (iii) budget forecasting methodologies, (iv) quality of care analytics, (v) participant access measures, and (vi) predictable cost containment methodologies.

"SECTION 10.36.(h) NCCCN, Inc., shall report quarterly to the Department and to the Office of State Budget and Management (OSBM) on the development of the statewide Enhanced Primary Care Case Management System and its defined goals and deliverables as agreed upon in the contract. Beginning July 1, 2010, NCCCN, Inc., shall submit a quarterly report to the Secretary of Health and Human Services, OSBM, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on the progress and results of implementing the quantitative, analytical, utilization, quality, cost containment, and access goals and deliverables set out in the contract. NCCCN, Inc., shall conduct its own analysis of the CCNC system to identify any variations from the development plan for the Enhanced Primary Care Case Management System and its defined goals and deliverables set out in the contract between DMA and NCCCN, Inc. Upon identifying any variations, NCCCN,

Inc., shall develop and implement a plan to address the variations. NCCCN, Inc., shall report the plan to DMA within 30 days after taking any action to implement the plan.

"SECTION 10.36.(i) By January 1, 2012, the Department and OSBM shall assess the performance of NCCCN, Inc., and CCNC regarding the goals and deliverables established in the contract. Based on this assessment, the Department and DMA shall expand, cancel, or alter the contract with NCCCN, Inc., and CCNC effective April 1, 2012. Expansion or alteration of the contract may reflect refinements based on clearly identified goals and deliverables in the areas of quality of care, participant access, cost containment, and service delivery.

"SECTION 10.36.(j) By July 1, 2012, the Department, DMA, and NCCCN, Inc., shall finalize a comprehensive plan that establishes management methodologies which include all of the following: (i) quality of care measures, (ii) utilization measures, (iii) recipient access measures, (iv) performance incentive models in which past experience indicates a benefit from financial incentives, (v) accountable budget models, (vi) shared savings budget models, and (vii) budget forecasting analytics as agreed upon by the Department, DMA, and NCCCN, Inc. In the development of these methodologies, the Department, DMA, and NCCCN, Inc., shall consider options for shared risk. The Department and DMA shall provide assistance to NCCCN, Inc., in meeting the objectives of this section.

"SECTION 10.36.(k) Beginning with the 2010-2011 fiscal year, the Department shall establish a separate line item in Budget Code 14445 for all expenditures in DMA associated with managed care activities pertaining to the utilization of Medicaid expenditures through CCNC."

MEDICAID MANAGEMENT INFORMATION SYSTEM (MMIS) FUNDS/IMPLEMENTATION OF MMIS

SECTION 10.16. Section 10.41(a) of S.L. 2009-451, as amended by Section 10A of S.L. 2009-575, reads as rewritten:

"SECTION 10.41.(a) Of the funds appropriated in this act to the Department of Health and Human Services (Department), the sum of ~~ten million seven hundred sixty-five thousand one hundred fifty-three dollars (\$10,765,153) for fiscal year 2009-2010 and the sum of eight million sixty-four thousand one hundred twenty-eight dollars (\$8,064,128)~~ eleven million seven hundred thirty-seven thousand four hundred fourteen dollars (\$11,737,414) for fiscal year 2010-2011 shall be (i) deposited to the Department's information technology budget code and (ii) used to match federal funds for the procurement, design, development, and implementation of the new Medicaid Management Information System (MMIS) and to fund the central management of the project. The Department shall utilize prior year earned revenues received for the MMIS. In the event that the Department does not receive prior year earned revenues in the amounts authorized by this section, the Department is authorized, with approval of the Office of State Budget and Management, to utilize other overrealized receipts and funds appropriated to the Department to achieve the level of funding specified in this section for the MMIS."

NORTH CAROLINA FAMILIES ACCESSING SERVICES THROUGH TECHNOLOGY (NC FAST) FUNDS

SECTION 10.16A.(a) The Secretary of the Department of Health and Human Services may utilize over-realized receipts and, if necessary, funds appropriated to the Department by this act to expedite development and implementation of the Eligibility Information System (EIS) component of the North Carolina Families Accessing Services through Technology (NC FAST) project. The Department shall not obligate any of its over-realized receipts or funds for this purpose without (i) prior written approval from the United States Department of Agriculture Food and Nutrition Service, the United States Department of Health and Human Services Administration for Children and Families, the Centers for Medicare and Medicaid Services, and any other federal partner responsible for approving changes to the annual Advance Planning Document update (APDu) for the NC

FAST project and (ii) prior review and approval from the Office of Information Technology Services (ITS) and the Office of State Budget Management (OSBM). The Department shall report any changes to the NC FAST project to the Joint Legislative Oversight Committee on Information Technology, the Joint Legislative Commission on Governmental Operations, the Senate Appropriations Committee on Health and Human Services, the House Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than 30 days after receiving all the approvals required by this section.

SECTION 10.16A.(b) Nothing in this section shall be construed to exempt the NC FAST project or any change to the NC FAST project approved pursuant to this section from the provisions of Article 3D of Chapter 147 of the General Statutes.

ELIMINATE STATE FUNDING FOR CHILD SUPPORT OFFICES

SECTION 10.17. Section 10.46A of S.L. 2009-451 is amended by adding a new subsection to read:

"SECTION 10.46A.(c) Notwithstanding G.S. 143-64.03 and G.S. 143-64.05, the Secretary of the Department of Health and Human Services may transfer State-owned equipment, including computers, printers, and furniture, used by State-operated child support offices to administer child support enforcement programs to a county government or the Eastern Band of the Cherokee Indians for the sole purpose of facilitating the county government or the Eastern Band of the Cherokee Indians' administration of the child support program. The transfer shall be at no cost to the county government or the Eastern Band of the Cherokee Indians and shall occur no later than July 1, 2010.

The county government or the Eastern Band of the Cherokee Indians assuming responsibility for the child support program effective July 1, 2010, shall identify from the existing equipment and office furnishings which items will be needed to administer the child support program. A comprehensive list of items to be transferred shall be compiled and signed by the manager of the State-operated child support office and the manager of the county or tribal child support office and the signed list shall serve as official documentation of the transfer. Copies of the documentation shall be provided to the Department of Health and Human Services Controller's Office and the Department of Administration. Any equipment not included in the transfer shall revert to the Department of Administration, Division of Surplus Property."

CHILD WELFARE POSTSECONDARY SUPPORT PROGRAM/USE OF ESCHEAT FUND

SECTION 10.18. Section 10.50 of S.L. 2009-451 reads as rewritten:

"SECTION 10.50.(a) There is appropriated from the Escheat Fund income to the Department of Health and Human Services the sum of three million one hundred sixty-eight thousand two hundred fifty dollars (\$3,168,250) for the 2009-2010 fiscal year. These funds shall be used to support the child welfare postsecondary support program for the educational needs of foster youth aging out of the foster care system and special needs children adopted from foster care after age 12 by providing assistance with the "cost of attendance" as that term is defined in 20 U.S.C. § 10871l. The Department shall collaborate with the State Education Assistance Authority to develop policies and procedures for the distribution of these funds.

If the interest income generated from the Escheat Fund is less than the amounts referenced in this section, the difference may be taken from the Escheat Fund principal to reach the appropriations referenced in this section; however, under no circumstances shall the Escheat Fund principal be reduced below the sum required in G.S. 116B-6(f).

Funds appropriated by this subsection shall be allocated by the State Education Assistance Authority.

The purpose for which funds are appropriated under this section is in addition to other purposes for which Escheat Fund income is distributed under G.S. 116B-7 and shall not be construed to otherwise affect the distribution of funds under G.S. 116B-7.

"SECTION 10.50.(a1) Of the funds appropriated from the General Fund to the Department of Health and Human Services, the sum of ~~three million one hundred sixty-eight thousand two hundred fifty dollars (\$3,168,250)~~one million five hundred eighty-four thousand one hundred twenty-five dollars (\$1,584,125) for the 2010-2011 fiscal year shall be used to support the child welfare postsecondary support program for the educational needs of foster youth aging out of the foster care system and special needs children adopted from foster care after age 12 by providing assistance with the "cost of attendance" as that term is defined in 20 U.S.C. § 10871l.

Funds appropriated by this subsection shall be allocated by the State Education Assistance Authority.

"SECTION 10.50.(b) Of the funds appropriated from the General Fund to the Department of Health and Human Services the sum of fifty thousand dollars (\$50,000) for the 2009-2010 fiscal year and the sum of fifty thousand dollars (\$50,000) for the 2010-2011 fiscal year shall be allocated to the North Carolina State Education Assistance Authority (SEAA). The SEAA shall use these funds only to perform administrative functions necessary to manage and distribute scholarship funds under the child welfare postsecondary support program.

"SECTION 10.50.(c) Of the funds appropriated from the General Fund to the Department of Health and Human Services the sum of five hundred thousand dollars (\$500,000) for the 2009-2010 fiscal year and the sum of ~~five hundred thousand dollars (\$500,000)~~three hundred thirty-nine thousand four hundred ninety-three dollars (\$339,493) for the 2010-2011 fiscal year shall be used to contract with an entity to develop and administer the child welfare postsecondary support program described under subsection (a) of this section, which development and administration shall include the performance of case management services.

"SECTION 10.50.(d) Funds appropriated to the Department of Health and Human Services for the child welfare postsecondary support program shall be used only for students attending public institutions of higher education in this State."

TANF BENEFIT IMPLEMENTATION

SECTION 10.19. Section 10.51 of S.L. 2009-451 reads as rewritten:

"SECTION 10.51.(a) The General Assembly approves the plan titled "North Carolina Temporary Assistance for Needy Families State Plan FY ~~2009-2011~~,2010-2012," prepared by the Department of Health and Human Services and presented to the General Assembly. The North Carolina Temporary Assistance for Needy Families State Plan covers the period October 1, ~~2009,2010~~, through September 30, ~~2011,2012~~. The Department shall submit the State Plan, as revised in accordance with subsection (b) of this section, to the United States Department of Health and Human Services, as amended by this act or any other act of the 2009 General Assembly.

"SECTION 10.51.(b) The counties approved as Electing Counties in the North Carolina Temporary Assistance for Needy Families State Plan FY ~~2009-2011,2010-2012~~, as approved by this section are: Beaufort, Caldwell, Catawba, Lenoir, Lincoln, Macon, and Wilson.

"SECTION 10.51.(c) Counties that submitted the letter of intent to remain as an Electing County or to be redesignated as an Electing County and the accompanying county plan for fiscal years 2009 through 2011, pursuant to G.S. 108A-27(e), shall operate under the Electing County budget requirements effective July 1, 2009. For programmatic purposes, all counties referred to in this subsection ~~shall~~may remain under their current county designation through September 30, ~~2009,2012~~.

"SECTION 10.51.(d) For the ~~2009-2010~~2010-2011 fiscal year, Electing Counties shall be held harmless to their Work First Family Assistance allocations for the 2008-2009 fiscal year, provided that remaining funds allocated for Work First Family Assistance and Work First Diversion Assistance are sufficient for payments made by the Department on behalf of Standard Counties pursuant to G.S. 108A-27.11(b).

"SECTION 10.51.(e) In the event that Departmental projections of Work First Family Assistance and Work First Diversion Assistance for the ~~2009-2010~~2010-2011 fiscal year

indicate that remaining funds are insufficient for Work First Family Assistance and Work First Diversion Assistance payments to be made on behalf of Standard Counties, the Department is authorized to deallocate funds, of those allocated to Electing Counties for Work First Family Assistance in excess of the sums set forth in G.S. 108A-27.11, up to the requisite amount for payments in Standard Counties. Prior to deallocation, the Department shall obtain approval by the Office of State Budget and Management. If the Department adjusts the allocation set forth in subsection (d) of this section, then a report shall be made to the Joint Legislative Commission on Governmental Operations, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division."

STATE-COUNTY SPECIAL ASSISTANCE CONSOLIDATING CHANGES

SECTION 10.19A.(a) G.S. 105A-2(2)e. reads as rewritten:

"The following definitions apply in this Chapter:

...

(2) Debt. – Any of the following:

...

e. A sum owed as a result of having obtained public assistance payments under any of the following programs through an intentional false statement, intentional misrepresentation, intentional failure to disclose a material fact, or inadvertent household error:

1. The Work First Program provided in Article 2 of Chapter 108A of the General Statutes.
2. The State-County Special Assistance ~~for Adults~~ Program enabled by Part 3 of Article 2 of Chapter 108A of the General Statutes.
3. A successor program of one of these programs.

...."

SECTION 10.19A.(b) G.S. 108A-25(a)(2) reads as rewritten:

"(a) The following programs of public assistance are established, and shall be administered by the county department of social services or the Department of Health and Human Services under federal regulations or under rules adopted by the Social Services Commission and under the supervision of the Department of Human Resources:

...

(2) State-county special ~~assistance for adults~~ assistance.

...."

SECTION 10.19A.(c) G.S. 108A-40 reads as rewritten:

"Part 3. State-County Special ~~Assistance for Adults~~ Assistance.

"§ 108A-40. Authorization of State-County Special Assistance ~~for Adults~~ Program.

The Department is authorized to establish and supervise a State-County Special Assistance ~~for Adults~~ Program. This program is to be administered by county departments of social services under rules and regulations of the Social Services Commission."

SECTION 10.19A.(d) G.S. 108A-41 reads as rewritten:

"§ 108A-41. Eligibility.

(a) Assistance shall be granted under this Part to all persons in adult care homes for care found to be essential in accordance with the rules and regulations adopted by the Social Services Commission and prescribed by G.S. 108A-42(b). As used in this Part, the term "adult care home" includes a supervised living facility for ~~developmentally disabled~~ adults with intellectual and developmental disabilities licensed under Article 2 of Chapter 122C of the General Statutes.

(b) Assistance shall be granted to any person who:

- (1) Is 65 years of age and older, ~~or is between the ages of 18 and 65~~, and is permanently and totally ~~disabled~~; disabled or is legally blind pursuant to G.S. 111-11; and
- (2) Has insufficient income or other resources to provide a reasonable subsistence compatible with decency and health as determined by the rules and regulations of the Social Services Commission; and
- (3) Is one of the following:
 - a. A resident of North Carolina for at least 90 days immediately prior to receiving this assistance;
 - b. A person coming to North Carolina to join a close relative who has resided in North Carolina for at least 180 consecutive days immediately prior to the person's application. The close relative shall furnish verification of his or her residency to the local department of social services at the time the applicant applies for special assistance. As used in this sub-subdivision, a close relative is the person's parent, grandparent, brother, sister, spouse, or child; or
 - c. A person discharged from a State facility who was a patient in the facility as a result of an interstate mental health compact. As used in this sub-subdivision the term State facility is a facility listed under G.S. 122C-181.

(c) When determining whether a person has insufficient resources to provide a reasonable subsistence compatible with decency and health, there shall be excluded from consideration the person's primary place of residence and the land on which it is situated, and in addition there shall be excluded real property contiguous with the person's primary place of residence in which the property tax value is less than twelve thousand dollars (\$12,000).

(d) The county shall also have the option of granting assistance to Certain Disabled persons as defined in the rules and regulations adopted by the Social Services Commission. Nothing in this Part should be interpreted so as to preclude any individual county from operating any program of financial assistance using only county funds."

SECTION 10.19A.(e) G.S. 108A-45 reads as rewritten:

"§ 108A-45. Participation.

The State-County Special Assistance ~~for Adults~~ Program established by this Part shall be administered by all the county departments of social services under rules and regulations adopted by the Social Services Commission and under the supervision of the Department. Provided that, assistance for certain disabled persons shall be provided solely at the option of the county."

SECTION 10.19A.(f) G.S. 108A-46.1 reads as rewritten:

"§ 108A-46.1. Transfer of assets for purposes of qualifying for State-county Special Assistance for adults. Assistance.

Notwithstanding any other provision of law to the contrary, Supplemental Security Income (SSI) policy applicable to transfer of assets and estate recovery, as prescribed by federal law, shall apply to applicants for State-county Special Assistance."

SECTION 10.19A.(g) G.S. 108A-47 reads as rewritten:

"§ 108A-47. Limitations on payments.

No payment of assistance under this Part shall be made for the care of any person in ~~an adult care home~~ a licensed facility that is owned or operated in whole or in part by any of the following:

- (1) A member of the Social Services Commission, of any county board of social services, or of any board of county commissioners;
- (2) An official or employee of the Department, unless the official or employee has been appointed temporary manager of the facility pursuant to G.S. 131E-237, or of any county department of social services;
- (3) A spouse of a person designated in subdivisions (1) and (2)."

SECTION 10.19A.(h) G.S. 108A-47.1 reads as rewritten:

"§ 108A-47.1. **Special Assistance in-home payments.**

The Department of Health and Human Services may use funds from the existing State-County Special Assistance ~~for Adults~~ budget to provide Special Assistance payments to eligible individuals 18 years of age or older in in-home living arrangements. These payments may be made for up to fifteen percent (15%) of the caseload for all State-County Special ~~Assistance for Adults~~ Assistance. The standard monthly payment to individuals enrolled in the Special Assistance in-home program shall be seventy-five percent (75%) of the monthly payment the individual would receive if the individual resided in an adult care home and qualified for Special Assistance, except if a lesser payment amount is appropriate for the individual as determined by the local case manager. The Department shall implement Special Assistance in-home eligibility policies and procedures to assure that in-home program participants are those individuals who need and, but for the in-home program, would seek placement in an adult care home facility. The Department's policies and procedures shall include the use of a functional assessment. The Department shall make this in-home option available to all counties on a voluntary basis. To the maximum extent possible, the Department shall consider geographic balance in the dispersion of payments to individuals across the State."

SECTION 10.19A.(i) G.S. 108A-80(b) reads as rewritten:

"(b) The Department shall furnish a copy of the recipient check register monthly to each county auditor showing a complete list of all recipients of Work First Family Assistance in Standard Program Counties and State-County Special ~~Assistance for Adults~~ Assistance, their addresses, and the amounts of the monthly grants. An Electing County whose checks are not being issued by the State shall furnish a copy of the recipient check register monthly to its county auditor showing a complete list of all recipients of Work First Family Assistance in the Electing County, their addresses, and the amounts of the monthly payments. These registers shall be public records open to public inspection during the regular office hours of the county auditor, but the registers or the information contained therein may not be used for any commercial or political purpose. Any violation of this section shall constitute a Class 1 misdemeanor."

EXTEND REPORTING DATE/EVALUATION OF CONSOLIDATION OF ADMINISTRATIVE FUNCTIONS OF COUNTY DEPARTMENT OF SOCIAL SERVICES

SECTION 10.20. Section 10.52(b) of S.L. 2009-451 reads as rewritten:

"**SECTION 10.52.(b)** The Program Evaluation Division shall report its findings and recommendations to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division by ~~December 1, 2010~~ February 1, 2011."

CHILDREN'S TRUST FUND

SECTION 10.20A.(a) G.S. 7B-1302(a) reads as rewritten:

"(a) There is established a fund to be known as the "Children's Trust Fund," in the ~~Department of State Treasurer~~ Department of Health and Human Services, Division of Social Services, which shall be funded by a portion of the marriage license fee under G.S. 161-11.1 and a portion of the special license plate fee under G.S. 20-81.12. The money in the Fund shall be used by the Division of Social Services to fund abuse and neglect prevention programs so authorized by this Article."

SECTION 10.20A.(b) G.S. 161-11.1(a) reads as rewritten:

"(a) Five dollars (\$5.00) of each fee collected by a register of deeds on or after October 1, 1983, for issuance of a marriage license pursuant to G.S. 161-10(a)(2) shall be forwarded, as soon as practical but no later than 60 days after collection by the register of deeds, to the county finance officer, who shall forward same to the ~~State Treasurer~~ Department of Health and Human Services, Division of Social Services, for deposit in the Children's Trust Fund."

OFFICE OF EDUCATION SERVICES/CONSOLIDATION OF PRINCIPAL FUNCTIONS

SECTION 10.20B.(a) The Department of Health and Human Services shall consolidate the functions of the School Director OES Residential Schools and School Principal positions located at the North Carolina School for the Deaf, Eastern North Carolina School for the Deaf, and Governor Morehead School for the Blind. In addition to the minimum qualifications for School Administrator-Principals outlined in Chapter 115C of the General Statutes, the Department of Health and Human Services shall consult with the State Board of Education and the Department of Public Instruction to set minimum qualifications for occupants of the consolidated School Director OES Residential Schools positions.

SECTION 10.20B.(b) The following positions in the Office of Education Services are hereby eliminated:

- (1) 60039101 – School Principal
- (2) 60039225 – School Principal
- (3) 60039380 – School Administrator
- (4) 60039082 – School Assistant Principal
- (5) 60039080 – School Assistant Principal
- (6) 60039138 – School Assistant Principal
- (7) 60039392 – School Assistant Principal

The Office of Education Services shall ensure that elimination of these positions does not interrupt oversight of instructional programming by a fully licensed School Administrator-Principal or School Administrator-Assistant Principal at the North Carolina School for the Deaf, Eastern North Carolina School for the Deaf, or Governor Morehead School for the Blind.

OFFICE OF EDUCATION SERVICES/TRANSFER OF RESIDENTIAL AND PRESCHOOLS FOR THE DEAF AND BLIND

SECTION 10.21A.(a) The General Assembly finds that to improve the educational outcomes for students attending the State's residential schools for the deaf and blind, the State Board of Education shall assume administrative responsibility for the North Carolina School for the Deaf, Eastern North Carolina School for the Deaf, Governor Morehead School for the Blind, Early Intervention Services – Preschool, and Governor Morehead Preschool programs. Notwithstanding Part 3A of Article 3 of Chapter 143B of the General Statutes, effective June 1, 2011, the Office of Education Services within the Department of Health and Human Services is dissolved, and the North Carolina School for the Deaf, Eastern North Carolina School for the Deaf, Governor Morehead School for the Blind, Early Intervention Services – Preschool, and Governor Morehead Preschool programs within the Department of Health and Human Services, Office of Education Services, are transferred to the Department of Public Instruction. These transfers shall have all of the elements of a Type I transfer, as defined in G.S. 143A-6. Upon transfer, the State Board of Education shall continue the salary supplements authorized by G.S. 143B-146.21, and in effect on June 1, 2011, for teachers, instructional support personnel, and school-based administrators in the residential schools and preschools.

SECTION 10.21A.(b) The State Board of Education shall, in consultation with the Department of Health and Human Services, develop and implement a transition plan that addresses, at a minimum, each of the following:

- (1) Structural adjustments within the Department of Public Instruction.
- (2) Proposed staffing and operating requirements for the provision of appropriate oversight.
- (3) Collaboration with the Department of Health and Human Services in the provision of student health services, life skills/independent living services, and vocational instruction.
- (4) Continuation of educational support services, including curriculum/instructional support, monitoring/evaluation, and licensure,

- certification, and teacher evaluation assistance to remaining educational programs within the Department of Health and Human Services.
- (5) Targets for student achievement and recommended adjustments to instructional services at the residential schools to improve educational outcomes, including:
- a. End-of-grade (EOG) and end-of-course (EOC) test scores;
 - b. Academic pathway graduation rates;
 - c. Completion of postsecondary education; and
 - d. Postgraduation employment.

The State Board of Education shall submit the plan to the Joint Legislative Commission on Governmental Operations Subcommittee on Education/Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Education/Higher Education, the House of Representatives Appropriations Subcommittee on Education, and the Fiscal Research Division no later than December 1, 2010. The State Board of Education shall present the plan to the Joint Legislative Commission on Governmental Operations Subcommittee on Education/Health and Human Services at its subsequent meeting following submission of the plan.

SECTION 10.21A.(c) The Secretary of the Department of Health and Human Services (Secretary) shall, in consultation with the Chair of the State Board of Education, appoint an interim superintendent within the Department of Health and Human Services to oversee operations of the North Carolina School for the Deaf, Eastern North Carolina School for the Deaf, Governor Morehead School for the Blind, Early Intervention Services – Preschool, and Governor Morehead Preschool programs no later than October 1, 2010. The interim superintendent shall report directly to the Secretary until a superintendent hired pursuant to subsection (e) of this section assumes administrative responsibility for the schools. The Secretary is authorized to use an existing, temporary position and funds appropriated in this act to the Department of Health and Human Services to support the activities of the interim superintendent. The Secretary shall not reclassify one of the positions designated for elimination in subsection (f) of this section to meet the requirements of this subsection.

SECTION 10.21A.(d) No later than October 1, 2010, the State Board of Education shall establish a search committee to hire a superintendent to oversee the operations of the North Carolina School for the Deaf, Eastern North Carolina School for the Deaf, and Governor Morehead School for the Blind within the Department of Public Instruction. The search committee is charged with: (i) identifying prospective applicants and reviewing applications for the position of superintendent; and (ii) recommending qualified applicants to the State Board of Education no later than May 1, 2011. The search committee shall consist of the following:

- (1) The State Superintendent of Public Instruction, or designee.
- (2) The Chair of the State Board of Education, or designated member of the Board.
- (3) The Director of the North Carolina School for the Deaf, or designee.
- (4) The Director of the Eastern North Carolina School for the Deaf, or designee.
- (5) The Director of the Governor Morehead School for the Blind, or designee.
- (6) The Chair of the North Carolina Council for the Deaf and Hard of Hearing, or designee.
- (7) The Chair of the Consumer and Advocacy Committee for the Blind, or designee.
- (8) Two public members with professional expertise in the education of hearing and visually impaired students, appointed by the Governor.

The Chair of the State Board of Education, or designated member of the Board, shall serve as chair of the search committee. A majority of the members constitutes a quorum. The Committee shall convene no later than November 1, 2010, and shall set its subsequent meeting

schedule as determined by the members of the search committee. Members of the search committee shall serve on a voluntary basis, and vacancies shall be filled by the designating or appointing authority. The Department of Public Instruction shall provide requested professional and clerical support to the search committee. The search committee shall terminate no later than May 1, 2011, and make its final recommendations to the State Board of Education upon its termination.

SECTION 10.21A.(e) The State Board of Education (Board) shall, in collaboration with the Office of State Personnel, set the duties, recruitment standards, and classification for the position of Superintendent of the North Carolina School for the Deaf, Eastern North Carolina School for the Deaf, and Governor Morehead School for the Blind. The Department of Public Instruction shall create the position of superintendent from funds appropriated in this act. The Board shall provide public notice of the position no later than December 1, 2010. Upon considering the recommendations of the search committee, the Board shall hire a superintendent to assume oversight of the residential schools no later than June 1, 2011.

SECTION 10.21A.(f) Effective October 1, 2010, the Office of Education Services' Central Administration and Exceptional Children Support programs are eliminated. The following positions shall be eliminated as part of this action:

- (1) Central Administration:
 - a. Executive Assistant I – 60038894
 - b. Administrative Off III – 60038895
 - c. Business Officer – 60038896
 - d. Superintendent Office of Education – 60038897
 - e. W/A Personnel Director I – 60038898
 - f. Purchasing Technician – 60038900
 - g. School Administrator – 60038903
 - h. School Administrator – 60038905
- (2) Exceptional Children Support:
 - a. School Administrator – 60038901
 - b. School Administrator – 60038902
 - c. School Guidance Counselor – 60038904
 - d. Human Services Clinical Counselor II – 60039190
 - e. School Educator II – 60039306
 - f. School Educator – 60039310
 - g. Processing Assistant IV – 60039439

SECTION 10.21A.(g) Effective October 1, 2010, the Resource Support, DHHS VI Outreach, and Deaf/Blind statewide programs within the Office of Education Services (14424-1601) are transferred to the Department of Public Instruction, Exceptional Children Division. These transfers shall have all of the elements of a Type I transfer, as defined in G.S. 143A-6. The following positions shall also be transferred as part of this action:

- (1) School Administrator – 60089692
- (2) School Educator I – 60039422
- (3) School Educator II – 60039420
- (4) School Educator I – 60039418

SECTION 10.21A.(h) Effective for the 2010-2011 academic year, the Department of Health and Human Services shall reinstate the residential and instructional schedules for the North Carolina School for the Deaf, Eastern North Carolina School for the Deaf, and Governor Morehead School for the Blind that were in effect before February 8, 2010. Residential students shall have the opportunity to arrive at their respective schools on the evening of the day before commencement of academic instruction for the week. The Department of Health and Human Services shall also reinstate on-site summer school programming at these schools.

MEDICAID POLICY CHANGES

SECTION 10.22.(a) Section 10.58.(d) of S.L. 2009-451 reads as rewritten:

"SECTION 10.58.(d) Services and Payment Bases. – The Department shall spend funds appropriated for Medicaid services in accordance with the following schedule of services and payment bases. All services and payments are subject to the language at the end of this subsection. Unless otherwise provided, services and payment bases will be as prescribed in the State Plan as established by the Department of Health and Human Services and may be changed with the approval of the Director of the Budget.

- ...
- (28) **Drugs. – Reimbursements.** Reimbursements shall be available for prescription drugs as allowed by federal regulations plus a professional services fee per month, excluding refills for the same drug or generic equivalent during the same month. Payments for drugs are subject to the provisions of this subdivision or in accordance with the State Plan adopted by the Department of Health and Human Services, consistent with federal reimbursement regulations. Payment of the professional services fee shall be made in accordance with the State Plan adopted by the Department of Health and Human Services, consistent with federal reimbursement regulations. The professional services fee shall be five dollars and sixty cents (\$5.60) per prescription for generic drugs and four dollars (\$4.00) per prescription for brand-name drugs. Adjustments to the professional services fee shall be established by the General Assembly. In addition to the professional services fee, the Department may pay an enhanced fee for pharmacy services.

Limitations on quantity. – The Department of Health and Human Services may establish authorizations, limitations, and reviews for specific drugs, drug classes, brands, or quantities in order to manage effectively the Medicaid pharmacy program, ~~except that the Department shall not impose limitations on brand name medications for which there is a generic equivalent in cases where the prescriber has determined, at the time the drug is prescribed, that the brand name drug is medically necessary and has written on the prescription order the phrase "medically necessary."~~program. The Department may impose prior authorization requirements on brand-name drugs for which the phrase "medically necessary" is written on the prescription.

Dispensing of generic drugs. – Notwithstanding G.S. 90-85.27 through G.S. 90-85.31, or any other law to the contrary, under the Medical Assistance Program (Title XIX of the Social Security Act), and except as otherwise provided in this subsection for drugs listed in the narrow therapeutic index, a prescription order for a drug designated by a trade or brand name shall be considered to be an order for the drug by its established or generic name, except when the prescriber has determined, at the time the drug is prescribed, that the brand-name drug is medically necessary and has written on the prescription order the phrase "medically necessary." An initial prescription order for a drug listed in the narrow therapeutic drug index that does not contain the phrase "medically necessary" shall be considered an order for the drug by its established or generic name, except that a pharmacy shall not substitute a generic or established name prescription drug for subsequent brand or trade name prescription orders of the same prescription drug without explicit oral or written approval of the prescriber given at the time the order is filled. Generic drugs shall be dispensed at a lower cost to the Medical Assistance Program rather than trade or brand-name drugs. Notwithstanding this subdivision to the contrary, the Secretary of Health and Human Services may prevent substitution of a generic equivalent drug, including a generic equivalent that is on the State maximum allowable cost list, when the net cost to the State of the brand-name drug, after

consideration of all rebates, is less than the cost of the generic equivalent. As used in this subsection, "brand name" means the proprietary name the manufacturer places upon a drug product or on its container, label, or wrapping at the time of packaging; and "established name" has the same meaning as in section 502(e)(3) of the Federal Food, Drug, and Cosmetic Act, as amended, 21 U.S.C. § 352(e)(3).

~~Prior authorization. – The Department of Health and Human Services shall not impose prior authorization requirements or other restrictions under the State Medical Assistance Program on medications prescribed for Medicaid recipients for the treatment of (i) mental illness, including, but not limited to, medications for schizophrenia, bipolar disorder, major depressive disorder or (ii) HIV/AIDS, except that the Department of Health and Human Services shall continually review utilization of medications under the State Medical Assistance Program prescribed for Medicaid recipients for the treatment of mental illness, including, but not limited to, medications for schizophrenia, bipolar disorder, or major depressive disorder. The Department may, however, with respect to drugs to treat mental illnesses, develop guidelines and measures to ensure appropriate usage of these medications, including FDA-approved indications and dosage levels. (ii) HIV/AIDS. Medications prescribed for the treatment of mental illness shall be included on the Preferred Drug List (PDL). The Department of Health and Human Services, Division of Medical Assistance, may initiate prior authorization for the prescribing of drugs specified for the treatment of mental illness by providers who fail to prescribe those drugs in accordance with indications and dosage levels approved by the federal Food and Drug Administration. The Department may also require retrospective clinical justification for the use of multiple psychotropic drugs for a Medicaid patient. For individuals 18 years of age and under who are prescribed three or more psychotropic medications, the Department shall implement clinical edits that target inefficient, ineffective, or potentially harmful prescribing patterns. When such patterns are identified, the Medical Director for the Division of Medical Assistance and the Chief of Clinical Policy for the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall require a peer-to-peer consultation with the target prescribers. Alternatives discussed during the peer-to-peer consultations shall be based upon:~~

- a. Evidence-based criteria available regarding efficacy or safety of the covered treatments; and
- b. Policy approval by a majority vote of the North Carolina Physicians Advisory Group (NCPAG).

~~The target prescriber has final decision-making authority to determine which prescription drug to prescribe or refill.~~

...
 (30) Experimental or trial procedures. – Coverage is limited to procedures that are recognized or approved by the National Institutes of Health (NIH).

(31) Medicaid as secondary payer claims. – The Department shall apply Medicaid medical policy to recipients who have primary insurance other than Medicare, Medicare Advantage, and Medicaid. The Department shall pay an amount up to the actual coinsurance or deductible or both, in accordance with the State Plan, as approved by the Department of Health and Human Services. The Department may disregard application of this policy in cases where application of the policy would adversely affect patient care."

SECTION 10.22.(b) Section 10.58.(e) of S.L. 2009-451 reads as rewritten:

"SECTION 10.58.(e) Provider Performance Bonds and Visits. –

- (1) Subject to the provisions of this subdivision, the Department may require Medicaid-enrolled providers to purchase a performance bond in an amount not to exceed one hundred thousand dollars (\$100,000) naming as beneficiary the Department of Health and Human Services, Division of Medical Assistance, or provide to the Department a validly executed letter of credit or other financial instrument issued by a financial institution or agency honoring a demand for payment in an equivalent amount. The Department may require the purchase of a performance bond or the submission of an executed letter of credit or financial instrument as a condition of initial enrollment, reenrollment, or reinstatement if:
- a. The provider fails to demonstrate financial viability,
 - b. The Department determines there is significant potential for fraud and abuse,
 - c. The Department otherwise finds it is in the best interest of the Medicaid program to do so.

The Department shall specify the circumstances under which a performance bond or executed letter of credit will be required.

- (1a) The Department may waive or limit the requirements of this paragraph for individual Medicaid-enrolled providers or for one or more classes of Medicaid-enrolled providers based on the following:
- a. The provider's or provider class's dollar amount of monthly billings to Medicaid.
 - b. The length of time an individual provider has been licensed, endorsed, certified, or accredited in this State to provide services.
 - c. The length of time an individual provider has been enrolled to provide Medicaid services in this State.
 - d. The provider's demonstrated ability to ensure adequate record keeping, staffing, and services.
 - e. The need to ensure adequate access to care.

In waiving or limiting requirements of this paragraph, the Department shall take into consideration the potential fiscal impact of the waiver or limitation on the State Medicaid Program. The Department shall provide to the affected provider written notice of the findings upon which its action is based and shall include the performance bond requirements and the conditions under which a waiver or limitation apply. The Department may adopt temporary rules in accordance with G.S. 150B-21.1 as necessary to implement this provision.

- (2) Reimbursement is available for up to 30 visits per recipient per fiscal year for the following professional services: ~~hospital-outpatient providers,~~ physicians, nurse practitioners, nurse midwives, clinics, health departments, optometrists, chiropractors, and podiatrists. The Department of Health and Human Services shall adopt medical policies in accordance with G.S. 108A-54.2 to distribute the allowable number of visits for each service or each group of services consistent with federal law. In addition, the Department shall establish a threshold of some number of visits for these services. The Department shall ensure that primary care providers or the appropriate CCNC network are notified when a patient is nearing the established threshold to facilitate care coordination and intervention as needed.

Prenatal services, all EPSDT children, emergency room visits, and mental health visits subject to independent utilization review are exempt

from the visit limitations contained in this subdivision. Subject to appropriate medical review, the Department may authorize exceptions when additional care is medically necessary. Routine or maintenance visits above the established visit limit will not be covered unless necessary to actively manage a life threatening disorder or as an alternative to more costly care options."

SPECIALTY DRUG PROVIDER NETWORK

SECTION 10.23. The Department of Health and Human Services shall work with specialty drug providers, manufacturers of specialty drugs, Medicaid recipients who are prescribed specialty drugs, and the medical professionals that treat Medicaid recipients who are prescribed specialty drugs to develop ways to ensure that best practices and the prevention of overutilization are maintained in the delivery and utilization of specialty drugs.

STATEWIDE EXPANSION OF CAPITATED 1915(B)/(C) BEHAVIORAL HEALTH WAIVERS

SECTION 10.24.(a) The Department of Health and Human Services (Department) shall select up to two additional Local Management Entities (LMEs) to implement the capitated 1915 (b)/(c) Medicaid waiver as a demonstration program during the 2010-2011 fiscal year. The waiver program shall include all Medicaid-covered mental health, developmental disabilities, and substance abuse services. Expansion of the waiver to additional LMEs shall be contingent upon approval by the Centers for Medicare and Medicaid Services.

SECTION 10.24.(b) The Department shall conduct an evaluation of the capitated 1915(b)/(c) Medicaid waiver demonstration program sites to determine the programs' impact on consumers with developmental disabilities. The evaluation shall include a satisfaction survey of consumers. The Department shall consider the impact on ICF/MR facilities included in the waiver to determine and, to the extent possible, minimize potential inconsistencies with the DMA-ICF/MR rate plan and the requirements of G.S. 131E-176 and G.S. 131E-178 without negatively impacting the viability and success of the waiver program. The Department shall consult with stakeholders and evaluate all other waiver options, including the possibility of a waiver without a 1915(b)/(c) combination. The Department shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division no later than April 1, 2012, after which time the Department may expand the capitated 1915(b)/(c) Medicaid waiver to additional LMEs.

The Department shall not approve any expansion of the Piedmont Behavioral Healthcare LME (PBH) beyond its existing catchment area until after the Department has completed its evaluation and made its report pursuant to this subsection.

STUDY MEDICAID PROVIDER RATES

SECTION 10.25.(a) The Department of Health and Human Services, Division of Medical Assistance, shall initiate a study or contract out for a study of reimbursement rates for Medicaid providers and program benefits. The study shall include the following information:

- (1) A comparison of Medicaid reimbursement rates in North Carolina with reimbursement rates in surrounding states and with rates in two additional states; and
- (2) A comparison of Medicaid program benefits in North Carolina with program benefits provided in surrounding states and with rates in two additional states. Selected provider rates shall be studied for the initial report.

SECTION 10.25.(b) The Department shall report its initial findings to the Governor, the Senate Appropriations Committee on Health and Human Services, the House of

Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division by April 1, 2011.

SECTION 10.25.(c) Funds appropriated to the Department of Health and Human Services may be used to complete this study.

MEDICAID FRAUD PREVENTION

SECTION 10.26.(a) The Department of Health and Human Services (Department) is authorized to create a fraud prevention program that uses information, lawfully obtained, from State and private databases to develop a fraud risk analysis of Medicaid providers and recipients. This analysis would be used to prevent fraud before it takes place and to achieve cost avoidance savings. For the purposes of the fraud prevention program created pursuant to this subsection, State agencies shall provide the Department with access to their databases, and the Department shall comply with all necessary security measures and restrictions to ensure that access to any specific information held confidential under federal and State law is limited to authorized persons.

SECTION 10.26.(b) The information obtained by the Department pursuant to subsection (a) of this section shall be privileged and confidential, is not a public record pursuant to G.S. 132-1, and may only be used for investigative or evidentiary purposes related to violations of State or federal law and regulatory activities. The Department shall release data collected pursuant to this section to the following persons only:

- (1) An individual who requests the individual's own Medicaid recipient information.
- (2) A provider who requests the provider's Medicaid provider information.
- (3) The Office of the Attorney General, a county department of social services for investigative or evidentiary purposes related to violations of State or federal law by Medicaid recipients, and the Medicaid Fraud Investigations Unit of the Office of the Attorney General of North Carolina for investigative or evidentiary purposes related to violations of State or federal law by Medicaid providers.
- (4) To a court pursuant to a lawful court order in a criminal action.

The Department may provide data to public or private entities for statistical, research, or educational purposes only after removing information that could be used to identify individual recipients or providers of Medicaid services.

SECTION 10.26.(c) Notwithstanding any other provision of law to the contrary, the Department may modify or extend existing contracts to achieve Medicaid fraud prevention savings in a timely manner, subject to review and approval by the Secretary of the Department of Administration. The requirements of G.S. 143-59 apply to contracts entered into, modified, or extended pursuant to this section.

SECTION 10.26.(d) The Department shall report on the activities conducted under this section, including actions taken relating to compliance with G.S. 143-59 and any contract modifications or extensions that are approved pursuant to this section to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Office of State Budget and Management, and the Fiscal Research Division on or before April 1, 2011.

SECTION 10.26.(e) The authority granted to the Department to modify or extend existing contracts in subsection (c) of this section expires one year following the effective date of this section. The Department shall destroy all records and information obtained pursuant to this section after five years unless there has been criminal, civil, or administrative action involving the records and information obtained. Any records or information turned over to the Office of the Attorney General, a county department of social services, the Medicaid Fraud Investigation Unit of the Office of the Attorney General, or a court of competent jurisdiction shall not be subject to the destruction requirements of this subsection.

STUDY HIV MEDICAID WAIVER

SECTION 10.27. By November 1, 2010, the Department of Health and Human Services, Divisions of Medical Assistance and Public Health, shall jointly study and report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on the financial and programmatic feasibility of reducing the waiting list for the AIDS Drug Assistance Program (ADAP) by expanding eligibility for Medicaid to HIV-positive individuals with incomes at or below one hundred thirty-three percent (133%) of the federal poverty level. The study shall include an assessment of the cost-effectiveness of using State dollars to expand Medicaid eligibility to this population as compared to using State dollars for ADAP. The study may also consider any planning and coordination benefits the State may derive from expanding Medicaid eligibility to HIV-positive individuals, in preparation for the expansion of Medicaid eligibility in calendar year 2014 to all individuals with incomes at or below one hundred thirty-three percent (133%) of the federal poverty level. If, as a result of the study, the Divisions of Medical Assistance and Public Health conclude that expanding Medicaid eligibility to HIV-positive individuals with incomes at or below one hundred thirty-three percent (133%) of the federal poverty level is a cost-effective means for the State to eliminate its ADAP waiting list, then the Division of Medical Assistance shall apply to the Centers for Medicare and Medicaid Services (CMS) for an appropriate waiver to implement this expansion in Medicaid eligibility. If approved by CMS, the Division shall not implement the waiver except as authorized by an act of the General Assembly appropriating funds for this purpose.

ELIMINATE REIMBURSEMENT OF "NEVER EVENTS"

SECTION 10.28. The Department of Health and Human Services, Division of Medical Assistance, shall modify its Medicaid State Plan, as detailed by the Centers for Medicare and Medicaid Services in its July 31, 2008, letter to State Medicaid Directors, to ensure that inpatient hospital reimbursement is not provided for Hospital-Acquired Conditions (HACs) that are identified as nonpayable by Medicare. The State Plan Amendment addressing this "Never Event" modification shall apply to all Medicaid reimbursement provisions in section 4.19A of the North Carolina Medicaid State Plan governing inpatient hospital reimbursement, including Medicaid supplemental or enhanced payments and Medicaid disproportionate share hospital payments.

AMEND MEDICAID RECIPIENT APPEALS PROCESS

SECTION 10.30.(a) Article 2 of Chapter 108A of the General Statutes is amended by adding a new Part to read:

"Part 6A. Medicaid Recipient Appeals Process.

"§ 108A-70.9A. Appeals by Medicaid recipients.

(a) Definitions. – The following definitions apply in this Part, unless the context clearly requires otherwise.

- (1) Adverse determination.** – A determination by the Department to deny, terminate, suspend, or reduce a Medicaid service or an authorization for a Medicaid service.
- (2) Recipient.** – A recipient and the recipient's parent, guardian, or legal representative, unless otherwise specified.
- (3) OAH.** – The Office of Administrative Hearings.

(b) General Rule. – Notwithstanding any provision of State law or rules to the contrary, this section shall govern the process used by a Medicaid recipient to appeal an adverse determination made by the Department.

(c) Notice. – Except as otherwise provided by federal law or regulation, at least 10 days before the effective date of an adverse determination, the Department shall notify the recipient, and the provider, if applicable, in writing of the adverse determination and of the recipient's

right to appeal the adverse determination. The Department shall not be required to notify a recipient's parent, guardian, or legal representative unless the recipient's parent, guardian, or legal representative has requested in writing to receive the notice. The notice shall be mailed on the date indicated on the notice as the date of the determination. The notice shall include:

- (1) An identification of the recipient whose services are being affected by the adverse determination, including the recipient's full name and Medicaid identification number.
- (2) An explanation of what service is being denied, terminated, suspended, or reduced and the reason for the determination.
- (3) The specific regulation, statute, or medical policy that supports or requires the adverse determination.
- (4) The effective date of the adverse determination.
- (5) An explanation of the recipient's right to appeal the Department's adverse determination in an evidentiary hearing before an administrative law judge.
- (6) An explanation of how the recipient can request a hearing and a statement that the recipient may represent himself or herself or use legal counsel, a relative, or other spokesperson.
- (7) A statement that the recipient will continue to receive Medicaid services at the level provided on the day immediately preceding the Department's adverse determination or the amount requested by the recipient, whichever is less, if the recipient requests a hearing before the effective date of the adverse determination. The services shall continue until the hearing is completed and a final decision is rendered.
- (8) The name and telephone number of a contact person at the Department to respond in a timely fashion to the recipient's questions.
- (9) The telephone number by which the recipient may contact a Legal Aid/Legal Services office.
- (10) The appeal request form described in subsection (e) of this section that the recipient may use to request a hearing.

(d) Appeals. – Except as provided by this section and G.S. 108A-70.9B, a request for a hearing to appeal an adverse determination of the Department under this section is a contested case subject to the provisions of Article 3 of Chapter 150B of the General Statutes. The recipient shall request a hearing within 30 days of the mailing of the notice required by subsection (c) of this section by sending an appeal request form to OAH and the Department. Where a request for hearing concerns the reduction, modification, or termination of Medicaid services, including the failure to act upon a timely request for reauthorization with reasonable promptness, upon the receipt of a timely appeal, the Department shall reinstate the services to the level or manner prior to action by the Department as permitted by federal law or regulation. The Department shall immediately forward a copy of the notice to OAH electronically. The information contained in the notice is confidential unless the recipient appeals. OAH may dispose of the records after one year. The Department may not influence, limit, or interfere with the recipient's decision to request a hearing.

(e) Appeal Request Form. – Along with the notice required by subsection (c) of this section, the Department shall also provide the recipient with an appeal request form which shall be no more than one side of one page. The form shall include the following:

- (1) A statement that in order to request an appeal, the recipient must send the form by mail or fax to the address or fax number listed on the form within 30 days of mailing of the notice.
- (2) The recipient's name, address, telephone number, and Medicaid identification number.
- (3) A preprinted statement that indicates that the recipient would like to appeal the specific adverse determination of which the recipient was notified in the notice.

- (4) A statement informing the recipient that he or she may choose to be represented by a lawyer, a relative, a friend, or other spokesperson.
- (5) A space for the recipient's signature and date.

(f) Final Decision. – After a hearing before an administrative law judge, the judge shall return the decision and record to the Department in accordance with G.S. 108A-70.9B. The Department shall make a final decision in the case within 20 days of receipt of the decision and record from the administrative law judge and promptly notify the recipient of the final decision and of the right to judicial review of the decision pursuant to Article 4 of Chapter 150B of the General Statutes.

"§ 108A-70.9B. Contested Medicaid cases.

(a) Application. – This section applies only to contested Medicaid cases commenced by Medicaid recipients under G.S. 108A-70.9A. Except as otherwise provided by G.S. 108A-70.9A and this section governing time lines and procedural steps, a contested Medicaid case commenced by a Medicaid recipient is subject to the provisions of Article 3 of Chapter 150B of the General Statutes. To the extent any provision in this section or G.S. 108A-70.9A conflicts with another provision in Article 3 of Chapter 150B of the General Statutes, this section and G.S. 108A-70.9A control.

(b) Simple Procedures. – Notwithstanding any other provision of Article 3 of Chapter 150B of the General Statutes, the chief administrative law judge may limit and simplify the procedures that apply to a contested Medicaid case involving a Medicaid recipient in order to complete the case as quickly as possible.

- (1) To the extent possible, OAH shall schedule and hear contested Medicaid cases within 55 days of submission of a request for appeal.
- (2) Hearings shall be conducted telephonically or by video technology with all parties, however the recipient may request that the hearing be conducted in person before the administrative law judge. An in-person hearing shall be conducted in Wake County, however, for good cause shown, the in-person hearing may be conducted in the county of residence of the recipient or a nearby county. Good cause shall include, but is not limited to, the recipient's impairments limiting travel or the unavailability of the recipient's treating professional witnesses. The Department shall provide written notice to the recipient of the use of telephonic hearings, hearings by video conference, and in-person hearings before the administrative law judge, and how to request a hearing in the recipient's county of residence.
- (3) The simplified procedure may include requiring that all prehearing motions be considered and ruled on by the administrative law judge in the course of the hearing of the case on the merits. An administrative law judge assigned to a contested Medicaid case shall make reasonable efforts in a case involving a Medicaid recipient who is not represented by an attorney to assure a fair hearing and to maintain a complete record of the hearing.
- (4) The administrative law judge may allow brief extensions of the time limits contained in this section for good cause and to ensure that the record is complete. Good cause includes delays resulting from untimely receipt of documentation needed to render a decision and other unavoidable and unforeseen circumstances. Continuances shall only be granted in accordance with rules adopted by OAH and shall not be granted on the day of the hearing, except for good cause shown. If a petitioner fails to make an appearance at a hearing that has been properly noticed via certified mail by OAH, OAH shall immediately dismiss the contested case, unless the recipient moves to show good cause within three business days of the date of dismissal.
- (5) The notice of hearing provided by OAH to the recipient shall include the following information:

- a. The recipient's right to examine at a reasonable time before the hearing and during the hearing the contents of the recipient's case file and documents to be used by the Department in the hearing before the administrative law judge.
- b. The recipient's right to an interpreter during the appeals process.
- c. Circumstances in which a medical assessment may be obtained at agency expense and be made part of the record. Qualifying circumstances include those in which (i) a hearing involves medical issues, such as a diagnosis, an examining physician's report, or a medical review team's decision; and (ii) the administrative law judge considers it necessary to have a medical assessment other than that performed by the individual involved in making the original decision.

(c) Mediation. – Upon receipt of an appeal request form as provided by G.S. 108A-70.9A(e) or other clear request for a hearing by a Medicaid recipient, OAH shall immediately notify the Mediation Network of North Carolina, which shall contact the recipient within five days to offer mediation in an attempt to resolve the dispute. If mediation is accepted, the mediation must be completed within 25 days of submission of the request for appeal. Upon completion of the mediation, the mediator shall inform OAH and the Department within 24 hours of the resolution by facsimile or electronic messaging. If the parties have resolved matters in the mediation, OAH shall dismiss the case. OAH shall not conduct a hearing of any contested Medicaid case until it has received notice from the mediator assigned that either: (i) the mediation was unsuccessful, or (ii) the petitioner has rejected the offer of mediation, or (iii) the petitioner has failed to appear at a scheduled mediation. Nothing in this subsection shall restrict the right to a contested case hearing.

(d) Burden of Proof. – The recipient has the burden of proof to show entitlement to a requested benefit or the propriety of requested agency action when the agency has denied the benefit or refused to take the particular action. The agency has the burden of proof when the appeal is from an agency determination to impose a penalty or to reduce, terminate, or suspend a previously granted benefit. The party with the burden of proof on any issue has the burden of going forward, and the administrative law judge shall not make any ruling on the preponderance of evidence until the close of all evidence.

(e) New Evidence. – The recipient shall be permitted to submit evidence regardless of whether obtained prior to or subsequent to the Department's actions and regardless of whether the Department had an opportunity to consider the evidence in making its adverse determination. When the evidence is received, at the request of the Department, the administrative law judge shall continue the hearing for a minimum of 15 days and a maximum of 30 days to allow for the Department's review of the evidence. Subsequent to review of the evidence, if the Department reverses its original decision, it shall immediately inform the administrative law judge.

(f) Issue for Hearing. – For each adverse determination, the hearing shall determine whether the Department substantially prejudiced the rights of the recipient and if the Department, based upon evidence at the hearing:

- (1) Exceeded its authority or jurisdiction.
- (2) Acted erroneously.
- (3) Failed to use proper procedure.
- (4) Acted arbitrarily or capriciously.
- (5) Failed to act as required by law or rule.

(g) Decision. – The administrative law judge assigned to a contested Medicaid case shall hear and decide the case without unnecessary delay. OAH shall send a copy of the audiotape or diskette of the hearing to the agency within five days of completion of the hearing. The judge shall prepare a written decision and send it to the parties. The decision shall be sent together with the record to the agency within 20 days of the conclusion of the hearing.

"§ 108A-70.9C. Informal review permitted.

Nothing in this Part shall prevent the Department from engaging in an informal review of a contested Medicaid case with a recipient prior to issuing a notice of adverse determination as provided by G.S. 108A-70.9A(c)."

SECTION 10.30.(b) Section 10.15A.(h3) of S.L. 2008-107, as amended by Section 3.13.(b) of S.L. 2008-118, reads as rewritten:

"SECTION 10.15A.(h3) From funds available to the Department of Health and Human Services (Department) for the ~~2008-2009~~2010-2011 fiscal year, the sum of ~~two~~one million dollars (~~\$2,000,000~~) (\$1,000,000) shall be transferred by the Department of Health and Human Services to the Office of Administrative Hearings (OAH). These funds shall be allocated by ~~the Office of Administrative Hearings~~ OAH for mediation services provided for Medicaid ~~applicant and~~ recipient appeals and to contract for other services necessary to conduct the appeals process. OAH shall continue the Memorandum of Agreement (MOA) with the Department for mediation services provided for Medicaid recipient appeals and contracted services necessary to conduct the appeals process. The MOA will facilitate the Department's ability to draw down federal Medicaid funds to support this administrative function. Upon receipt of invoices from OAH for covered services rendered in accordance with the MOA, the Department shall transfer the federal share of Medicaid funds drawn down for this purpose."

SECTION 10.30.(c) Not later than October 1, 2011, the Department of Health and Human Services and the Office of Administrative Hearings (OAH) shall submit a report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Subcommittee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division on the number, status, and outcome of contested Medicaid cases handled by OAH pursuant to the appeals process established in Part 6A of Article 2 of Chapter 108A of the General Statutes. The report shall include information on the number of contested Medicaid cases resolved through mediations and through formal hearings, the outcome of settled and withdrawn cases, and the number of incidences in which the Division of Medical Assistance (DMA) reverses the decision of an administrative law judge along with DMA's rationale for the reversal.

ACCOUNTING FOR MEDICAID RECEIVABLES AS NONTAX REVENUE

SECTION 10.31. Section 10.64.(b) of S.L. 2009-451 reads as rewritten:

"SECTION 10.64.(b) For the 2009-2010 fiscal year, the Department of Health and Human Services shall deposit from its revenues one hundred twenty-four million nine hundred ninety-four thousand nine hundred fifty-four dollars (\$124,994,954) with the Department of State Treasurer to be accounted for as nontax revenue. For the 2010-2011 fiscal year, the Department of Health and Human Services shall deposit from its revenues ~~one hundred million dollars~~ (~~\$100,000,000~~)one hundred thirty-five million dollars (\$135,000,000) with the Department of State Treasurer to be accounted for as nontax revenue. These deposits shall represent the return of General Fund appropriations provided to the Department of Health and Human Services to provide indigent care services at State-owned and operated mental hospitals. The treatment of any revenue derived from federal programs shall be in accordance with the requirements specified in the Code of Federal Regulations, Volume 2, Part 225."

MEDICAID PREFERRED DRUG LIST

SECTION 10.32. Section 10.66.(c) of S.L. 2009-451 reads as rewritten:

"SECTION 10.66.(c) The Department, in consultation with the PAG, shall adopt and publish policies and procedures relating to the preferred drug list, including:

- (1) Guidelines for the presentation and review of drugs for inclusion on the preferred drug list,
- (2) The manner and frequency of audits of the preferred drug list for appropriateness of patient care and cost-effectiveness,

- (3) An appeals process for the resolution of disputes, and
- (4) Such other policies and procedures as the Department deems necessary and appropriate.

The Department and the pharmaceutical and therapeutics committee shall consider all therapeutic classes of prescription drugs for inclusion on the preferred drug list, ~~except medications for treatment of human immunodeficiency virus or acquired immune deficiency syndrome shall not be subject to consideration for inclusion on the preferred drug list.~~

The Department shall maintain an updated preferred drug list in electronic format and shall make the list available to the public on the Department's Internet Web site.

The Department shall: (i) enter into a multistate purchasing pool; (ii) negotiate directly with manufacturers or labelers; (iii) contract with a pharmacy benefit manager for negotiated discounts or rebates for all prescription drugs under the medical assistance program; or (iv) effectuate any combination of these options in order to achieve the lowest available price for such drugs under such program.

The Department may negotiate supplemental rebates from manufacturers that are in addition to those required by Title XIX of the federal Social Security Act. The committee shall consider a product for inclusion on the preferred drug list if the manufacturer provides a supplemental rebate. The Department may procure a sole source contract with an outside entity or contractor to conduct negotiations for supplemental rebates."

MEDICAID PREFERRED DRUG LIST (PDL) REVIEW PANEL

SECTION 10.33.(a) The Secretary of the Department of Health and Human Services shall establish a Preferred Drug List (PDL) Policy Review Panel within 60 days after the effective date of this section. The purpose of the PDL Policy Review Panel is to review the Medicaid PDL recommendations from the Department of Health and Human Services, Division of Medical Assistance, and the Physician Advisory Group Pharmacy and Therapeutics (PAG P&T) Committee.

SECTION 10.33.(b) The Secretary shall appoint the following individuals to the review panel:

- (1) The Director of Pharmacy for the Division of Medical Assistance.
- (2) A representative from the PAG P&T Committee.
- (3) A representative from the Old North State Medical Society.
- (4) A representative from the North Carolina Association of Pharmacists.
- (5) A representative from Community Care of North Carolina.
- (6) A representative from the North Carolina Psychiatric Association.
- (7) A representative from the North Carolina Pediatric Society.
- (8) A representative from the North Carolina Academy of Family Physicians.
- (9) A representative from the North Carolina Chapter of the American College of Physicians.
- (10) A representative from a research-based pharmaceutical company.

Individuals appointed to the Review Panel, except for the Division's Director of Pharmacy, shall only serve a two-year term.

SECTION 10.33.(c) Within 30 days after the Department, in consultation with the PAG P&T Committee, publishes a proposed policy or procedure related to the Medicaid PDL, the Review Panel shall hold an open meeting to review the recommended policy or procedure along with any written public comments received as a result of the posting. The Review Panel shall provide an opportunity for public comment at the meeting. After the conclusion of the meeting, the Review Panel shall submit policy recommendations about the proposed Medicaid PDL policy or procedure to the Secretary.

LOCK NARCOTIC PRESCRIPTIONS INTO SINGLE PHARMACY/PROVIDER

SECTION 10.34. The Department of Health and Human Services, Division of Medical Assistance, shall lock Medicaid enrollees into a single pharmacy and provider when

the Medicaid enrollee's utilization of selected controlled substance medication meets the lock-in criteria approved by the NC Physicians Advisory Group, as follows:

- (1) Enrollees may be prescribed selected controlled substance medications by only one prescribing physician and may not change the prescribing physician at any time without prior approval or authorization by the Division.
- (2) Enrollees may have prescriptions for selected controlled substance medications filled at only one pharmacy and may not change to another pharmacy at any time without prior approval or authorization by the Division.

AUTHORIZE THE DIVISION OF MEDICAL ASSISTANCE TO TAKE CERTAIN STEPS TO EFFECTUATE COMPLIANCE WITH BUDGET REDUCTIONS IN THE MEDICAID PROGRAM

SECTION 10.35. Section 10.68A.(a) of S.L. 2009-451, as amended by Section 5A of S.L. 2009-575, reads as rewritten:

"SECTION 10.68A.(a) ~~For the purpose of enabling the~~ The Department of Health and Human Services, Division of Medical Assistance, ~~to achieve the budget reductions enacted in this act for the Medicaid program, the Department~~ may take the following actions, notwithstanding any other provision of this act or other State law or rule to the contrary and subject to the requirements of subsection (e) of this section:

- (1) Electronic transactions. –
 - a. Within 60 days of notification of its procedures via the DMA Web site, Medicaid providers shall follow the Department's established procedures for securing electronic payments. No later than September 1, 2009, the Department shall cease routine provider payments by check.
 - b. Effective September 1, 2009, all Medicaid providers shall file claims electronically to the fiscal agent. Nonelectronic claims submission may be required when it is in the best interest of the Department.
 - c. Effective September 1, 2009, enrolled Medicaid providers shall submit Preadmission Screening and Annual Resident Reviews (PASARR) through the Department's Web-based tool or through a vendor with interface capability to submit data into the Web-based PASARR.
- (2) Clinical coverage. – The Department of Health and Human Services, Division of Medical Assistance, shall amend applicable clinical policies and submit applicable State Plan amendments to CMS to implement the budget reductions authorized in the following clinical coverage areas in this act:
 - a. Consolidate and reduce Targeted Case Management and case management functions bundled within other Medicaid services.
 - b. Take appropriate action to lower the cost of HIV case management, including tightening service hours and limiting administrative costs. The Department shall maintain HIV case management as a stand-alone service outside of departmental efforts to consolidate case management services.
 - c. Eliminate coverage of therapeutic camps. The Department shall report on or before October 1, 2009, on the plan to transition children out of mental health residential therapeutic camps. The Department shall submit the report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.

- (3) ~~Medicaid Personal Care Service provision. — Upon the enactment of this act, the Division of Medical Assistance shall implement the following new criteria for personal care services (PCS):~~
- ~~a. Independent assessment by an entity that does not provide direct PCS services for evaluation of the recipient prior to initiation of service. The independent assessment will determine the qualifying Activities of Daily Living (ADL), the level of assistance required, and the amount and scope of PCS to be provided, according to policy criteria.~~
 - ~~b. Independent assessment or review from the assigned Community Care of North Carolina (CCNC) physician of the continued qualification for PCS services under the revised PCS policy criteria.~~
 - ~~c. Establishment of time limits on physician service orders and reauthorization in accordance with the recipient's diagnosis and acuity of need.~~
 - ~~d. Add the following items to the list of tasks that are not covered by this service: nonmedical transportation, errands and shopping, money management, cueing, and prompting, guiding, or coaching.~~
 - ~~e. Online physician attestation of medical necessity.~~
 - ~~f. If sufficient reduction in cost is not achieved with the revised policy, the Secretary shall direct the Division of Medical Assistance to further modify the policy to achieve targeted cost savings.~~

~~Recipients currently receiving PCS services shall be reviewed under the above criteria, and those recipients not meeting the new criteria shall be terminated from the service within 30 days of the review. The Department shall review usage of personal care services in adult care homes to determine if overuse is occurring and shall report its findings to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on or before December 1, 2009.~~

- (3a) In-Home Care provision. – In order to enhance in-home aide services to Medicaid recipients, the Department of Health and Human Services, Division of Medical Assistance, shall:

- a. No longer provide services under PCS and PCS-Plus the later of January 1, 2011, or whenever CMS approves the elimination of the PCS and PCS-Plus programs and the implementation of the following two new services:
 - 1. In-Home Care for Children (IHCC). – Services to assist families to meet the in-home care needs of children, including those individuals under the age of 21 receiving comprehensive and preventive child health services through the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program.
 - 2. In-Home Care for Adults (IHCA). – Services to meet the eating, dressing, bathing, toileting, and mobility needs of individuals 21 years of age or older who, because of a medical condition, disability, or cognitive impairment, demonstrate unmet needs for, at a minimum: (i) three of the five qualifying activities of daily living (ADLs) with limited hands-on assistance; (ii) two ADLs, one of which requires extensive assistance; or (iii) two ADLs, one of which requires assistance at the full dependence level. The five qualifying ADLs are eating, dressing, bathing, toileting, and mobility.

- IHCA shall serve individuals at the highest level of need for in-home care who are able to remain safely in the home.
- b. Establish, in accordance with G.S. 108A-54.2, a Medical Coverage Policy for each of these programs to include:
1. For IHCC, up to 60 hours per month in accordance with an assessment conducted by DMA or its designee and a plan of care developed by the service provider and approved by DMA or its designee. Additional hours may be authorized when the services are required to correct or ameliorate defects and physical and mental illnesses and conditions in this age group, as defined in 42 U.S.C. § 1396d(r)(5), in accordance with a plan of care approved by DMA or its designee.
 2. For IHCA, up to 80 hours per month in accordance with an assessment conducted by DMA or its designee and a plan of care developed by the service provider and approved by DMA or its designee.
- c. Implement the following program limitations and restrictions to apply to both IHCC and IHCA:
1. Additional services to children required under federal EPSDT requirements shall be provided to qualified recipients in the IHCC Program.
 2. Services shall be provided in a manner that supplements, rather than supplants, family roles and responsibilities.
 3. Services shall be authorized in amounts based on assessed need of each recipient, taking into account care and services provided by the family, other public and private agencies, and other informal caregivers who may be available to assist the family. All available resources shall be utilized fully, and services provided by such agencies and individuals shall be disclosed to the DMA assessor.
 4. Services shall be directly related to the hands-on assistance and related tasks to complete each qualifying ADL in accordance with the IHCC or IHCA assessment and plan of care, as applicable.
 5. Services provided under IHCC and IHCA shall not include household chores not directly related to the qualifying ADLs, nonmedical transportation, financial management, and non-hands-on assistance such as cueing, prompting, guiding, coaching, or babysitting.
 6. Essential errands that are critical to maintaining the health and welfare of the recipient may be approved on a case-by-case basis by the DMA assessor when there is no family member, other individual, program, or service available to meet this need. Approval, including the amount of time required to perform this task, shall be documented on the recipient's assessment form and plan of care.
- d. Utilize the following process for admission to the IHCC and IHCA programs:
1. The recipient shall be seen by his or her primary or attending physician, who shall provide written authorization for referral for the service and written attestation to the medical necessity for the service.

2. All assessments for admission to IHCC and IHCA, continuation of these services, and change of status reviews for these services shall be performed by DMA or its designee. The DMA designee may not be an owner of a provider business, or provider of in-home or personal care services of any type.
 3. DMA or its designee shall determine and authorize the amount of service to be provided on a "needs basis," as determined by its review and findings of each recipient's degree of functional disability and level of unmet needs for hands-on personal assistance in the five qualifying ADLs.
- e. Take all appropriate actions to manage the cost, quality, program compliance, and utilization of services provided under the IHCC and IHCA programs, including, but not limited to:
1. Priority independent reassessment of recipients before the anniversary date of their initial admission or reassessment for those recipients likely to qualify for the restructured IHCC and IHCA programs;
 2. Priority independent reassessment of recipients requesting a change of service provider;
 3. Targeted reassessments of recipient prior to their anniversary dates when the current provider assessment indicates they may not qualify for the program or for the amount of services they are currently receiving;
 4. Targeted reassessment of recipients receiving services from providers with a history of program noncompliance;
 5. Provider desk and on-site reviews and recoupment of all identified overpayments or improper payments;
 6. Recipient reviews, interviews, and surveys;
 7. The use of mandated electronic transmission of referral forms, plans of care, and reporting forms;
 8. The use of mandated electronic transmission of uniform reporting forms for recipient complaints and critical incidents;
 9. The use of automated systems to monitor, evaluate, and profile provider performance against established performance indicators; and
 10. Establishment of rules that implement the requirements of 42 C.F.R. § 441.16.
- f. Timeline for implementation of new IHCC and IHCA programs.
1. Subject to approvals from CMS, DMA shall make every effort to implement the new IHCC and IHCA programs by January 1, 2011.
 2. DMA shall ensure that individuals who qualify for the IHCC and IHCA programs shall not experience a lapse in service and, if necessary, shall be admitted on the basis of their current provider assessment when an independent reassessment has not yet been performed and the current assessment documents that the medical necessity requirements for the IHCC or IHCA program, as applicable, have been met.
 3. Prior to the implementation date of the new IHCC and IHCA programs, all recipients in the PCS and PCS-Plus programs

- shall be notified pursuant to 42 C.F.R. § 431.220(b) and discharged, and the Department shall no longer provide services under the PCS and PCS-Plus programs, which shall terminate. Recipients who qualify for the new IHCC and IHCA programs shall be admitted and shall be eligible to receive services immediately.
- (3b) Medicaid Personal Care Services (PCS) studies:
- a. The Department of Health and Human Services shall conduct a study determining the cost effectiveness, efficiencies gained, and challenges associated with transitioning the performance of independent assessments for PCS, IHCC, or IHCA services to CCNC and shall report its findings to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Commission on Health and Human Services, and the Fiscal Research Division on or before January 1, 2011.
 - b. The Division of Medical Assistance shall study the incidence of fraud, waste, or abuse by Medicaid PCS providers and recipients and by Medicaid IHCC or IHCA providers and recipients, after the implementation of those programs, and shall report its findings on or before January 1, 2011, and annually thereafter, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.
- (4) MH/DD/SA Personal Care and Personal Assistance Services Provision. – A denial, reduction, or termination of Medicaid-funded personal care services shall result in a similar denial, reduction, or termination of State-funded MH/DD/SA personal care and personal assistance services.
- (5) Community Support and other MH/DD/SA services. – The Department of Health and Human Services shall transition community support child and adult, individual and group services to other defined services on or before June 30, 2010. The Division of Medical Assistance and the Division of MH/DD/SA shall take the steps necessary for the Medicaid and the State-funded community support program to provide for transition and discharge planning to recipients currently receiving community support services. The following shall occur:
- a. The Department shall submit to CMS: (i) revised service definitions that separate case management functions from the Community Support definition and (ii) a new service definition for peer support services for adults with mental illness and/or substance abuse ~~disorders.~~ disorders, for implementation no sooner than January 1, 2011.
 - b. No new admissions for community support individual or group shall be allowed during this transition period unless the Department determines appropriate alternative services are not available, in which case limited community support services may be provided during the transition period. LMEs will be responsible for referring eligible consumers to appropriate alternative services.
 - c. Authorizations currently in effect as of the date of enactment of this act remain valid. Any new authorization or subsequent reauthorization is subject to the provisions of this act.
 - d. No community support services shall be provided in conjunction with other enhanced services. Until CMS approves the new case management definition, professional level community support may

- be provided in conjunction with residential Level III and IV to assist in recipient discharge planning. Up to a maximum of 24 hours of case management (professional level) functions may be provided over a 90-day authorization period as approved by the prior authorization vendor.
- e. The current moratorium on community support provider endorsement shall remain in effect.
 - f. A provider of community support services whose endorsement has been withdrawn or whose Medicaid participation has been terminated is not entitled to payment during the period the appeal is pending, and the Department shall make no payment to the provider during that period. If the final agency decision is in favor of the provider, the Department shall remove the suspension, commence payment for valid claims, and reimburse the provider for payments withheld during the period of appeal.
 - g. Effective 60 days from the enactment of this act, the paraprofessional level of community support shall be eliminated, and from this date the Department shall not use any Medicaid or State funds to pay for this level of service.
 - h. Thirty days after the enactment of this act, any concurrent request shall be accompanied with a discharge plan. Submission of the discharge plan will be a required document for a request to be considered complete. Failure to submit the discharge plan will result in the request being returned as "unable to process." Discharge from the service must occur within 90 days after the submission of the discharge plan.
 - i. Any community support provider that ceases to function as a provider shall provide written notification to DMA, the Local Management Entity, recipients, and the prior authorization vendor 30 days prior to closing of the business.
 - j. Medical and financial record retention is the responsibility of the provider and shall be in compliance with the record retention requirements of their Medicaid provider agreement or State-funded services contract. Records shall also be available to State, federal, and local agencies.
 - k. Failure to comply with notification, recipient transition planning, or record maintenance shall result in suspension of further payment until such failure is corrected. In addition, failure to comply shall result in denial of enrollment as a provider for any Medicaid or State-funded service. A provider (including its officers, directors, agents, or managing employees or individuals or entities having a direct or indirect ownership interest or control interest of five percent (5%) or more as set forth in Title XI of the Social Security Act) that fails to comply with the required record retention may be subject to sanctions, including exclusion from further participation in the Medicaid program, as set forth in Title XI.
- (6) Community Support Team. – Authorization for a Community Support Team shall be based upon medical necessity as defined by the Department and shall not exceed 18 hours per week. The Division of Medical Assistance shall do an immediate rate study of the Community Support Team to bring the average cost of service per recipient in line with Assertive Community Treatment Team (ACTT) services. The Division shall also revise provider qualifications and tighten the service definition to contain costs in this line

item. Not later than December 1, 2009, the Division of Medical Assistance shall report its findings on the rate study and any actions it has taken to conform with this subdivision to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.

- (7) MH Residential. – The Department of Health and Human Services shall restructure the Medicaid child mental health, developmental disabilities, and substance abuse residential services to ensure that total expenditures are within budgeted levels. All restructuring activities shall be in compliance with federal and State law or rule. The Divisions of Medical Assistance and Mental Health, Developmental Disabilities, and Substance Abuse Services shall establish a team inclusive of providers, LMEs, and other stakeholders to assure effective transition of recipients to appropriate treatment options. The restructuring shall address all of the following:
- a. Submission of the therapeutic family service definition to CMS.
 - b. The Department shall reexamine the entrance and continued stay criteria for all residential services. The revised criteria shall promote least restrictive services in the home prior to residential placement. During treatment, there must be inclusion in community activities and parent or legal guardian participation in treatment.
 - c. Require all existing residential providers or agencies to be nationally accredited within one year of enactment of this act. Any providers enrolled after the enactment of this act shall be subject to existing endorsement and nationally accrediting requirements. In the interim, providers who are nationally accredited will be preferred providers for placement considerations.
 - d. Before a child can be admitted to Level III or Level IV placement, one or more of the following shall apply:
 1. Placement shall be a step down from a higher level placement such as a psychiatric residential treatment facility or ~~inpatient~~. inpatient; or
 2. Multisystemic therapy or intensive in-home therapy services have been ~~unsuccessful~~. unsuccessful; or
 3. The Child and Family Team has reviewed all other alternatives and recommendations and recommends Level III or IV placement due to maintaining health and ~~safety~~. safety; or
 4. Transition or discharge plan shall be submitted as part of the initial or concurrent request.
 - e. Length of stay is limited to no more than 120 days. Any exceptions granted will require an independent psychiatric assessment, Child and Family Team review of goals and treatment progress, family or discharge placement setting are actively engaged in treatment goals and objectives and active participation of the prior authorization of vendor. The Department shall study the effectiveness of the length of stay limitation imposed pursuant to this sub-subdivision, and the number of children staying in Level II, III, and IV facilities, and report its findings to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on or before January 1, 2011, and shall provide update reports on the number of children in these facilities to this same committee every six months thereafter, for the following three-year period.

- f. Submission of discharge plan is required in order for the request to be considered complete. Failure to submit a complete discharge plan will result in the request being returned as unable to process.
 - g. Any residential provider that ceases to function as a provider shall provide written notification to DMA, the Local Management Entity, recipients, and the prior authorization vendor 30 days prior to closing of the business.
 - h. Record maintenance is the responsibility of the provider and must be in compliance with record retention requirements. Records shall also be available to State, federal, and local agencies.
 - i. Failure to comply with notification, recipient transition planning, or record maintenance shall be grounds for withholding payment until such activity is concluded. In addition, failure to comply shall be conditions that prevent enrollment for any Medicaid or State-funded service. A provider (including its officers, directors, agents, or managing employees or individuals or entities having a direct or indirect ownership interest or control interest of five percent (5%) or more as set forth in Title XI of the Social Security Act) that fails to comply with the required record retention may be subject to sanctions, including exclusion from further participation in the Medicaid program, as set forth in Title XI.
 - j. On or before October 1, 2009, the Department shall report on its plan for transitioning children out of Level III and Level IV group homes. The Department shall submit the reports to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.
- (8) Reduce Medicaid rates. – Subject to the prior approval of the Office of State Budget and Management, the Secretary shall reduce Medicaid provider rates to accomplish the reduction in funds for this purpose enacted in this act. In exercising authority under this subsection, the Secretary shall not reduce Medicaid provider rates beyond those in effect as of June 1, 2010, except as provided in budget reductions for the 2010-2011 fiscal year. The Secretary shall consider the impact on access to care through primary care providers and critical access hospitals and may adjust the rates accordingly. The rate reduction applies to all Medicaid private and public providers with the following exceptions: federally qualified health clinics, rural health centers, State institutions, hospital outpatient, pharmacies, and the noninflationary components of the case-mix reimbursement system for nursing facilities. Medicaid rates predicated upon Medicare fee schedules shall follow Medicare reductions but not Medicare increases unless federally required. Inflationary increases for Medicaid providers paying provider fees (private ICF-MRs and nursing facilities) can occur if the State share of the increases can be funded with provider fees.
- (9) Medicaid identification cards. – The Department shall issue Medicaid identification cards to recipients on an annual basis with quarterly updates.
- (10) The Department of Health and Human Services shall develop a plan for the consolidation of case management ~~services~~ services utilizing CCNC. The plan shall address the time line and process for implementation, ~~the vendors involved~~, the identification of savings, and the Medicaid recipients affected by the consolidation. Consolidation under this subdivision does not apply to HIV case management. By December 1, ~~2009~~ 2010, the Department shall report on the plan to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations

Committee on Health and Human Services, and the Fiscal Research Division.

- (11) For the purpose of promoting cost-effective utilization of outpatient mental health services for children, DMA shall require prior authorization for services following the sixteenth visit.
- (12) Provision of Medicaid Private Duty Nursing (PDN). – DMA shall change the Medicaid Private Duty Nursing program provided under the State Medicaid Plan, as follows:
- a. Restructure the current PDN program to provide services that are:
 1. Provided only to qualified recipients under the age of 21.
 2. Authorized by the recipient's primary care or attending physician.
 3. Limited to 16 hours of service per day, unless additional services are required to correct or ameliorate defects and physical and mental illnesses and conditions as defined in 42 U.S.C. § 1396d(r)(5).
 4. Approved based on an initial assessment and continuing need reassessments performed by an Independent Assessment Entity (IAE) that does not provide PDN services and authorized in amounts that are medically necessary based on the recipient's medical condition, amount of family assistance available, and other relevant conditions and circumstances, as defined by the Medicaid Clinical Coverage Policy for this service.
 5. Provided in accordance with a plan of care approved by DMA or its designee.
 - b. Develop and submit to CMS a 1915(c) Home and Community Based Services Waiver for individuals dependent on technology to substitute for a vital body function.
 - c. Once approved by CMS and upon approval of the Medicaid Clinical Coverage Policy, transition all qualified recipients age 21 and older currently receiving PDN to waiver services provided under the Technology Dependent Waiver."

MEDICAID WAIVER FOR ASSISTED LIVING

SECTION 10.35A.(a) The Department of Health and Human Services, Division of Medical Assistance (Division) shall develop and implement either a 1915(c) Home and Community Based Services assisted living program or an Assisted Living Services program under State Medicaid Plan 1915(i) authority in order to continue Medicaid funding of personal care services to individuals living in adult care homes. The Division shall determine which program to implement based on an analysis of which alternative best addresses both resident needs and federal requirements.

SECTION 10.35A.(b) The Division shall apply to the Centers for Medicare and Medicaid Services for approval of the program by August 10, 2010.

SECTION 10.35A.(c) On or before January 1, 2011, the Division shall provide a report on the program to the Joint Legislative Commission on Governmental Operations, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

SENIOR SERVICES: PROJECT C.A.R.E. (CAREGIVER ALTERNATIVES TO RUNNING ON EMPTY)

SECTION 10.35B. Of the funds appropriated to the Department of Health and Human Services, Division of Aging and Adult Services, for the 2010-2011 fiscal year, the sum of two hundred thousand dollars (\$200,000) in recurring funds shall be used to support Alzheimer's-related activities consistent with the goals of Project Caregiver Alternatives To Running On Empty (Project C.A.R.E.). The Division of Aging and Adult Services shall annually develop and implement a plan for use of these funds and beginning October 1, 2010, and annually thereafter, report the plan to the Governor's Advisory Council on Aging, the North Carolina Study Commission on Aging, and the Fiscal Research Division.

IMPLEMENT INDEPENDENT ASSESSMENTS ON MENTAL HEALTH SERVICES

SECTION 10.36.(a) The Department of Health and Human Services, Division of Medical Assistance, shall require that, prior to the delivery of enhanced mental health services in the Medicaid program, an independent assessment be conducted that meets all of the following criteria:

- (1) An initial assessment or a continuing need reassessment is performed by an independent assessment entity (IAE) that is not the provider of the services in question.
- (2) The IAE authorizes the type and amount of service to be provided based on the specific health condition and needs of the intended recipient of the service.

SECTION 10.36.(b) If the Department of Health and Human Services, Division of Medical Assistance, does not achieve the required savings as a result of implementation of the independent assessment activities set forth in subsection (a) of this section, then, in addition to the independent assessments required by subsection (a) of this section, the Department of Health and Human Services, Division of Medical Assistance, shall also require that targeted independent assessments be conducted prior to the delivery of services to each of the following categories of individuals:

- (1) Individuals exiting inpatient facilities.
- (2) High-cost/high-risk individuals with high behavioral health or medical needs.
- (3) Individuals for whom additional continuing care authorizations are being requested.
- (4) Individuals moving to a higher, more intensive level of care.

SECTION 10.36.(c) The Department of Health and Human Services, Division of Medical Assistance, shall provide a report of savings generated and other findings relating to the implementation of this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on or before April 1, 2011.

DHSR ASSISTED LIVING ADMINISTRATOR/MEDICATION AIDE FEES

SECTION 10.36A.(a) Part 2 of Article 1 of Chapter 131D of the General Statutes is amended by adding the following new section to read:

"§ 131D-4.5A. Fees for medication aides.

The Department may impose a fee, not to exceed twenty-five dollars (\$25.00), on an applicant seeking certification as an assisted living home medication aide to cover the costs of testing and materials in administering a certification examination."

SECTION 10.36A.(b) Article 20A of Chapter 90 of the General Statutes is amended by adding the following new section to read:

"§ 90-288.15A. Fees.

The Department may impose fees not to exceed the following amounts:

- | | | |
|-----|--|----------------------------------|
| (1) | <u>Assisted Living Administrator Examination Fee</u> | <u>\$50.00</u> |
| (2) | <u>Assisted Living Administrator Certificate Renewal Fee</u> | <u>\$30.00 every two years."</u> |

DHHS BLOCK GRANTS

SECTION 10.37.(a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2011, according to the following schedule:

TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) FUNDS

Local Program Expenditures

Division of Social Services

- | | | |
|-----|--|---------------|
| 01. | Work First Family Assistance | \$ 77,597,502 |
| 02. | Work First County Block Grants | 94,453,315 |
| 03. | Work First Electing Counties | 2,378,213 |
| 04. | Work First – Boys and Girls Clubs | 2,500,000 |
| 05. | Work First – After-School Services for At-Risk Children | 2,049,642 |
| 06. | Work First – After-School Programs for At-Risk Youth in Middle Schools | 500,000 |
| 07. | Work First – Connect, Inc. (Work Central) | 1,000,000 |
| 08. | Work First – Citizens Schools Program | 360,000 |
| 09. | Adoption Services – Special Children's Adoption Fund | 3,000,000 |
| 10. | Family Violence Prevention | 2,200,000 |
| 11. | Child Protective Services – Child Welfare Workers for Local DSS | 14,452,391 |
| 12. | Child Welfare Collaborative | 1,129,115 |

Division of Child Development

- | | | |
|-----|-------------------------------|------------|
| 13. | Subsidized Child Care Program | 61,087,077 |
|-----|-------------------------------|------------|

Division of Public Health

- | | | |
|-----|----------------------------|---------|
| 14. | Teen Pregnancy Initiatives | 450,000 |
|-----|----------------------------|---------|

DHHS Administration

15.	Division of Social Services	1,093,176
16.	Office of the Secretary	75,392

Transfers to Other Block Grants

Division of Child Development

17.	Transfer to the Child Care and Development Fund	84,330,900
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Division of Social Services

18.	Transfer to Social Services Block Grant for Child Protective Services – Child Welfare Training in Counties	2,300,000
19.	Transfer to Social Services Block Grant for Maternity Homes	943,002
20.	Transfer to Social Services Block Grant for Teen Pregnancy Prevention Initiatives	2,500,000
21.	Transfer to Social Services Block Grant for County Departments of Social Services for Children's Services	4,500,000
22.	Transfer to Social Services Block Grant for Foster Care Services	540,358

TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) FUNDS	\$359,440,083
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TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF)
EMERGENCY CONTINGENCY FUNDS RECEIVED THROUGH
THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)

Local Program Expenditures

Division of Social Services

01.	Work First Family Assistance	\$ 9,780,494
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Division of Child Development

02.	Subsidized Child Care	23,625,329
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Department of Public Instruction

03.	More at Four	30,559,012
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TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF)
EMERGENCY CONTINGENCY FUNDS RECEIVED THROUGH THE
AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) \$63,964,835

SOCIAL SERVICES BLOCK GRANT

Local Program Expenditures

Divisions of Social Services and Aging and Adult Services

- 01. County Departments of Social Services (Transfer from TANF – \$4,500,000) \$ 28,868,189
- 02. State In-Home Services Fund 2,101,113
- 03. State Adult Day Care Fund 2,155,301
- 04. Child Protective Services/CPS Investigative Services-Child Medical Evaluation Program 609,455
- 05. Foster Care Services (Transfer from TANF) 2,147,967
- 06. Maternity Homes (Transfer from TANF) 943,002
- 07. Special Children Adoption Incentive Fund 500,000
- 08. Child Protective Services-Child Welfare Training for Counties (Transfer from TANF) 2,300,000
- 09. Home and Community Care Block Grant (HCCBG) 1,834,077
- 10. Children's Advocacy Centers 375,000

Division of Mental Health, Developmental Disabilities, and Substance Abuse Services

- 11. Mental Health Services Program 422,003
- 12. Developmental Disabilities Services Program 5,000,000
- 13. Mental Health Services-Adult and Child/Developmental Disabilities Program/ Substance Abuse Services-Adult 3,234,601

Division of Child Development

- 14. Subsidized Child Care Program 1,156,744

Division of Vocational Rehabilitation

15.	Vocational Rehabilitation Services – Easter Seal Society/UCP Community Health Program	188,263
	Division of Public Health	
16.	Teen Pregnancy Prevention Initiatives (Transfer from TANF)	2,500,000
	DHHS Program Expenditures	
	Division of Aging and Adult Services	
17.	UNC-CARES Training Contract	247,920
	Division of Services for the Blind	
18.	Independent Living Program	3,633,077
	Division of Health Service Regulation	
19.	Adult Care Licensure Program	411,897
20.	Mental Health Licensure and Certification Program	205,668
	DHHS Administration	
21.	Division of Aging and Adult Services	688,436
22.	Division of Social Services	892,624
23.	Office of the Secretary/Controller's Office	138,058
24.	Office of the Secretary/DIRM	87,483
25.	Division of Child Development	15,000
26.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	29,665
27.	Division of Health Service Regulation	235,625
28.	Office of the Secretary-NC Inter-Agency Council for Coordinating Homeless Programs	250,000
29.	Office of the Secretary	48,053
	Transfers to Other State Agencies	
	Department of Administration	
30.	NC Commission of Indian Affairs In-Home Services for the Elderly	203,198

Transfers to Other Block Grants

Division of Public Health

- 31. Transfer to Preventive Health Services Block Grant for HIV/STD Prevention and Community Planning 145,819

TOTAL SOCIAL SERVICES BLOCK GRANT \$ 61,568,238

LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT

Local Program Expenditures

Division of Social Services

- 01. Low-Income Energy Assistance Program (LIEAP) \$ 70,909,401
- 02. Crisis Intervention Program (CIP) 40,373,328

Local Administration

Division of Social Services

- 03. County DSS Administration 6,362,505

DHHS Administration

- 04. Division of Social Services 275,000
- 05. Division of Mental Health, Developmental Disabilities, and Substance Abuse Services 8,128
- 06. Office of the Secretary/DIRM 276,784
- 07. Office of the Secretary/Controller's Office 12,332

Transfers to Other State Agencies

Department of Commerce

- 08. Weatherization Program 500,000
- 09. Heating Air Repair and Replacement Program (HARRP) 8,103,157
- 10. Local Residential Energy Efficiency Service Providers – Weatherization 25,000
- 11. Local Residential Energy Efficiency Service Providers – HARRP 266,375
- 12. Department of Commerce Administration – Weatherization 25,000

13.	Department of Commerce Administration – HARRP	266,375
14.	Department of Administration – N.C. State Commission of Indian Affairs	129,807
TOTAL LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT		\$ 127,533,192

CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT

Local Program Expenditures

Division of Child Development

01.	Subsidized Child Care Services (CCDF)	\$153,889,889
02.	Contract Subsidized Child Care Services Support	547,600
03.	Subsidized Child Care Services (Transfer from TANF)	84,330,900
04.	Quality and Availability Initiatives	23,726,564
05.	TEACH	3,800,000

Division of Social Services

06.	Local Subsidized Child Care Services Support	\$19,340,596
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DHHS Administration

Division of Child Development

07.	DCD Administrative Expenses	6,539,277
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Division of Central Administration

08.	DHHS Central Administration – DIRM Technical Services	774,317
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TOTAL CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT		\$292,949,143
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CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT RECEIVED THROUGH
THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)

Local Program Expenditures

Division of Child Development

01.	Subsidized Child Care Services (CCDF)	\$5,980,997
02.	Electronic Benefits Transfer System	4,000,000

DHHS Program Expenditures

Division of Child Development

03. Quality and Availability Initiatives 2,904,787

TOTAL CHILD CARE AND DEVELOPMENT FUND
BLOCK GRANT RECEIVED THROUGH THE AMERICAN
RECOVERY AND REINVESTMENT ACT (ARRA) \$12,885,784

MENTAL HEALTH SERVICES BLOCK GRANT

Local Program Expenditures

01. Mental Health Services – Adult \$ 6,656,212

02. Mental Health Services – Child 5,421,991

03. Mental Health Services – UNC School
of Medicine, Department of Psychiatry (STEP) 200,000

04. Administration 100,000

TOTAL MENTAL HEALTH SERVICES BLOCK GRANT \$ 12,378,203

SUBSTANCE ABUSE PREVENTION
AND TREATMENT BLOCK GRANT

Local Program Expenditures

Division of Mental Health, Developmental Disabilities, and Substance Abuse Services

01. Substance Abuse Services – Adult \$ 22,008,080

02. Substance Abuse Treatment Alternative for
Women 8,107,303

03. Substance Abuse – HIV and IV Drug 5,116,378

04. Substance Abuse Prevention – Child 7,186,857

05. Substance Abuse Services – Child 4,940,500

06. Institute of Medicine 250,000

07. Administration 250,000

Division of Public Health

08. Risk Reduction Projects 633,980

09. Aid-to-Counties 209,576

TOTAL SUBSTANCE ABUSE PREVENTION
AND TREATMENT BLOCK GRANT \$ 48,702,674

MATERNAL AND CHILD HEALTH BLOCK GRANT

Local Program Expenditures

Division of Public Health

01.	Children's Health Services	7,534,865
02.	Women's Health	7,701,691
03.	Oral Health	38,041

DHHS Program Expenditures

Division of Public Health

04.	Children's Health Services	1,368,778
05.	Women's Health	135,452
06.	State Center for Health Statistics	179,483
07.	Quality Improvement in Public Health	14,646
08.	Health Promotion	88,746
09.	Office of Minority Health	55,250
10.	Immunization Program – Vaccine Distribution	382,648

DHHS Administration

Division of Public Health

11.	Division of Public Health Administration	631,966
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TOTAL MATERNAL AND CHILD
HEALTH BLOCK GRANT

\$ 18,131,566

PREVENTIVE HEALTH SERVICES BLOCK GRANT

Local Program Expenditures

Division of Public Health

01.	NC Statewide Health Promotion	\$1,730,653
02.	Services to Rape Victims	197,112
03.	HIV/STD Prevention and Community Planning (Transfer from Social Services Block Grant)	145,819

DHHS Program Expenditures

Division of Public Health

04.	NC Statewide Health Promotion	1,623,117
05.	Oral Health	70,000
06.	State Laboratory of Public Health	16,600

TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT \$3,783,301

COMMUNITY SERVICES BLOCK GRANT

Local Program Expenditures

Office of Economic Opportunity

01.	Community Action Agencies	\$ 17,968,944
02.	Limited Purpose Agencies	998,275

DHHS Administration

03.	Office of Economic Opportunity	998,274
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TOTAL COMMUNITY SERVICES BLOCK GRANT \$ 19,965,493

COMMUNITY SERVICES BLOCK GRANT RECEIVED THROUGH THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)

Local Program Expenditures

Office of Economic Opportunity

01.	Community Action Agencies	\$ 10,000,000
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TOTAL COMMUNITY SERVICES BLOCK GRANT RECEIVED THROUGH THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) \$ 10,000,000

GENERAL PROVISIONS

SECTION 10.37.(b) Information to Be Included in Block Grant Plans. – The Department of Health and Human Services shall submit a separate plan for each Block Grant received and administered by the Department, and each plan shall include the following:

- (1) A delineation of the proposed allocations by program or activity, including State and federal match requirements.
- (2) A delineation of the proposed State and local administrative expenditures.
- (3) An identification of all new positions to be established through the Block Grant, including permanent, temporary, and time-limited positions.
- (4) A comparison of the proposed allocations by program or activity with two prior years' program and activity budgets and two prior years' actual program or activity expenditures.

- (5) A projection of current year expenditures by program or activity.
- (6) A projection of federal Block Grant funds available, including unspent federal funds from the current and prior fiscal years.

SECTION 10.37.(c) Changes in Federal Fund Availability. – If the Congress of the United States increases the federal fund availability for any of the Block Grants or contingency funds and other grants related to existing Block Grants administered by the Department of Health and Human Services from the amounts appropriated in this section, the Department shall allocate the increase proportionally across the program and activity appropriations identified for that Block Grant in this section. In allocating an increase in federal fund availability, the Office of State Budget and Management shall not approve funding for new programs or activities not appropriated in this section.

If the Congress of the United States decreases the federal fund availability for any of the Block Grants or contingency funds and other grants related to existing Block Grants administered by the Department of Health and Human Services from the amounts appropriated in this section, the Department shall reduce State administration by at least the percentage of the reduction in federal funds. After determining the State administration, the remaining reductions shall be allocated proportionately across the program and activity appropriations identified for that Block Grant in this section. The Office of State Budget and Management shall report on these changes.

Prior to allocating the change in federal fund availability, the proposed allocation must be approved by the Office of State Budget and Management. If the Department adjusts the allocation of any Block Grant due to changes in federal fund availability, then a report shall be made to the Joint Legislative Commission on Governmental Operations, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

SECTION 10.37.(d) Appropriations from federal Block Grant funds are made for the fiscal year ending June 30, 2011, according to the schedule enacted for State fiscal year 2010-2011 or until a new schedule is enacted by the General Assembly.

SECTION 10.37.(e) All changes to the budgeted allocations to the Block Grants or contingency funds and other grants related to existing Block Grants administered by the Department of Health and Human Services that are not specifically addressed in this section shall be approved by the Office of State Budget and Management, and the Office of State Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations for review prior to implementing the changes. The report shall include an itemized listing of affected programs, including associated changes in budgeted allocations. All changes to the budgeted allocations to the Block Grants shall be reported immediately to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division. This subsection does not apply to Block Grant changes caused by legislative salary increases and benefit adjustments.

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) FUNDS

SECTION 10.37.(f) The sum of one million ninety-three thousand one hundred seventy-six dollars (\$1,093,176) appropriated in this section in TANF funds to the Department of Health and Human Services, Division of Social Services, for the 2010-2011 fiscal year shall be used to support administration of TANF-funded programs.

SECTION 10.37.(g) The sum of two million two hundred thousand dollars (\$2,200,000) appropriated under this section in TANF funds to the Department of Health and Human Services, Division of Social Services, for the 2010-2011 fiscal year shall be used to provide domestic violence services to Work First recipients. These funds shall be used to provide domestic violence counseling, support, and other direct services to clients. These funds shall not be used to establish new domestic violence shelters or to facilitate lobbying efforts. The Division of Social Services may use up to seventy-five thousand dollars (\$75,000) in

TANF funds to support one administrative position within the Division of Social Services to implement this subsection.

Each county department of social services and the local domestic violence shelter program serving the county shall develop jointly a plan for utilizing these funds. The plan shall include the services to be provided and the manner in which the services shall be delivered. The county plan shall be signed by the county social services director or the director's designee and the domestic violence program director or the director's designee and submitted to the Division of Social Services by December 1, 2010. The Division of Social Services, in consultation with the Council for Women, shall review the county plans and shall provide consultation and technical assistance to the departments of social services and local domestic violence shelter programs, if needed.

The Division of Social Services shall allocate these funds to county departments of social services according to the following formula: (i) each county shall receive a base allocation of five thousand dollars (\$5,000); and (ii) each county shall receive an allocation of the remaining funds based on the county's proportion of the statewide total of the Work First caseload as of July 1, 2010, and the county's proportion of the statewide total of the individuals receiving domestic violence services from programs funded by the Council for Women as of July 1, 2010. The Division of Social Services may reallocate unspent funds to counties that submit a written request for additional funds.

SECTION 10.37.(h) The sum of two million forty-nine thousand six hundred forty-two dollars (\$2,049,642) appropriated in this section in TANF funds to the Department of Health and Human Services, Division of Social Services, for the 2010-2011 fiscal year shall be used to expand after-school programs and services for at-risk children. The Department shall develop and implement a grant program to award grants to community-based programs that demonstrate the ability to reach children at risk of teen pregnancy, school dropout, and gang participation. The Department shall award grants to community-based organizations that demonstrate the ability to develop and implement linkages with local departments of social services, area mental health programs, schools, and other human services programs in order to provide support services and assistance to the child and family. These funds may be used to fund one position within the Division of Social Services to coordinate at-risk after-school programs and shall not be used for other State administration.

SECTION 10.37.(i) The sum of fourteen million four hundred fifty-two thousand three hundred ninety-one dollars (\$14,452,391) appropriated in this section to the Department of Health and Human Services, Division of Social Services, in TANF funds for the 2010-2011 fiscal year for child welfare improvements shall be allocated to the county departments of social services for hiring or contracting staff to investigate and provide services in Child Protective Services cases; to provide foster care and support services; to recruit, train, license, and support prospective foster and adoptive families; and to provide interstate and postadoption services for eligible families.

SECTION 10.37.(j) The sum of three million dollars (\$3,000,000) appropriated in this section in TANF funds to the Department of Health and Human Services, Special Children Adoption Fund, for the 2010-2011 fiscal year shall be used in accordance with G.S. 108A-50.2, as enacted in Section 10.48 of S.L. 2009-451. The Division of Social Services, in consultation with the North Carolina Association of County Directors of Social Services and representatives of licensed private adoption agencies, shall develop guidelines for the awarding of funds to licensed public and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption Fund by participating agencies shall be used exclusively to enhance the adoption services program. No local match shall be required as a condition for receipt of these funds.

SECTION 10.37.(k) The sum of five hundred thousand dollars (\$500,000) appropriated in this section to the Department of Health and Human Services, Division of Social Services, in TANF funds for the 2010-2011 fiscal year shall be used to expand after-school programs for at-risk children attending middle school. The Department shall

develop and implement a grant program to award funds to community-based programs demonstrating the capacity to reach children at risk of teen pregnancy, school dropout, and gang participation. These funds shall not be used for training or administration at the State level. All funds shall be distributed to community-based programs, focusing on those communities where similar programs do not exist in middle schools.

SECTION 10.37.(l) In implementing the use of TANF funds, the Department of Health and Human Services shall review policies, programs, and initiatives to ensure that they support men in their role as fathers and strengthen fathers' involvement in their children's lives. The Department shall encourage county departments of social services to ensure their Work First programs emphasize responsible fatherhood and increased participation by noncustodial fathers.

SECTION 10.37.(m) The sum of five hundred fifty thousand dollars (\$550,000) is appropriated in this section to the Department of Health and Human Services, Division of Social Services, for contractual follow up and referral services provided by Connect, Inc. on behalf of current and former Work First recipients. Additionally, the sum of four hundred fifty thousand dollars (\$450,000) is appropriated in this section to the Department of Health and Human Services, Division of Social Services, for TANF eligible subsidized employment expenditures occurring during the 2010-2011 fiscal year as part of the outreach component of The Benefit Bank initiative coordinated by Connect, Inc. and MDC, Inc.

As soon as is practicable, the Program Evaluation Division and Fiscal Research Division shall jointly evaluate TANF-funded services provided by Connect, Inc., including the Work Central Career Advancement Program (Call Center) and The Benefit Bank collaborative initiative with MDC, Inc. The Department of Health and Human Services shall furnish historical financial and contractual performance data to facilitate this evaluation.

SECTION 10.37.(n) The sum of two million five hundred thousand dollars (\$2,500,000) appropriated in this section to the Department in TANF funds for Boys and Girls Clubs for the 2010-2011 fiscal year shall be used to make grants for approved programs. The Department of Health and Human Services, in accordance with federal regulations for the use of TANF funds, shall administer a grant program to award funds to the Boys and Girls Clubs across the State in order to implement programs that improve the motivation, performance, and self-esteem of youths and to implement other initiatives that would be expected to reduce gang participation, school dropout, and teen pregnancy rates. The Department shall encourage and facilitate collaboration between the Boys and Girls Clubs and Support Our Students, Communities in Schools, and similar programs to submit joint applications for the funds if appropriate.

SECTION 10.37.(o) The sum of one million one hundred twenty-nine thousand one hundred fifteen dollars (\$1,129,115) appropriated in this section to the Department of Health and Human Services in TANF funds for the 2010-2011 fiscal year shall be used to continue support for the Child Welfare Collaborative.

SECTION 10.37.(p) The sum of three hundred sixty thousand dollars (\$360,000) appropriated to the Department of Health and Human Services, Division of Social Services, under this section in TANF funds for the 2010-2011 fiscal year shall be used to continue support for the Citizens Schools Program, a three-year urban/rural dropout prevention pilot program in the Durham and Vance County public school systems.

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) EMERGENCY CONTINGENCY FUNDS

SECTION 10.37.(q) The sum of twenty-three million six hundred twenty-five thousand three hundred twenty-nine dollars (\$23,625,329) appropriated under this section from TANF Emergency Contingency funds to the Department of Health and Human Services, Division of Child Development, for the 2010-2011 fiscal year shall be used for subsidized child care services. Payment for subsidized child care services provided with TANF Emergency

Contingency funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.

SECTION 10.37.(r) The sum of nine million seven hundred eighty thousand four hundred ninety-four dollars (\$9,780,494) appropriated under this section from TANF Emergency Contingency funds to the Department of Health and Human Services, Division of Social Services, for the 2010-2011 fiscal year shall be used to support assistance payments provided under the Work First Family Assistance program.

SECTION 10.37.(s) The sum of thirty million five hundred fifty-nine thousand twelve dollars (\$30,559,012) appropriated under this section from TANF Emergency Contingency funds to the Department of Public Instruction for the More At Four prekindergarten program for the 2010-2011 fiscal year shall be used to support expenditures on behalf of TANF-eligible children.

SOCIAL SERVICES BLOCK GRANT

SECTION 10.37.(t) Social Services Block Grant funds appropriated to the North Carolina Inter-Agency Council for coordinating homeless programs, child medical evaluations, and community services provided by Children's Advocacy Centers are exempt from the provisions of 10A NCAC 71R .0201(3).

SECTION 10.37.(u) The sum of two million three hundred thousand dollars (\$2,300,000) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2010-2011 fiscal year shall be used to support various child welfare training projects as follows:

- (1) Provide a regional training center in southeastern North Carolina.
- (2) Provide training for residential child caring facilities.
- (3) Provide for various other child welfare training initiatives.

SECTION 10.37.(v) The sum of nine hundred forty-three thousand two dollars (\$943,002) appropriated in this section to the Department of Health and Human Services in the Social Services Block Grant for the 2010-2011 fiscal year shall be used to support maternity home services.

SECTION 10.37.(w) The sum of two million one hundred forty-seven thousand nine hundred sixty-seven dollars (\$2,147,967) appropriated in this section in the Social Services Block Grant for child caring agencies for the 2010-2011 fiscal year shall be allocated in support of State foster home children.

SECTION 10.37.(x) The Department of Health and Human Services is authorized, subject to the approval of the Office of State Budget and Management, to transfer Social Services Block Grant funding allocated for departmental administration between divisions that have received administrative allocations from the Social Services Block Grant.

SECTION 10.37.(y) Social Services Block Grant funds appropriated for the Special Children's Adoption Incentive Fund will require a fifty percent (50%) local match.

SECTION 10.37.(z) The sum of four hundred twenty-two thousand three dollars (\$422,003) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2010-2011 fiscal year shall be used to continue a Mental Health Services Program for children.

SECTION 10.37.(aa) The sum of three hundred seventy-five thousand dollars (\$375,000) appropriated in this section in the Social Services Block Grant for the 2010-2011 fiscal year shall be allocated to the Division of Social Services to support community services provided by Children's Advocacy Centers on behalf of children who are victims of child abuse.

LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT

SECTION 10.37.(bb) Additional emergency contingency funds received may be allocated for Energy Assistance Payments or Crisis Intervention Payments without prior consultation with the Joint Legislative Commission on Governmental Operations. Additional funds received shall be reported to the Joint Legislative Commission on Governmental

Operations and the Fiscal Research Division upon notification of the award. The Department of Health and Human Services shall not allocate funds for any activities, including increasing administration, other than assistance payments, without prior consultation with the Joint Legislative Commission on Governmental Operations.

CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT

SECTION 10.37.(cc) Payment for subsidized child care services provided with federal TANF funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.

SECTION 10.37.(dd) If funds appropriated through the Child Care and Development Fund Block Grant for any program cannot be obligated or spent in that program within the obligation or liquidation periods allowed by the federal grants, the Department may move funds to child care subsidies, unless otherwise prohibited by federal requirements of the grant, in order to use the federal funds fully.

SECTION 10.37.(ee) If American Recovery and Reinvestment Act of 2009 funds appropriated through the Child Care and Development Fund Block Grant for any program cannot be obligated or spent in that program within the obligation or liquidation periods allowed by the federal grants, the Department may move funds to child care subsidies, unless otherwise prohibited by federal requirements of the grant, in order to use the federal funds fully.

SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT

SECTION 10.37.(ff) The sum of two hundred fifty thousand dollars (\$250,000) appropriated in this section in the Substance Abuse Prevention and Treatment Block Grant to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2010-2011 fiscal year for the North Carolina Institute of Medicine (NCIOM) shall be used to study the following:

- (1) The availability of Medicaid and State-funded mental health, developmental disabilities, and substance abuse services to active duty, reserve, and veteran members of the military and National Guard. The study should discuss the current availability of services, the extent of use, and any gaps in services.
- (2) Issues related to cost, quality, and access to appropriate and affordable health care for all North Carolinians. NCIOM may use funds appropriated for the 2007-2009 fiscal biennium to continue the work of its Health Access Study Group to study these issues. The Health Access Study Group may include in its study the matters contained in Sections 31.1, 31.2, and 31.3 of S.L. 2008-181 and also may monitor federal health-related legislation to determine how the legislation would impact costs, quality, and access to health care.
- (3) Short-term and long-term strategies to address issues within adult care homes that provide residence to persons who are frail and elderly and to persons suffering from mental illness.

The Institute shall make an interim report to the Governor's Office, the Joint Legislative Health Care Oversight Committee, and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services no later than January 15, 2011, which may include recommendations and proposed legislation, and shall issue its final report with findings, recommendations, and suggested legislation to the 2011 General Assembly upon its convening. In the event members of the General Assembly serve on the NCIOM Health Access Study Group, they shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1. The Health Access Study Group may include in its study the matters contained in Sections 31.1, 31.2, and 31.3 of S.L. 2008-181 and also may monitor federal health-related legislation to determine how the legislation would impact costs, quality, and access to health care.

MATERNAL AND CHILD HEALTH BLOCK GRANT

SECTION 10.37.(gg) If federal funds are received under the Maternal and Child Health Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193 (42 U.S.C. § 710), for the 2010-2011 fiscal year, then those funds shall be transferred to the State Board of Education to be administered by the Department of Public Instruction. The Department of Public Instruction shall use the funds to establish an abstinence until marriage education program and shall delegate to one or more persons the responsibility of implementing the program and G.S. 115C-81(e1)(4) and (4a). The Department of Public Instruction shall carefully and strictly follow federal guidelines in implementing and administering the abstinence education grant funds.

SECTION 10.37.(hh) The Department of Health and Human Services shall ensure that there will be follow-up testing in the Newborn Screening Program.

PART XI. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**FEE INCREASES FOR PESTICIDE DEALERS, PESTICIDE APPLICATORS, AND PEST CONTROL CONSULTANTS**

SECTION 11.1.(a) G.S. 143-440 reads as rewritten:

"§ 143-440. Restricted use pesticides regulated.

(a) The Board may, by regulation after a public hearing, adopt and from time to time revise a list of restricted use pesticides for the State or for designated areas within the State. The Board may designate any pesticide or device as a "restricted use pesticide" upon the grounds that, in the judgment of the Board (either because of its persistence, its toxicity, or otherwise) it is so hazardous or injurious to persons, pollinating insects, animals, crops, wildlife, lands, or the environment, other than the pests it is intended to prevent, destroy, control, or mitigate that additional restriction on its sale, purpose, use or possession are required.

(b) The Board may include in any such restricted use regulation the time and conditions of sale, distribution, or use of such restricted use pesticides, may prohibit the use of any restricted use pesticide for designated purposes or at designated times; may require the purchaser or user to certify that restricted use pesticides will be used only as labeled or as further restricted by regulation; may require the certification and recertification of private applicators and, charge a fee of up to ten dollars (\$10.00), with the fee set at a level to make the certification/recertification program self-supporting, and, after opportunity for a hearing, may suspend, revoke or modify the certification for violation of any provision of this Article, or any rule or regulation adopted thereunder; and may, if it deems it necessary to carry out the provisions of this Part, require that any or all restricted use pesticides shall be purchased, possessed, or used only under permit of the Board and under its direct supervision in certain areas and/or under certain conditions or in certain quantities or concentrations except that any person licensed to sell such pesticides may purchase and possess such pesticides without a permit. The Board may require all persons issued such permits to maintain records as to the use of the restricted use pesticides. The Board may authorize the use of restricted use pesticides by persons licensed under the North Carolina Structural Pest Control Act without a permit. A nonrefundable fee of ten dollars (\$10.00) shall be charged for each examination required by this section. This examination fee is in addition to the certification or recertification fee, and any other fee authorized pursuant to any other provision of Article 4C of Chapter 106 of the General Statutes.

(c) A fee of fifty dollars (\$50.00) shall be charged for examination of individuals seeking to be designated as Worker Protection Designated Trainers, in accordance with provisions of the Federal Worker Protection Standard set forth in 40 C.F.R. Part 170, and subsequent amendments to those regulations."

SECTION 11.1.(b) G.S. 143-448(b) reads as rewritten:

"§ 143-448. **Licensing of pesticide dealers; fees.**

...

(b) Applications for a pesticide dealer license shall be in the form and shall contain the information prescribed by the Board. Each application shall be accompanied by a non-refundable fee of ~~fifty dollars (\$50.00)~~ seventy-five dollars (\$75.00). All licenses issued under this Part shall expire on December 31 of the year for which they are issued.

...."

SECTION 11.1.(c) G.S. 143-449(b) reads as rewritten:

"§ 143-449. **Qualifications for pesticide dealer license; examinations.**

...

(b) Each applicant shall satisfy the Board as to his responsibility in carrying on the business of a pesticide dealer. Each applicant for an original license must demonstrate upon written, or written and oral, examination to be prescribed by the Board his knowledge of pesticides, their usefulness and their hazards; his competence as a pesticide dealer; and his knowledge of the laws and regulations governing the use and sale of pesticides. A nonrefundable fee of fifty dollars (\$50.00) shall be charged for each examination required by this section. This examination fee is in addition to any fee authorized pursuant to any other provision of Article 4C of Chapter 106 of the General Statutes.

...."

SECTION 11.1.(d) G.S. 143-452(b) reads as rewritten:

"§ 143-452. **Licensing of pesticide applicators; fees.**

...

(b) Applications for pesticide applicator license shall be in the form and shall contain the information prescribed by the Board. Each application shall be accompanied by a non-refundable fee of ~~fifty dollars (\$50.00)~~ seventy-five dollars (\$75.00) for each pesticide applicator's license. In addition, an annual inspection fee of twenty-five dollars (\$25.00) shall be submitted for each aircraft to be licensed. Should any aircraft fail to pass inspection, making it necessary for a second inspection to be made, the Board shall require an additional twenty-five-dollar (\$25.00) inspection fee. In addition to the required inspection, unannounced inspections may be made without charge to determine if equipment is properly calibrated and maintained in conformance with the laws and regulations. All aircraft licensed to apply pesticides shall be identified by a license plate or decal furnished by the Board at no cost to the licensee, which plate or decal shall be affixed on the aircraft in a location and manner prescribed by the Board. No applicator inspection or license fee, original or renewal, shall be charged to State agencies or local governments or their employees. Inspections of ground pesticide application equipment may be made. Any such equipment determined to be faulty or unsafe shall not be used for the purpose of applying a pesticide(s) until such time as proper repairs and/or alterations are made."

SECTION 11.1.(e) G.S. 143-453 reads as rewritten:

"§ 143-453. **Qualifications for pesticide applicator's license; examinations.**

(a) An applicant for a license must present satisfactory evidence to the Board concerning his qualifications for a pesticide applicator license. The contractor and each pilot involved in aerial application of pesticides shall be licensed.

Those qualifications, in the case of a pilot, shall include at least 125 hours and one year's flying experience as a pilot in the field of aerial pesticide application. A pilot lacking 125 hours and one year's experience as a pilot in the field of aerial pesticide application shall be licensed as an apprentice aerial pesticide applicator pilot. All aerial applications of pesticides by a licensed apprentice shall be conducted under the direct supervision of a licensed pesticide applicator pilot. The supervising pilot, while directly supervising an apprentice, shall operate out of the same airstrip as the apprentice and shall be available periodically throughout each day to provide advice and assistance to the apprentice. A nonrefundable fee of fifty dollars (\$50.00) shall be charged for the examination required by this subsection. Such examination

fee shall be charged in addition to the fees authorized pursuant to subsection (b) of this section or any other provision of Article 4C of Chapter 106 of the General Statutes.

(b) Each applicant shall satisfy the Board as to his knowledge of the laws and regulations governing the use and application of pesticides in the classifications he has applied for (manually or with various equipment that he may have applied for a license to operate), and as to his responsibility in carrying on the business of a pesticide applicator. Each applicant for an original license must demonstrate upon written, or written and oral, examination to be prescribed by the Board his knowledge of pesticides, their usefulness and their hazards; his competence as a pesticide applicator; and his knowledge of the laws and regulations governing the use and application of pesticides in the classification for which he has applied. A nonrefundable fee of fifty dollars (\$50.00) shall be charged for the core examination, and an additional twenty dollars (\$20.00) shall be charged for each additional specific classification licensure. Such examination fees shall be charged in addition to the fees authorized pursuant to subsection (a) of this section or any other provision of Article 4C of Chapter 106 of the General Statutes.

...."

SECTION 11.1.(f) G.S. 143-455 reads as rewritten:

"§ 143-455. **Pest control consultant license.**

(a) No person shall perform services as a pest control consultant without first procuring from the Board a license. Applications for a consultant license shall be in the form and shall contain the information prescribed by the Board. The application for a license shall be accompanied by a non-refundable annual fee of ~~fifty dollars (\$50.00)~~ seventy-five dollars (\$75.00).

(b) An applicant for a consultant license must present satisfactory evidence to the Board concerning his qualifications for such license. The Board may classify consultant licenses into one or more classifications or subclassifications based upon types of consulting services performed or to be performed. Such classifications and subclassifications may reflect the crops involved in the consulting service, the discipline or training of consultant, the discretion or lack of discretion involved in the consulting service, and the site or location of the service. Each classification and subclassification may be subject to separate testing procedures and requirements, and may be subject to its own minimum standards of training in specialized subject matter from a recognized college or university, or equivalent specialized consulting experience or training. A nonrefundable fee of fifty dollars (\$50.00) shall be charged for the consultant examination, and an additional twenty dollars (\$20.00) shall be charged for each additional specific classification licensure permitted by this subsection. Such examination fee shall be charged in addition to the fees authorized pursuant to subsection (a) of this section or any other provision of Article 4C of Chapter 106 of the General Statutes. Qualifications for licensing may be less stringent if the licensee is restricted to making recommendations contained in publications recognized by the Board as appropriate for a specific consulting classification or subclassification.

...."

SECTION 11.1.(g) This section becomes effective July 14, 2010, and applies to fees assessed or collected on or after that date.

STRUCTURAL PEST CONTROL ACT FEE INCREASES

SECTION 11.2.(a) G.S. 106-65.27 reads as rewritten:

"§ 106-65.27. **Examinations of applicants; fee; license not transferable.**

(a) Certified Applicator. – All applicants for a certified applicator's identification card shall demonstrate practical knowledge of the principles and practices of pest control and safe use of pesticides. Competency shall be determined on the basis of written examinations to be provided and administered by the Committee and, as appropriate, performance testing. Testing shall be based upon examples of problems and situations appropriate to the particular phase or

subphase of structural pest control for which application is made and shall include, where relevant, the following areas of competency:

- (1) Label and labeling comprehension.
- (2) Safety factors associated with pesticides – toxicity, precautions, first aid, proper handling, etc.
- (3) Influence of and on the environment.
- (4) Pests – identification, biology, and habits.
- (5) Pesticides – types, formulations, compatibility, hazards, etc.
- (6) Equipment – types and uses.
- (7) Application techniques.
- (8) Laws and regulations.

An applicant for a certified applicator's identification card shall submit an examination fee of ~~ten dollars (\$10.00)~~ twenty-five dollars (\$25.00) for each phase or subphase of structural pest control in which the applicant chooses to be examined. An examination for more than one phase or subphase may be taken at the same time at any regularly scheduled examination. Frequency of such examinations shall be at the discretion of the Committee, provided that a minimum of two examinations be given annually. The examination will cover each phase or subphase of structural pest control for which application is being made.

(b) License. – Each applicant for an original license must demonstrate upon written examination, to be provided and administered by the Committee, his competency as a structural pest control operator for the phase or subphase in which he is applying for a license. Frequency of such examinations shall be at the discretion of the Committee, provided that a minimum of two examinations shall be given annually. The examination will cover each phase or subphase of structural pest control for which application is being made. All applicants for a license shall register with the Division on a prescribed form. A license examination fee of ~~twenty-five dollars (\$25.00)~~ fifty dollars (\$50.00) shall be charged for each phase or subphase of structural pest control in which the applicant chooses to be examined. An examination for more than one phase or subphase of structural pest control may be taken at the same time.

...."

SECTION 11.2.(b) G.S. 106-65.31 reads as rewritten:

"§ 106-65.31. Annual certified applicator card and license fee; registration of servicemen, salesmen, solicitors, and estimators; identification cards.

(a) Certified Applicator's Identification Card. – The fee for issuance or renewal of a certified applicator's identification card shall be ~~thirty dollars (\$30.00)~~ fifty dollars (\$50.00). Within 75 days after the employment of a certified applicator, the licensee shall apply to the Division for the issuance of a certified applicator's identification card. A certified applicator's identification card shall expire on June 30 of each year and shall be renewed annually. All certified applicators who fail or neglect to renew their card on or before June 30 but make application before January 1 of the following year may have their card renewed without having to be reexamined unless the applicant is scheduled for periodic reexamination under regulations adopted pursuant to G.S. 106-65.27(d)(3). All applicants submitting applications for the renewal of their cards after June 30 shall not use or supervise the use of restricted use pesticides until a new card has been issued.

Any certified applicator whose employment is terminated with a licensee or agent prior to the end of any license year may at any time prior to the end of the license year be reissued a certified applicator's identification card for the remainder of the license year as an employee of another licensee or agency or as an individual for a fee of five dollars (\$5.00). The licensee shall notify the Division of the termination or change in status of any certified applicator.

Any certified applicator whose identification card is lost or destroyed or changed in any way may be reissued a new card for the remainder of the license year for a fee of five dollars (\$5.00).

(b) License. – The fee for the issuance or renewal of a license for any one phase of structural pest control shall be ~~one hundred fifty dollars (\$150.00)~~ two hundred dollars

~~(\$200.00)~~. Each additional phase shall be ~~sixty-five dollars (\$65.00)~~ seventy-five dollars (\$75.00). The fee for each subphase shall be fifteen dollars (\$15.00). Licenses shall expire on June 30 of each year and shall be renewed annually. All licensees who fail or neglect to renew their license on or before June 30, but who make application before January 1 of the following year, may have their license renewed without having to be reexamined, unless the applicant is scheduled for periodic reexamination under regulations adopted pursuant to G.S. 106-65.27(d)(3). No structural pest control work may be performed until the license has been renewed or until a new license has been issued.

Any licensee whose employment is terminated by his employer or any licensee who is transferred to another company or location other than the company or location shown on his license certificate, may at any time, have his license reissued for the remainder of the license year for a fee of ten dollars (\$10.00).

Any licensee whose license is lost or destroyed may secure a duplicate license for a fee of ten dollars (\$10.00).

(b1) Registration. – Within 75 days after the hiring of an employee who is either an estimator, salesman, serviceman, or solicitor, the licensee shall apply to the Division for the issuance of an identification card for such employee. The application must be accompanied by a fee of ~~twenty-five dollars (\$25.00)~~ forty dollars (\$40.00) for each card. The card shall be issued in the name of the employee and shall bear the name of the employing licensee, the employer's license number and phases, the name and address of the employer's business, and such other information as the Committee may specify. The identification card shall be carried by the employee on his person at all times while performing any phase of structural pest control work. The card must be displayed upon demand by the Commissioner, the Committee, the Division, or any representative thereof, or the person for whom any phase of structural pest control work is being performed. A registered technician's identification card must be renewed annually on or before June 30 by payment of a renewal fee of twenty-five dollars (\$25.00). If a card is lost or destroyed the licensee may secure a duplicate for a fee of five dollars (\$5.00). The licensee shall notify the Division of the termination or change in status of any registered technician. All identification cards expire when a license expires.

When a license is reissued, the licensee shall be responsible for registering and securing identification cards for all existing employees who engage in structural pest control within 10 days of the reissuance of the license.

A certified applicator who is not an employee of a licensed individual shall register the names of all employees under his supervision who are engaged in the performance of structural pest control with the Division and shall purchase a registered technician's identification card for each such employee.

...."

SECTION 11.2.(c) This section becomes effective July 14, 2010, and applies to fees assessed or collected on or after that date.

TRANSFER ADMINISTRATION OF THE VOLUNTARY SPAY/NEUTER PROGRAM TO THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES; AMEND FUNDING FOR THE SPAY/NEUTER ACCOUNT

SECTION 11.4.(a) The Spay/Neuter Program established under G.S. 19A-61 and the Spay/Neuter Account established under G.S. 19A-62 are transferred from the Department of Health and Human Services to the Department of Agriculture and Consumer Services. Any unexpended funds appropriated to the Department of Health and Human Services for the 2009-2010 fiscal year to implement the Spay/Neuter Program are transferred to the Department of Agriculture and Consumer Services.

SECTION 11.4.(b) G.S. 19A-61 reads as rewritten:

"§ 19A-61. **Spay/Neuter Program established.**

There is established in the Department of ~~Health and Human Services~~ Agriculture and Consumer Services a voluntary statewide program to foster the spaying and neutering of dogs

and cats for the purpose of reducing the population of unwanted animals in the State. The program shall consist of the following components:

- (1) Education Program. – The Department shall establish a statewide program to educate the public about the benefits of having cats and dogs spayed and neutered. The Department may work cooperatively on the program with the North Carolina School of Veterinary Medicine, other State agencies and departments, county and city health departments and animal control agencies, and statewide and local humane organizations. The Department may employ outside consultants to assist with the education program.
- (2) Local Spay/Neuter Assistance Program. – The Department shall administer the Spay/Neuter Account established in G.S. 19A-62. Monies deposited in the account shall be available to reimburse eligible counties and cities for the direct costs of spay/neuter surgeries for cats and dogs made available to low-income persons."

SECTION 11.4.(c) G.S. 19A-62 reads as rewritten:

"§ 19A-62. Spay/Neuter Account established.

(a) Creation. – The Spay/Neuter Account is established as a nonreverting special revenue account in the Department of ~~Health and Human Services~~ Agriculture and Consumer Services. The Account consists of the following:

- (1) ~~The portion of the fee imposed under G.S. 130A-190(b)(4) for obtaining a rabies vaccination tag from the Department of Health and Human Services.~~
- (2) ~~Ten dollars (\$10.00)~~ Twenty dollars (\$20.00) of the additional fee imposed by G.S. 20-79.7 for an Animal Lovers special license plate.
- (3) Any other funds available from appropriations by the General Assembly or from contributions and grants from public or private sources.

(b) Use. – The revenue in the Account shall be used by the Department of ~~Health and Human Services~~ Agriculture and Consumer Services as follows:

- (1) ~~If the revenue generated by the portion of the fee imposed under G.S. 130A-190(b)(3) is less than forty-seven thousand five hundred dollars (\$47,500) for the fiscal year, then funds up to the difference between forty-seven thousand five hundred dollars (\$47,500) and the amount of revenue generated may be used from this Account to fund rabies education and prevention programs.~~
- (2) Up to Twenty ~~twenty~~ percent (20%) ~~shall~~ may be used to develop and implement the statewide education program component of the Spay/Neuter Program established in G.S. 19A-61(a).
- (3) Up to twenty percent (20%) of the money in the Account may be used to defray the costs of administering the Spay/Neuter Program established in this Article.
- (4) Funds remaining after deductions for the education program and administrative expenses shall be distributed quarterly to eligible counties and cities seeking reimbursement for reduced-cost spay/neuter surgeries performed during the previous calendar year. A county or city is ineligible to receive funds under this subdivision unless it requires the owner to show proof of rabies vaccination at the time of the procedure or, if none, require vaccination at the time of the procedure.

(c) Report. – In February of each year, the Department must report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. The report must contain information regarding all revenues and expenditures of the Spay/Neuter Account."

SECTION 11.4.(d) G.S. 19A-63 reads as rewritten:**"§ 19A-63. Eligibility for distributions from Spay/Neuter Account.**

(a) A county or city is eligible for reimbursement from the Spay/Neuter Account if it meets the following condition:

- (1) The county or city offers one or more of the following programs to low-income persons on a year-round basis for the purpose of reducing the cost of spaying and neutering procedures for dogs and cats:
 - a. A spay/neuter clinic operated by the county or city.
 - b. A spay/neuter clinic operated by a private organization under contract or other arrangement with the county or city.
 - c. A contract or contracts with one or more veterinarians, whether or not located within the county, to provide reduced-cost spaying and neutering procedures.
 - d. Subvention of the spaying and neutering costs incurred by low-income pet owners through the use of vouchers or other procedure that provides a discount of the cost of the spaying or neutering procedure fixed by a participating veterinarian or other provider.
 - e. Subvention of the spaying and neutering costs incurred by persons who adopt a pet from an animal shelter operated by or under contract with the county or city.
- (2) Reserved for future codification purposes.

(b) For purposes of this Article, the term "low-income person" shall mean an individual who qualifies for one or more of the programs of public assistance administered by the Department of Health and Human Services pursuant to Chapter 108A of the General ~~Statutes~~. Statutes or whose annual household income is under three hundred percent (300%) of the federal poverty level guidelines published by the United States Department of Health and Human Services.

(c) Each county shall make rules or publish guidelines that designate what proof a low-income person must submit to establish that the person qualifies for public assistance under subsection (b) of this section or has an annual household income lower than three hundred percent (300%) of the federal poverty level guidelines published by the United States Department of Health and Human Services."

SECTION 11.4.(e) G.S. 19A-64 reads as rewritten:**"§ 19A-64. Distributions to counties and cities from Spay/Neuter Account.**

(a) Reimbursable Costs. – Counties and cities eligible for distributions from the Spay/Neuter Account may receive reimbursement for the direct costs of a spay/neuter surgical procedure for a dog or cat owned by a low-income person ~~meeting the Department's eligibility requirements for spay/neuter services as defined in G.S. 19A-63(b).~~ Reimbursable costs shall include anesthesia, medication, and veterinary services. Counties and cities shall not be reimbursed for the administrative costs of providing reduced-cost spay/neuter services or capital expenditures for facilities and equipment associated with the provision of such services.

(b) Application. – A county or city eligible for reimbursement of spaying and neutering costs from the Spay/Neuter Account shall apply to the Department of ~~Health and Human Services~~ Agriculture and Consumer Services by the last day of January, April, July, and October of each year to receive a distribution from the Account for that quarter. The application shall be submitted in the form required by the Department and shall include an itemized listing of the costs for which reimbursement is sought.

(c) Distribution. – The Department shall make payments from the Spay/Neuter Account to eligible counties and cities who have made timely application for reimbursement within 30 days of the closing date for receipt of applications for that quarter. In the event that total requests for reimbursement exceed the amounts available in the Spay/Neuter Account for distribution, the monies available will be distributed as follows:

- (1) Fifty percent (50%) of the monies available in the Spay/Neuter Account shall be reserved for reimbursement for eligible applicants within development tier one areas as defined in G.S. 143B-437.08. The remaining fifty percent (50%) of the funds shall be used to fund reimbursement requests from eligible applicants in development tier two and three areas as defined in G.S. 143B-437.08.
- (2) Among the eligible counties and cities in development tier one areas, reimbursement shall be made to each eligible county or city ~~in proportion to the number of dogs and cats that have received rabies vaccinations during the preceding fiscal year in that county or city as compared to the number of dogs and cats that have received rabies vaccinations during the preceding fiscal year by all of the eligible applicants in development tier one areas.~~ pursuant to rules adopted by the Department.
- (3) Among the eligible counties and cities in development tier two and three areas, reimbursement shall be made to each eligible county or city ~~in proportion to the number of dogs and cats that have received rabies vaccinations during the preceding fiscal year in that county or city as compared to the number of dogs and cats that have received rabies vaccinations during the preceding fiscal year by all of the eligible applicants in development tier two and three areas.~~ pursuant to rules adopted by the Department.
- (4) Should funds remain available from the fifty percent (50%) of the Spay/Neuter Account designated for development tier one areas after reimbursement of all claims by eligible applicants in those areas, the remaining funds shall be made available to reimburse eligible applicants in development tier two and three areas."

SECTION 11.4.(f) G.S. 19A-65 reads as rewritten:

"§ 19A-65. Annual Report Required From Every Animal Shelter in Receipt of State or Local Funding.

Every county or city animal shelter, or animal shelter operated under contract with a county or city or otherwise in receipt of State or local funding shall prepare an annual report in the form required by the Department of Agriculture and Consumer Services setting forth the numbers, by species, of animals received into the shelter, the number adopted out, the number returned to owner, and the number destroyed. The report shall also contain the total operating expenses of the shelter and the cost per animal handled. The report shall be filed with the Department of Health and Human Services Agriculture and Consumer Services by August 1 March 1 of each year. A city or county that does not timely file the report required by this section is not eligible to receive reimbursement payments under G.S. 19A-64 during the calendar year in which the report was to be filed."

SECTION 11.4.(g) Article 5 of Chapter 19A of the General Statutes is amended by adding a new section to read:

"§ 19A-66. Notification of available funding.

Prior to January 1 of each year, the Department of Agriculture and Consumer Services shall notify counties and cities that have, prior to that notification deadline, established eligibility for distribution of funds from the Spay/Neuter Account pursuant to G.S. 19A-63, of the following:

- (1) The amount of funding in the Spay/Neuter Account that the Department will have available for distribution to each county or city receiving notification to pay reimbursement requests submitted by the county or city during the calendar year following the notification deadline; and
- (2) The amount of additional funding, if any, the Department estimates, but does not guarantee, may be available to pay reimbursement requests submitted by the notified county or city to the Department during the calendar year following the notification deadline."

SECTION 11.4.(h) G.S. 130A-190(b) reads as rewritten:

"(b) Fee. – Rabies vaccination tags, links, and rivets may be obtained from the ~~Department.~~Department of Health and Human Services. The Secretary is authorized to collect ~~establish by rule~~ a fee for the rabies tags, links, and rivets in accordance with this subsection. The fee for each tag is the sum of the following:

- (1) The actual cost of the rabies tag, links, and rivets.
- (2) Transportation costs.
- (3) ~~Five cents (5¢).~~Fifteen cents (15¢). This portion of the fee shall be used to fund rabies education and prevention programs.
- (4) ~~Twenty cents (20¢). This portion of the fee shall be credited to the Spay/Neuter Account established in G.S. 19A-62 and used to fund statewide spay/neuter programs. This portion of the fee shall not be imposed for tags provided to persons who operate establishments primarily for the purpose of boarding or training hunting dogs or who own and vaccinate 10 or more dogs per year."~~

SECTION 11.4.(i) G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. – Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of a Legion of Valor award, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates, including additional Legion of Valor, 100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

<u>Special Plate</u>	<u>Additional Fee Amount</u>
<u>Animal Lovers</u>	<u>\$30.00</u>
Back Country Horsemen of NC	\$30.00
Coastal Conservation Association	\$30.00
Crystal Coast	\$30.00
El Pueblo	\$30.00
First in Forestry	\$30.00
Historical Attraction	\$30.00
Home Care and Hospice	\$30.00
HOMES4NC	\$30.00
Hospice Care	\$30.00
In God We Trust	\$30.00
Maggie Valley Trout Festival	\$30.00
National Kidney Foundation	\$30.00
North Carolina 4-H Development Fund	\$30.00
North Carolina Libraries	\$30.00
Personalized	\$30.00
Share the Road	\$30.00
State Attraction	\$30.00
Stock Car Racing Theme	\$30.00
Support Our Troops	\$30.00
AIDS Awareness	\$25.00
Buffalo Soldiers	\$25.00
Collegiate Insignia	\$25.00
Goodness Grows	\$25.00
High School Insignia	\$25.00
Kids First	\$25.00
Olympic Games	\$25.00
National Multiple Sclerosis Society	\$25.00
National Wild Turkey Federation	\$25.00
NC Agribusiness	\$25.00
NC Children's Promise	\$25.00

NC Coastal Federation	\$30.00
Nurses	\$25.00
Rocky Mountain Elk Foundation	\$25.00
Special Olympics	\$25.00
Surveyor Plate	\$25.00
The V Foundation for Cancer Research Division	\$25.00
University Health Systems of Eastern Carolina	\$25.00
Alpha Phi Alpha Fraternity	\$20.00
ALS Association, Jim "Catfish" Hunter Chapter	\$20.00
Animal Lovers	\$20.00
ARC of North Carolina	\$20.00
Audubon North Carolina	\$20.00
Autism Society of North Carolina	\$20.00
Be Active NC	\$20.00
Brain Injury Awareness	\$20.00
Breast Cancer Earlier Detection	\$20.00
Buddy Pelletier Surfing Foundation	\$20.00
Daughters of the American Revolution	\$20.00
Ducks Unlimited	\$20.00
Greyhound Friends of North Carolina	\$20.00
Guilford Battleground Company	\$20.00
Juvenile Diabetes Research Foundation	\$20.00
Harley Owners' Group	\$20.00
Litter Prevention	\$20.00
March of Dimes	\$20.00
NC Tennis Foundation	\$20.00
NC Trout Unlimited	\$20.00
NC Wildlife Habitat Foundation	\$20.00
Omega Psi Phi Fraternity	\$20.00
Prince Hall Mason	\$20.00
Save the Sea Turtles	\$20.00
Scenic Rivers	\$20.00
School Technology	\$20.00
SCUBA	\$20.00
Soil and Water Conservation	\$20.00
Special Forces Association	\$20.00
Support Public Schools	\$20.00
US Equine Rescue League	\$20.00
Wildlife Resources	\$20.00
Zeta Phi Beta Sorority	\$20.00
Carolina's Aviation Museum	\$15.00
Leukemia & Lymphoma Society	\$15.00
Lung Cancer Research	\$15.00
Shag Dancing	\$15.00
Active Member of the National Guard	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Gold Star Lapel Button	None
Legion of Valor	None
Purple Heart Recipient	None
Silver Star Recipient	None
All Other Special Plates	\$10.00."

SECTION 11.4.(j) G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) of this section among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, and the Parks and Recreation Trust Fund, which is established under G.S. 113-44.15, as follows:

<u>Special Plate</u>	<u>SRPA</u>	<u>CCAPA</u>	<u>NHTF</u>	<u>PRTF</u>
AIDS Awareness	\$10	\$15	0	0
Alpha Phi Alpha Fraternity	\$10	\$10	0	0
ALS Association, Jim "Catfish" Hunter Chapter	\$10	\$10	0	0
Animal Lovers	\$10	\$10 \$20	0	0
ARC of North Carolina	\$10	\$10	0	0
Audubon North Carolina	\$10	\$10	0	0
Autism Society of North Carolina	\$10	\$10	0	0
Back Country Horsemen of NC	\$10	\$20	0	0
Be Active NC	\$10	\$10	0	0
Brain Injury Awareness	\$10	\$10	0	0
Breast Cancer Earlier Detection	\$10	\$10	0	0
Buddy Pelletier Surfing Foundation	\$10	\$10	0	0
Buffalo Soldiers	\$10	\$15	0	0
Carolina's Aviation Museum	\$10	\$5	0	0
Coastal Conservation Association	\$10	\$20	0	0
Crystal Coast	\$10	\$20	0	0
Daughters of the American Revolution	\$10	\$10	0	0
Ducks Unlimited	\$10	\$10	0	0
El Pueblo	\$10	\$20	0	0
First in Forestry	\$10	\$10	\$10	0
Goodness Grows	\$10	\$15	0	0
Greyhound Friends of North Carolina	\$10	\$10	0	0
Guilford Battleground Company	\$10	\$10	0	0
Harley Owners' Group	\$10	\$10	0	0
High School Insignia	\$10	\$15	0	0
Historical Attraction	\$10	\$20	0	0
Home Care and Hospice	\$10	\$20	0	0
HOMES4NC	\$10	\$20	0	0
Hospice Care	\$10	\$20	0	0
In God We Trust	\$10	\$20	0	0
In-State Collegiate Insignia	\$10	\$15	0	0
Juvenile Diabetes Research Foundation	\$10	\$10	0	0
Kids First	\$10	\$15	0	0
Leukemia & Lymphoma Society	\$10	\$5	0	0
Litter Prevention	\$10	\$10	0	0
Lung Cancer Research	\$10	\$5	0	0

Maggie Valley Trout Festival	\$10	\$20	0	0
March of Dimes	\$10	\$10	0	0
National Kidney Foundation	\$10	\$20	0	0
National Multiple Sclerosis Society	\$10	\$15	0	0
National Wild Turkey Federation	\$10	\$15	0	0
NC Agribusiness	\$10	\$15	0	0
NC Children's Promise	\$10	\$15	0	0
NC Coastal Federation	\$10	\$20	0	0
NC 4-H Development Fund	\$10	\$20	0	0
NC Tennis Foundation	\$10	\$10	0	0
NC Trout Unlimited	\$10	\$10	0	0
North Carolina Libraries	\$10	\$20	0	0
NC Wildlife Habitat Foundation	\$10	\$10	0	0
Nurses	\$10	\$15	0	0
Olympic Games	\$10	\$15	0	0
Omega Psi Phi Fraternity	\$10	\$10	0	0
Out-of-state Collegiate Insignia	\$10	0	\$15	0
Personalized	\$10	0	\$15	\$5
Prince Hall Mason	\$10	\$10	0	0
Rocky Mountain Elk Foundation	\$10	\$15	0	0
Save the Sea Turtles	\$10	\$10	0	0
Scenic Rivers	\$10	\$10	0	0
School Technology	\$10	\$10	0	0
SCUBA	\$10	\$10	0	0
Shag Dancing	\$10	\$5	0	0
Share the Road	\$10	\$20	0	0
Soil and Water Conservation	\$10	\$10	0	0
Special Forces Association	\$10	\$10	0	0
Special Olympics	\$10	\$15	0	0
State Attraction	\$10	\$20	0	0
Stock Car Racing Theme	\$10	\$20	0	0
Support Our Troops	\$10	\$20	0	0
Support Public Schools	\$10	\$10	0	0
Surveyor Plate	\$10	\$15	0	0
The V Foundation for Cancer Research	\$10	\$15	0	0
University Health Systems of Eastern Carolina	\$10	\$15	0	0
US Equine Rescue League	\$10	\$10	0	0
Wildlife Resources	\$10	\$10	0	0
Zeta Phi Beta Sorority	\$10	\$10	0	0
All other Special Plates	\$10	0	0	0."

SECTION 11.4.(k) The Department of Agriculture and Consumer Services may study the State's role in reducing the number of unwanted dogs and cats and in ensuring the humane treatment of dogs and cats by breeders, shelters, and other facilities that house dogs and cats. As part of this study, the Department may do the following:

- (1) Conduct a comprehensive evaluation of the need for revisions of or additions to existing regulatory authority designed to address animal welfare issues in the State, including a review of existing State and federal law.

- (2) Evaluate the existing needs among county and State agencies for improving responses to animal welfare incidents.
- (3) Consider the extent to which the existing infrastructure of the State Animal Response Team may be expanded to handle animal emergencies that involve companion animals and the feasibility and needs for such an expansion.
- (4) Survey local government to determine the total fiscal demand for a voluntary statewide program to foster the spaying and neutering of dogs and cats for the purpose of reducing the population of unwanted animals.
- (5) Review data regarding the economic impact of animal sheltering and other animal welfare programs, including the costs of such programs to counties and the State, and identify ways that the State might reduce the number of animals being sent to animal shelters and whether more cost-effective means exist to control the pet population without compromising animal welfare.
- (6) Evaluate the needs of the Animal Welfare program within the Department, specifically with regard to dealing with inquiries from the public, inspection capability and frequency, and staff development and training for Department personnel and others in the State that conduct animal welfare work.
- (7) Consult with other organizations and entities it deems appropriate.
- (8) Examine any other issues the Department deems pertinent to its charge under this subsection.

SECTION 11.4.(l) The Department of Agriculture and Consumer Services shall conduct the study set out in subsection (k) of this section within funds available for the 2010-2011 fiscal year. The Department may make interim reports as it deems necessary and shall report its findings and recommendations to the Chairs of the House Agriculture Committee, the Senate Agriculture, Environment, and Natural Resources Committee, and the House and Senate Appropriations Subcommittees on Natural and Economic Resources on or before May 1, 2011.

SECTION 11.4.(m) G.S. 20-81.12(b11) reads as rewritten:

"(b11) Animal Lovers Plates. – The Division must receive 300 or more applications before an animal lovers plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the animal lovers plate to the Spay/Neuter Account established in G.S. ~~19A-60~~19A-62."

SECTION 11.4.(n) This section becomes effective October 1, 2010.

RECLASSIFY ONE VACANT POSITION IN DACS FOR THE NC FARM TO SCHOOL PROGRAM

SECTION 11.5. The Department of Agriculture and Consumer Services shall reclassify one vacant position within the Department and shall fill this reclassified position in a timely manner in order to provide support for the NC Farm to School Program within the Food Distribution Division of the Department.

PART XII. DEPARTMENT OF LABOR

DEPARTMENT OF LABOR/APPRENTICESHIP PROGRAM

SECTION 12.1. G.S. 94-12 reads as rewritten:

"§ 94-12. Fees.

The following fees are imposed on each apprentice who is covered by a written apprenticeship agreement entered into under this Chapter: (i) a new registration fee of fifty dollars (\$50.00); and (ii) an annual fee of fifty dollars (\$50.00). ~~Each fee authorized by this section is payable as thirty dollars (\$30.00) by the sponsor and twenty dollars (\$20.00) by the apprentice. The sponsor shall collect the fees authorized by this section from the apprentice and remit the total fees owed by the sponsor and the apprentice to the Department of Labor. The fees are departmental receipts and must be applied to the costs of administering the~~

apprenticeship program. The Commissioner may adopt rules pursuant to Chapter 150B of the General Statutes to implement this section. ~~The provisions of this section shall not apply to the State, a department or agency of the State, or any political subdivision of the State or an apprentice of the State, a department or agency of the State, or any political subdivision of the State."~~

PART XIII. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

CONSOLIDATE THREE DENR SUBUNITS WITHIN THE NEW DIVISION OF ENVIRONMENTAL ASSISTANCE AND OUTREACH

SECTION 13.1.(a) The Division of Environmental Assistance and Outreach is established as a new division within the environmental area of the Department of Environment and Natural Resources. All functions, powers, duties, and obligations previously vested in the following subunits of the Department of Environment and Natural Resources are transferred to, vested in, and consolidated within the Division of Environmental Assistance and Outreach by a Type I transfer, as defined in G.S. 143A-6:

- (1) The Customer Service Center.
- (2) The Division of Pollution Prevention and Environmental Assistance.
- (3) The Small Business Ombudsman.

SECTION 13.1.(b) G.S. 18B-902(h) reads as rewritten:

"(h) Recycling Plan Required. – Each applicant for an on-premises malt beverage permit, on-premises unfortified wine permit, on-premises fortified wine permit, or a mixed beverages permit shall prepare and submit with the application a plan for the collection and recycling of all recyclable beverage containers of all beverages to be sold at retail on the premises. A permittee who is not able to find a recycler for its beverage containers may apply to the Alcoholic Beverage Control Commission for a one-year stay of the requirement to implement a recycling program in compliance with G.S. 18B-1006.1. The application shall be made in a form specified by the Commission, shall detail the efforts made by the permittee to provide for the collection and recycling of beverage containers, and shall specify the impediments to implementation of a recycling plan. The Commission shall submit all such applications to the Division of ~~Pollution Prevention and~~ Environmental Assistance and Outreach of the Department of Environment and Natural Resources for review and certification. The Division of ~~Pollution Prevention and~~ Environmental Assistance and Outreach shall investigate each application and prepare a summary of its investigation and shall submit the summary to the Commission along with a notation indicating certification or denial of the application. A permittee whose application for a stay is certified by the Division of ~~Pollution Prevention and~~ Environmental Assistance and Outreach shall not be required to comply with the recycling requirement of the alcoholic beverage laws and regulations during the one-year stay period so certified."

SECTION 13.1.(c) G.S. 130A-309.12(a)(6) reads as rewritten:

- "(6) Providing funding for the activities of the Division of ~~Pollution Prevention and~~ Environmental Assistance and Outreach."

SECTION 13.1.(d) G.S. 130A-309.63(b)(2) reads as rewritten:

- "(2) The Department may use up to forty percent (40%) of the revenue in the Account to make grants to encourage the use of processed scrap tire materials. These grants may be made to encourage the use of tire-derived fuel, crumb rubber, carbon black, or other components of tires for use in products such as fuel, tires, mats, auto parts, gaskets, flooring material, or other applications of processed tire materials. These grants shall be made in consultation with the Department of Commerce, the Division of ~~Pollution Prevention and~~ Environmental Assistance and Outreach of the Department, and, where appropriate, the Department of Transportation. Grants to

encourage the use of processed scrap tire materials shall not be used to process tires."

SECTION 13.1.(e) G.S. 136-28.8(g) reads as rewritten:

"(g) On or before October 1 of each year, the Department shall report to the Division of ~~Pollution Prevention and~~ Environmental Assistance and Outreach of the Department of Environment and Natural Resources as to the amounts and types of recycled materials that were specified or used in contracts that were entered into during the previous fiscal year. On or before December 1 of each year, the Division of ~~Pollution Prevention and~~ Environmental Assistance and Outreach shall prepare a summary of this report and submit the summary to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Transportation Oversight Committee. The summary of this report shall also be included in the report required by G.S. 130A-309.06(c)."

SECTION 13.1.(f) G.S. 143-58.2(d) reads as rewritten:

"(d) The Department of Administration, in cooperation with the Division of ~~Pollution Prevention and~~ Environmental Assistance and Outreach of the Department of Environment and Natural Resources, shall identify materials and supplies with recycled content that meet appropriate standards for use by State departments, institutions, agencies, community colleges, and local school administrative units."

SECTION 13.1.(g) The Revisor of Statutes shall make any other conforming statutory changes necessary to reflect the transfer under subsection (a) of this section that are not included in this section.

CONSOLIDATE TWO DENR OFFICES INTO NEW OFFICE OF ENVIRONMENTAL EDUCATION AND PUBLIC AFFAIRS

SECTION 13.1A.(a) The Office of Environmental Education and Public Affairs is established as a new office within the administrative area of the Department of Environment and Natural Resources. All functions, powers, duties, and obligations previously vested in the following offices of the Department of Environment and Natural Resources are transferred to, vested in, and consolidated within the Office of Environmental Education and Public Affairs by a Type I transfer, as defined in G.S. 143A-6:

- (1) North Carolina Office of Environmental Education.
- (2) Office of Public Affairs.

SECTION 13.1A.(b) The title of Part 4B of Article 7 of Chapter 143B of the General Statutes reads as rewritten:

"Part 4B. Office of Environmental ~~Education~~ Education and Public Affairs."

SECTION 13.1A.(c) G.S. 143B-285.22 reads as rewritten:

"§ **143B-285.22. Creation.**

There is hereby created a ~~North Carolina~~ the Office of Environmental Education and Public Affairs (hereinafter referred to as "Office") within the Department of Environment and Natural Resources."

SECTION 13.1A.(d) G.S. 143B-285.23 reads as rewritten:

"§ **143B-285.23. Powers and duties of the Secretary of Environment and Natural Resources.**

The Secretary of Environment and Natural Resources shall:

- (1) Establish an Office of Environmental Education and Public Affairs to:
 - a. Serve as a clearinghouse of environmental information for the State.

...

...."

SECTION 13.1A.(e) The catch line of G.S. 143B-285.25 reads as rewritten:

"§ **143B-285.25. Liaison between the Office of Environmental Education and Public Affairs and the Department of Public Instruction.**"

SECTION 13.1A.(f) The Revisor of Statutes shall make any other conforming statutory changes that are necessary to reflect the transfers under subsection (a) of this section.

CONSOLIDATE TWO SUBUNITS IN DENR INTO NEW OFFICE OF CONSERVATION, PLANNING, AND COMMUNITY AFFAIRS

SECTION 13.1B. The Office of Conservation, Planning, and Community Affairs is established as a new office within the Office of the Secretary of Environment and Natural Resources of the Department of Environment and Natural Resources. All functions, powers, duties, and obligations previously vested in the following subunits of the Department of Environment and Natural Resources are transferred to, vested in, and consolidated within the Office of Conservation, Planning, and Community Affairs by a Type I transfer, as defined in G.S. 143A-6:

- (1) Office of Conservation and Community Affairs.
- (2) Natural Resources Planning and Conservation.

STUDY THE MERGER OF THE DIVISION OF ENVIRONMENTAL HEALTH IN DENR AND THE DIVISION OF PUBLIC HEALTH IN DHHS; AMEND ON-SITE WASTEWATER CERTIFICATION

SECTION 13.2.(a) The Division of Environmental Health of the Department of Environment and Natural Resources and the Division of Public Health of the Department of Health and Human Services jointly shall study the desirability and the feasibility of merging these two divisions. Under the first phase of this study, the Division of Environmental Health and the Division of Public Health shall accumulate all of the following information and no later than October 1, 2010, submit a report that includes all this information to the Fiscal Research Division and to the Environmental Review Commission:

- (1) A list of each program in both the Division of Environmental Health and the Division of Public Health.
- (2) A description of each program under subdivision (1) of this subsection.
- (3) A list of all actual expenditures and receipts for each program under subdivision (1) of this subsection, starting with the 2005-2006 fiscal year through the 2009-2010 fiscal year.
- (4) A list of all certified expenditures and receipts for each program under subdivision (1) of this subsection for the 2010-2011 fiscal year.
- (5) The number of full-time equivalent positions employed for each program under subdivision (1) of this subsection, starting with the 2005-2006 fiscal year through the 2010-2011 fiscal year.

SECTION 13.2.(b) Under the second phase of this study, the Division of Environmental Health of the Department of Environment and Natural Resources and the Division of Public Health of the Department of Health and Human Services shall consider the information accumulated under subsection (a) of this section as well as all of the following:

- (1) The current structure and management of these two divisions.
- (2) Each program within one of these two divisions that duplicates or overlaps any program within the other division.
- (3) The gains and losses in efficiency that could result from merging these two divisions.
- (4) The gains and losses in operating costs, receipts, or any other expenditures or costs that could result from merging these two divisions.
- (5) Were these two divisions merged, where the merged division should be located, the Department of Environment and Natural Resources or the Department of Health and Human Services, and the reasons for this conclusion.
- (6) Any other issue deemed pertinent to the study.

SECTION 13.2.(c) No later than January 15, 2011, the Division of Environmental Health of the Department of Environment and Natural Resources and the Division of Public Health of the Department of Health and Human Services shall submit a final report that includes the findings, recommendations, and any legislative proposals of the joint study under

subsection (a) and subsection (b) of this section to the House and Senate Appropriations Subcommittees on Natural and Economic Resources and the Fiscal Research Division.

SECTION 13.2.(d) The Environmental Review Commission also shall study the desirability and the feasibility of merging the Division of Environmental Health of the Department of Environment and Natural Resources and the Division of Public Health of the Department of Health and Human Services and shall, no later than January 15, 2011, report its findings, recommendations, and any legislative proposals to the 2011 General Assembly. In conducting this study, the Environmental Review Commission shall consider all of the information provided to the Environmental Review Commission under subsection (a) of this section and all of the issues to be considered under subdivisions (1) through (6) of subsection (b) of this section.

SECTION 13.2.(e) G.S. 90A-71 reads as rewritten:

"§ 90A-71. Definitions.

The following definitions apply in this Article:

- (1) "Board" means the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board.
- (2) "Contractor" means a person who constructs, installs, or repairs, or offers to construct, install, or repair an on-site wastewater system in the State.
- (3) "Conventional wastewater system" has the same meaning as in G.S. 130A-343(a)(3).
- (4) "Department" means the Department of Environment and Natural Resources.
- (5) "Inspector" means a person who conducts an inspection ~~of an on-site wastewater system at any time after the local health department has issued an operation permit pursuant to G.S. 130A-337~~ in accordance with rules adopted by the Board.
- (5a) "Inspection" means an examination of an on-site wastewater system permitted under the provisions of Article 11 of Chapter 130A of the General Statutes that satisfies all of the following criteria:
 - a. Is requested by a lending institution, realtor, prospective homebuyer, or other impacted party as a condition of sale, refinancing, or transfer of title.
 - b. Meets the minimum requirements established by the Board.
- (6) "On-site wastewater system" means any wastewater system permitted under the provisions of Article 11 of Chapter 130A of the General Statutes that does not discharge to a treatment facility or the surface waters of the State.
- (7) "Person" means all persons, including individuals, firms, partnerships, associations, public or private institutions, municipalities, or political subdivisions, governmental agencies, or private or public corporations organized and existing under the laws of this State or any other state or country.
- (8) "Wastewater treatment facility" means a mechanical or chemical treatment facility serving a site with multiple wastewater sources."

SECTION 13.2.(f) G.S. 90A-72 reads as rewritten:

"§ 90A-72. Certification required; applicability.

(a) Certification Required. – No person shall construct, install, or repair or offer to construct, install, or repair an on-site wastewater system ~~in the State~~ permitted under Article 11 of Chapter 130A of the General Statutes without being certified as a contractor at the required level of certification for the specified system. No person shall conduct an inspection or offer to conduct an inspection of an on-site wastewater system as permitted under Article 11 of Chapter 130A of the General Statutes without being certified ~~as an inspector at the required level of certification for the specified system~~ in accordance with the provisions of this Article.

(b) Applicability. – This Article does not apply to the following:

- (1) A person who is employed ~~by, or performs labor and services for,~~ by a certified contractor or inspector in connection with the construction, installation, repair, or inspection of an on-site wastewater system performed under the direct and personal supervision of the certified contractor or ~~inspector.~~ inspector in charge.
- (2) A person who constructs, installs, or repairs an on-site wastewater system described as a single septic tank with a gravity-fed ~~distribution system~~ gravel trench dispersal media when located on land owned by that person and that is intended solely for use by that person and members of that person's immediate ~~family.~~ family who reside in the same dwelling.
- (3) A person licensed under Article 1 of Chapter 87 of the General Statutes who constructs or installs an on-site wastewater system ancillary to the building being ~~constructed.~~ constructed or who provides corrective services and labor for an on-site wastewater system ancillary to the building being constructed.
- (4) A person who is certified by the Water Pollution Control System Operators Certification Commission and contracted to provide necessary operation and maintenance on the permitted on-site wastewater system.
- (5) A person permitted under Article 21 of Chapter 143 of the General Statutes who is constructing a water pollution control facility necessary to comply with the terms and conditions of a National Pollutant Discharge Elimination System (NPDES) permit.
- (6) A person licensed under Article 1 of Chapter 87 of the General Statutes as a licensed public utilities contractor who is installing or expanding a wastewater treatment facility, including a collection system, designed by a registered professional engineer.
- (7) A plumbing contractor licensed under Article 2 of Chapter 87 of the General Statutes, so long as the plumber is not performing plumbing work that includes the installation or repair of a septic tank or similar depository, or lines or appurtenances downstream from the point where the house or building sewer lines from the plumbing system meet the septic tank or similar depository.
- (8) A person employed by the Department, a local health department, or a local health district, when conducting a regulatory inspection of an on-site wastewater system for purposes of determining compliance."

SECTION 13.2.(g) G.S. 90A-73(a)(2) reads as rewritten:

- "(2) One member appointed by the Governor who, at the time of appointment, is a certified ~~water treatment facility operator pursuant to Article 2 of Chapter 90A of the General Statutes,~~ water pollution control system operator pursuant to Article 3 of this Chapter, to a term that expires on 1 July of years evenly divisible by three."

SECTION 13.2.(h) G.S. 90A-73(c), 90A-73(d), and 90A-73(i) are repealed.

SECTION 13.2.(i) G.S. 90A-74 reads as rewritten:

"§ 90A-74. Powers and duties of the Board.

The Board shall have the following general powers and duties:

- ...
- (4) To develop and administer examinations for ~~each grade level of certification.~~ specific grade levels of certification as approved by the Board. The Board may approve applications by recognized associations for certification of its members after a review of the requirements of the association to ensure that they are equivalent to the requirements of the Board.
- ...

- (10a) To employ staff necessary to carry out the provisions of this Article and to determine the compensation, duties, and other terms and conditions of employment of its staff.
- (10b) To employ professional, clerical, investigative, or special personnel necessary to carry out the provisions of this Article.
- (11) To conduct other services necessary to carry out the purposes of this Article."

SECTION 13.2.(j) G.S. 90A-75 is amended by adding a new subsection to read:

"(c1) Use of Fees. – All fees collected pursuant to this Article shall be held by the Board and used by the Board for the sole purpose of administering this Article."

SECTION 13.2.(k) G.S. 90A-76 is repealed.

SECTION 13.2.(l) G.S. 90A-77(a) reads as rewritten:

"(a) Certification. – The Board shall issue a certificate of the appropriate grade level to an applicant who satisfies all of the following conditions:

- (1) Is at least 18 years of age.
- (2) Submits a properly completed application to the Board.
- (3) ~~If the applicant has prior experience providing on-site wastewater system services, submits affidavits of three persons not related to the applicant for whom the applicant provided on-site wastewater services.~~ Completes the basic on-site wastewater education program approved by the Board for the specific grade level.
- (4) ~~If the applicant has no prior experience, completes the basic on-site wastewater education program approved by the Board.~~
- (5) Completes any additional training program designed by the Board specific to the grade level for which the applicant is applying.
- (6) Pays the applicable fees set by the Board for the particular application and grade level.
- (7) For the specific grade levels greater than conventional systems, level, as determined by the Board, passes a written or oral examination that tests the applicant's proficiency in all of the following areas:
 - a. Principles of public and environmental health associated with on-site wastewater systems.
 - b. Principles of construction and safety.
 - c. Technical and practical knowledge of on-site wastewater systems typical to the specified grade level.
 - d. Laws and rules related to the installation, construction, repair, or inspection of the specified on-site wastewater system."

SECTION 13.2.(m) G.S. 90A-81(c) reads as rewritten:

"(c) Injunction. – The Board may ~~ask the Attorney General to~~ in its own name seek an injunction to restrain any person, firm, partnership, or corporation from violating the provisions of this Article or rules adopted by the Board. ~~The Attorney General~~ Board may bring an action for an injunction ~~in the name of the State~~ in the superior court of any county in which the violator resides or the violator's principal place of business is located. In any proceedings for an injunction, it shall not be necessary to allege or prove either that an adequate remedy at law does not exist, or that substantial or irreparable damage would result from the continued violation. Members of the Board shall not be personally or professionally liable for any act or omission pursuant to this subsection. The Board shall not be required to post a bond in connection with any action to obtain an injunction."

SECTION 13.2.(n) Any funds remaining as of June 30, 2010, in the On-Site Wastewater Certification Fund created in G.S. 90A-76 as a nonreverting account within the Department of Environment and Natural Resources shall be credited to the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board and shall be used in accordance with G.S. 90A-75, as amended by this section.

SECTION 13.2.(o) This transfer is effective July 1, 2010, and funds transferred shall be net of any changes enacted by this section.

SUSTAINABLE COMMUNITIES TASK FORCE

SECTION 13.5.(a) Article 7 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 31. North Carolina Sustainable Communities Task Force.

"§ 143B-344.34. North Carolina Sustainable Communities Task Force – findings.

(a) The General Assembly finds that the rapid growth of the urban and suburban areas of North Carolina and the economic challenges facing many of the State's urban cores, rural areas, and smaller communities create a significant need for the strategic use of resources to plan and accommodate healthy and equitable development without compromising natural systems and the needs of future generations of North Carolinians.

(b) The General Assembly finds that the following principles describe sustainable development for North Carolina's communities:

- (1) Better transportation choices. – Offering safe, reliable, and economical motorized and nonmotorized transportation options to decrease household transportation costs, reduce dependence on foreign oil, improve air quality, reduce greenhouse gas emissions, and promote public health.
- (2) Equitable, affordable housing. – Encouraging the provision to North Carolina citizens of all ages, incomes, races, and ethnicities expanded location-, water-, and energy-efficient housing choices that increase mobility, decrease the impact on existing water and energy infrastructure, and lower the combined cost of housing and transportation.
- (3) Enhanced economic competitiveness. – Expanding business access to markets and improving North Carolina's economic competitiveness through reliable and timely access to employment centers, educational opportunities, services, and other basic needs by workers.
- (4) Support of existing communities. – Targeting public funds toward existing communities that are using strategies such as transit-oriented, mixed-use development, and land recycling to increase community revitalization, enhance the efficiency and cost-effectiveness of public works investments, and protect rural landscapes.
- (5) Coordination and leverage of State policies and investment. – Aligning State and local government policies and funding to remove barriers to collaboration, leverage funding, and increase the accountability and effectiveness of government in planning for future growth.
- (6) Recognize and support communities and neighborhoods. – Preserving and enhancing the unique characteristics of rural, urban, and suburban communities by investing in healthy, safe, and walkable neighborhoods.

"§ 143B-344.35. North Carolina Sustainable Communities Task Force – creation; purpose; duties.

There is created within the Department of Environment and Natural Resources the North Carolina Sustainable Communities Task Force to lead and support the State's sustainable communities initiatives. The duties of the Task Force shall be as follows:

- (1) To apply for and receive, on behalf of the State, funding from federal, public, or private initiatives, grant programs, or donors that will foster sustainable development in North Carolina.
- (2) To promote regional partnerships and to assist local governments and regional or interlocal organizations in North Carolina in seeking and managing funding from federal, public, or private initiatives, grant programs, or donors related to the planning, development, or redevelopment of the State's communities in a sustainable manner.

- (3) To identify federal funding opportunities related to sustainable development.
- (4) To provide technical assistance to eligible State agencies, local governments, nonprofits or regional collaborations, and partnerships in applying for federal and other funding opportunities. This technical assistance shall include the development of scenario planning tools, progress measurement metrics, and public participation strategies for use by all applicants.
- (5) To recommend policies for the support, promotion, and encouragement of sustainable communities to the Secretaries of the Departments of Administration, Commerce, Environment and Natural Resources, Health and Human Services, and Transportation, the General Assembly, and the Governor.
- (6) To recommend annually to the Governor appropriations for sustainable development programs.
- (7) To develop a common local government sustainable practices scoring system incorporating the principles set forth in G.S. 143B-344.34(b).
- (8) To pursue opportunities to combine the efforts of State agencies related to development and infrastructure; to study how existing regional and interlocal organizations could improve their organization and reduce unnecessary overlap and duplication of services; and to better integrate State efforts and investments with regional and local efforts. The Task Force shall include in its recommendations under subdivisions (5) and (6) of this section any recommendations for legislation necessary to implement any potential improvements identified under this subdivision.

"§ 143B-344.36. North Carolina Sustainable Communities Task Force – membership; term; compensation; sunset.

(a) Membership and Advice. – The Task Force shall consist of 13 members who reflect the diversity of the State. The Secretaries of Commerce, Environment and Natural Resources, and Transportation and the Director of the North Carolina Housing Finance Agency shall each designate a representative to the Task Force from their agencies. The Secretary of Administration shall designate a representative from that Department who is familiar with the management and development of State-owned lands and buildings. The Secretary of Health and Human Services shall designate a representative from the Division of Public Health of the Department of Health and Human Services who is familiar with the impact of the built environment on human health. The Governor shall appoint one member who is a representative of a nonprofit organization involved in the planning, advocacy, or creation of sustainable development. The President Pro Tempore of the Senate shall appoint three members: one member who is a representative of a county government, one member who is a representative of the building industry, and one member who is a representative of a council of government or other regional collaborative organization. The Speaker of the House of Representatives shall appoint three members: one member who is a representative of a city government, one member who is a representative of the banking industry, and one member with professional training in planning who is a member of the North Carolina Chapter of the American Planning Association.

The Secretaries of Administration, Commerce, Environment and Natural Resources, Health and Human Services, and Transportation, or their designees, shall advise the Task Force on sustainable development activities within the responsibility of their respective departments and shall cooperate with the Task Force in jointly seeking funds from federal, public, or private initiatives, grant programs, or donors.

(b) Terms, Vacancies. – The members of the Task Force appointed by the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives shall have a term of office of four years and shall serve until their successors are appointed and qualified. An appointment to fill a vacancy shall be for the unexpired balance of the term. The remaining members of the Task Force shall serve at the pleasure of the appointing authority.

(c) Compensation. – The public members of the Task Force shall receive per diem and necessary travel and subsistence expenses payable to members of State boards and agencies as set forth by G.S. 138-5 and G.S. 138-6, respectively.

(d) Sunset. – This Part expires June 30, 2016.

"§ 143B-344.37. North Carolina Sustainable Communities Grant Fund.

(a) Establishment. – The North Carolina Sustainable Communities Grant Fund is established in the Department of Environment and Natural Resources, and the North Carolina Sustainable Communities Task Force within that Department shall be responsible for administering the Fund.

(b) Purposes. – Funds in the North Carolina Sustainable Communities Grant Fund shall be used, as available, to provide funding to regional bodies, cities, or counties to improve regional planning efforts that integrate housing and transportation decisions, to increase the capacity to improve land use and zoning and to provide up to fifty percent (50%) of any required local matching funds for recipients of Federal Sustainable Communities Planning Grants and any other federal grants related to sustainable development and requiring local matching funds. In order to receive funds under this section, regions must meet all of the following requirements:

- (1) The regional body, city, or county is a part of a regional sustainable development partnership that includes any of the metro regions as defined in G.S. 143B-344.38(b). Partnerships may also include any Metropolitan Planning Organizations, Regional Planning Organizations, regional transit agencies, and representation from involved State agencies.
- (2) The partnership has submitted a work plan to the Task Force describing the activities to be funded and the public comment process by which activities are selected and prioritized.
- (3) All members of the partnership have adopted a jointly developed memorandum of agreement describing how coordinated planning activities will be undertaken.

(c) Funding Guidelines. – In awarding any grant funding, the Task Force shall utilize the common local government sustainable practices scoring system developed in accordance with G.S. 143B-344.35(7). In its consideration of grant applications, the Task Force may also consider any offers by a partnership to provide matching funds.

"§ 143B-344.38. North Carolina Sustainable Communities Task Force – reports.

(a) Beginning in 2011, the Task Force shall report to the Governor, the chairs of the House Commerce, Small Business, and Entrepreneurship Committee and the Senate Commerce Committee, and the Joint Legislative Commission on Governmental Operations no later than October 1 each year. The report shall include the following elements:

- (1) Policy recommendations, suggested legislation, and recommended appropriations made pursuant to subdivisions (5), (6), and (8) of G.S. 143B-344.35.
- (2) Population, employment, building permit, and related socioeconomic data for each metro region of the State, including 25-year projections of population and employment and any other demographic trends the Task Force finds relevant, with commentary on any changing trends in the data that might affect planning for sustainable development and infrastructure. Where possible, the Task Force shall use data already collected by the State Demographer, the United States Census Bureau, and any other State or federal agency.
- (3) An inventory and description of State policies and programs that influence either positively or negatively the ability to develop sustainable communities.
- (4) Funding applied for and received in the prior fiscal year.

- (5) A list of the projects for which funding was distributed to local governments and regional or interlocal organizations in North Carolina for sustainable planning, development, or redevelopment under G.S. 143B-344.35.
- (6) A list of the projects for which the Task Force provided technical assistance under G.S. 143B-344.35(4).
- (7) The remaining funds available and all grants distributed to regional sustainable development partnerships under G.S. 143B-344.37.
- (8) An overview of all State funding initiatives (including State-allocated federal funding initiatives) used to support housing, infrastructure, water quality, and land preservation, including, at a minimum, the following:
 - a. The Clean Water Management Trust Fund.
 - b. The Parks and Recreation Trust Fund.
 - c. The Agricultural Development and Farmland Preservation Trust Fund.
 - d. The Natural Heritage Trust Fund.
 - e. The Highway Fund and the Highway Trust Fund.
 - f. The Congestion Relief and Intermodal Transportation 21st Century Fund.
 - g. The North Carolina Main Street Program and the Main Street Solutions Fund.
 - h. The Housing Trust Fund and the low-income housing tax credit funds administered by the Housing Finance Agency.
 - i. Funds from the Public School Building Capital Fund used by counties for the purchase of land for public school buildings.
 - j. The tax credits for renewable energy property, historic rehabilitation, and mill rehabilitation set forth in Chapter 105 of the General Statutes.

The overview should include the current funding level, changes in funding over the previous fiscal year, and how the funding initiative has contributed to sustainable development, or, in the case of a tax credit, the number and geographical distribution of taxpayers taking the credit, the amount of credits claimed, and how the credit has contributed to sustainable development.

(b) For purposes of this section, "metro region of the State" includes the following Statistical Areas defined by the United States Census Bureau:

- (1) The Research Triangle region (made up of the Durham-Chapel Hill and the Raleigh-Cary Metropolitan Statistical Areas).
- (2) The North Carolina portion of the Charlotte-Gastonia-Concord Metropolitan Statistical Area.
- (3) The Greensboro-Winston-Salem-High Point Combined Statistical Area.
- (4) The Asheville Metropolitan Statistical Area.
- (5) The Hickory-Lenoir-Morganton Metropolitan Statistical Area.
- (6) The Fayetteville Metropolitan Statistical Area.
- (7) The Wilmington Metropolitan Statistical Area.
- (8) The Greenville Metropolitan Statistical Area.
- (9) The Jacksonville Metropolitan Statistical Area.
- (10) The Rocky Mount Metropolitan Statistical Area.
- (11) The Goldsboro Metropolitan Statistical Area.
- (12) Any other Metropolitan Statistical Area that includes counties of the State and that has a population of 100,000 or more within the State."

SECTION 13.5.(b) G.S. 120-123 is amended by adding a new subdivision to read:

"(79) The North Carolina Sustainable Communities Task Force, as established in Article 7 of Chapter 143B of the General Statutes."

SECTION 13.5.(c) Reports. – The Departments of Administration, Commerce, Health and Human Services, Transportation, and Environment and Natural Resources shall report by October 1 each year, beginning in 2010, to the chairs of the House Commerce, Small Business, and Entrepreneurship Committee and the Senate Commerce Committee and the Joint Legislative Commission on Governmental Operations. The report shall provide information regarding each Department's progress in implementing the sustainable development principles set forth in G.S. 143B-344.34 as enacted by subsection (a) of this section.

SECTION 13.5.(d) Staffing. – The Department of Environment and Natural Resources shall transfer the vacant District Planner position in the Division of Coastal Management to the Task Force and shall fill the position in a timely manner in order to provide support for the operations and activities of the Task Force. For administrative purposes, the Task Force shall be located in the Office of the Secretary of Environment and Natural Resources. The Department's Office of Conservation, Planning, and Community Affairs will provide appropriate administrative and clerical support for the activities of the Task Force. Additionally, the Office will work to promote the goals of the Task Force and to integrate its activities with existing programs of the Office.

SECTION 13.5.(e) Sunset. – This section expires June 30, 2016.

DAM SAFETY FEE

SECTION 13.6.(a) A one-time Dam Evaluation Fee of one thousand one hundred dollars (\$1,100) per equivalent dam unit shall be paid to the Department of Environment and Natural Resources by electric utility companies in a lump sum payment based on the number of equivalent dam units owned by each company that fall under the jurisdiction of the Part 3 of Article 21 of Chapter 143 of the General Statutes. Fees collected pursuant to this section shall be used to support one time-limited engineering position and operating funds necessary to perform the evaluation and integration of regulated power plant dams into the Department's dam safety inventory program. These fees shall remain available to the Department and shall not revert until the evaluation and integration of regulated power plants is complete.

SECTION 13.6.(b) This section becomes effective October 1, 2010.

INCREASE HAZARDOUS WASTE FEES

SECTION 13.8.(a) G.S. 130A-294.1 reads as rewritten:

"§ 130A-294.1. Fees applicable to generators and transporters of hazardous waste, and to hazardous waste storage, treatment, and disposal facilities.

...

(e) A person who generates either one kilogram or more of any acute hazardous waste as listed in 40 C.F.R. § 261.30(d) or § 261.33(e) as revised 1 July 1987, or 1000 kilograms or more of hazardous waste, in any calendar month during the year beginning 1 July and ending 30 June shall pay an annual fee of one thousand four hundred dollars (~~\$1,000~~)(\$1,400).

(f) A person who generates 100 kilograms or more of hazardous waste in any calendar month during the year beginning 1 July and ending 30 June but less than 1000 kilograms of hazardous waste in each calendar month during that year shall pay an annual fee of one hundred twenty-five dollars (~~\$125.00~~)(\$175.00).

(g) A person who generates one kilogram or more of acute hazardous waste or 1000 kilograms or more of hazardous waste in any calendar month during the calendar year shall pay, in addition to any fee under subsections (e) and (f) of this section, a tonnage fee of fifty-seventy cents (~~\$0.50~~)(\$0.70) per ton or any part thereof of hazardous waste generated during that year up to a maximum of 25,000 tons.

...

(j) A person who transports hazardous waste shall pay an annual fee of six-eight hundred forty dollars (~~\$600.00~~)(\$840.00).

(k) A storage, treatment, or disposal facility shall pay an annual activity fee of one thousand two-six hundred eighty dollars (~~\$1,200~~)(\$1,680) for each activity.

(l) A commercial hazardous waste storage, treatment, or disposal facility shall pay annually, in addition to the fees applicable to all hazardous waste storage, treatment, or disposal facilities, a single tonnage charge of ~~one dollar and seventy-five cents (\$1.75)~~ two dollars and forty-five cents (\$2.45) per ton or any part thereof of hazardous waste stored, treated, or disposed of at the facility. A manufacturing facility that receives hazardous waste generated from the use of a product typical of its manufacturing process for the purpose of recycling is exempt from this tonnage charge. A facility must have a permit issued under this Article which includes the recycling activity and specifies the type and amount of waste allowed to be received from off-site for recycling.

(m) An applicant for a permit for a hazardous waste storage, treatment, or disposal facility that proposes to operate as a commercial facility shall pay an application fee for each proposed activity as follows:

- | | | |
|-----|--------------------|---------------------------------------|
| (1) | Storage facility | \$10,000; <u>\$14,000.</u> |
| (2) | Treatment facility | \$15,000; <u>\$21,000.</u> |
| (3) | Disposal facility | \$25,000; <u>\$35,000.</u> |

...."

SECTION 13.8.(b) This section becomes effective July 1, 2010. However, the Department of Environment and Natural Resources shall not collect the fees established pursuant to this section until on or after July 14, 2010.

INCREASE ADMINISTRATIVE CAP FOR INACTIVE HAZARDOUS WASTE SITES PROGRAM; ADD RECIPIENTS TO ANNUAL REPORT REQUIREMENT

SECTION 13.9.(a) G.S. 130A-295.9(1) reads as rewritten:

"(1) Funds credited pursuant to G.S. 105-187.63(1) to the Inactive Hazardous Sites Cleanup Fund shall be used by the Department of Environment and Natural Resources to fund the assessment and remediation of pre-1983 landfills, except up to ~~seven percent (7%)~~ thirteen percent (13%) of the funds credited under this subdivision may be used to fund administrative expenses related to the assessment and remediation of pre-1983 landfills and other inactive hazardous waste sites."

SECTION 13.9.(b) G.S. 130A-310.10(a) reads as rewritten:

"(a) The Secretary shall report on inactive hazardous sites to the Joint Legislative Commission on Governmental Operations, the Environmental Review Commission, and the Fiscal Research Division on or before 1 October of each year. The report shall include at least:

- (1) The Inactive Hazardous Waste Sites Priority List;

...."

FUNDS FOR CLEANUP AND MONITORING OF TEXFI SITE CONTAMINATION

SECTION 13.9A. There is appropriated from the Solid Waste Management Trust Fund to the Department of Environment and Natural Resources, Division of Waste Management, the sum of fifty thousand dollars (\$50,000) for the 2010-2011 fiscal year to be used for the cleanup and monitoring of the groundwater and other contamination located at the Texfi site in Fayetteville and for any emergency cleanup activities needed at that site.

STRENGTHEN PLASTIC BAG RECYCLING

SECTION 13.10.(a) G.S. 130A-309.121 reads as rewritten:

"§ 130A-309.121. **Definitions.**

As used in this Part, the following definitions apply:

- (1) Plastic bag. – A carryout bag composed primarily of thermoplastic synthetic polymeric material, which is provided by a store to a customer at the point of sale and incidental to the purchase of other goods.

- (2) Prepared foods retailer. – A retailer primarily engaged in the business of selling prepared foods, as that term is defined in G.S. 105-164.3, to consumers.
- (2a) Recycled content. – Content that is either postconsumer, postindustrial, or a mix of postconsumer and postindustrial.
- (3) Recycled paper bag. – A paper bag that meets all of the following requirements:
- a. The bag is manufactured from ~~one hundred percent (100%)~~ at least forty percent (40%) recycled content, including postconsumer content, postindustrial content, or a mix of postconsumer and postindustrial content.
 - b. The bag displays the words "made from recycled material" and "recyclable."
- (4) ~~Retail Chain. – Five or more stores located within the State that are engaged in the same general field of business and (i) conduct business under the same business name or (ii) operate under common ownership or management or pursuant to a franchise agreement with the same franchisor.~~
- (5) Retailer. – A person who offers goods for sale in this State to consumers and who provides a single-use plastic bag to the consumer to carry or transport the goods for free or for a nominal charge. ~~goods and (i) has more than 5,000 square feet of retail or wholesale space or (ii) is one of a retail chain.~~
- (6) Reusable bag. – ~~A durable plastic bag with handles that is~~ A bag with handles that is specifically designed and manufactured for multiple reuse and is made of one of the following materials: at least 2.25 mils thick
- a. Nonwoven polypropylene or other plastic material with a minimum weight of 80 grams per square meter, and is specifically designed and manufactured for multiple reuse or a bag made of
 - b. cloth or other machine washable fabric with handles. ~~cloth or other machine washable fabric with handles.~~

SECTION 13.10.(b) G.S. 130A-309.123(a) reads as rewritten:

"§ 130A-309.123. Substitution of paper bags restricted.

(a) A retailer subject to G.S. 130A-309.122 may substitute paper bags for the plastic bags banned by that section, but only if all of the following conditions are met:

- (1) The paper bag is a recycled paper bag.
- (2) The retailer offers ~~one of the following incentives~~ a cash refund to any customer who uses the customer's own reusable bags instead of the bags provided by the retailer: ~~(i) a cash refund; (ii) a store coupon or credit for general store use; or (iii) a value or reward under the retailer's customer loyalty or rewards program for general store use.~~ retailer. The amount of the ~~incentive refund~~ shall be equal to or greater than the cost to the retailer of providing a recycled paper bag, multiplied by the number of reusable bags filled with the goods purchased by the customer."

SECTION 13.10.(c) From funds available to the Department of Environment and Natural Resources, the Division of Waste Management and the Division of Environmental Assistance and Outreach shall: (i) monitor plastic bag use reduction resulting from the implementation of Part 2G of Article 9 of Chapter 130A of the General Statutes and shall report to the Environmental Review Commission on or before January 15, 2012, on the impacts the ban enacted by that Part has had on plastic bag litter in coastal waterways adjacent to areas where that Part applies; and (ii) provide written notification of the requirements of this section to all affected retailers by September 1, 2010.

SECTION 13.10.(d) Any retailer with less than 5,000 square feet of retail space that is not part of a retail chain may provide customers with plastic bags that do not comply with Part 2G of Article 9 of Chapter 130A of the General Statutes, provided that the bags were purchased or contracted for purchase prior to May 1, 2010. For purposes of this subsection,

"retail chain" means five or more stores located within the State that are engaged in the same general field of business and (i) conduct business under the same business name or (ii) operate under common ownership or management or pursuant to a franchise agreement with the same franchisor.

SECTION 13.10.(e) Subsections (a), (b), and (d) of this section become effective October 1, 2010. Subsection (d) of this section expires May 1, 2011.

PARKS AND RECREATION TRUST FUND/AUTHORITY TO CONSIDER OPERATING EXPENSES

SECTION 13.11. G.S. 113-44.15 reads as rewritten:

"§ 113-44.15. Parks and Recreation Trust Fund.

(a) Fund Created. – There is established a Parks and Recreation Trust Fund in the State Treasurer's Office. The Trust Fund shall be a nonreverting special revenue fund consisting of gifts and grants to the Trust Fund, monies credited to the Trust Fund pursuant to G.S. 105-228.30(b), and other monies appropriated to the Trust Fund by the General Assembly. Investment earnings credited to the assets of the Fund shall become part of the Fund.

(b) Use. – Funds in the Trust Fund are annually appropriated to the North Carolina Parks and Recreation Authority and, unless otherwise specified by the General Assembly or the terms or conditions of a gift or grant, shall be allocated and used as follows:

- (1) Sixty-five percent (65%) for the State Parks System for capital projects, repairs and renovations of park facilities, and land acquisition, and to retire debt incurred for these purposes under Article 9 of Chapter 142 of the General Statutes.
- (2) Thirty percent (30%) to provide matching funds to local governmental units or public authorities as defined in G.S. 159-7 on a dollar-for-dollar basis for local park and recreation purposes. The appraised value of land that is donated to a local government unit or public authority may be applied to the matching requirement of this subdivision. These funds shall be allocated by the North Carolina Parks and Recreation Authority based on criteria patterned after the Open Project Selection Process established for the Land and Water Conservation Fund administered by the National Park Service of the United States Department of the Interior.
- (3) Five percent (5%) for the Coastal and Estuarine Water Beach Access Program.

(b1) Geographic Distribution. – In allocating funds in the Trust Fund under this section, the North Carolina Parks and Recreation Authority shall make geographic distribution across the State to the extent practicable.

(b2) Administrative Expenses. – Of the funds appropriated to the North Carolina Parks and Recreation Authority from the Trust Fund each year, no more than three percent (3%) may be used by the Department for operating expenses associated with managing capital improvements projects, acquiring land, and administration of local grants programs.

(b3) Operating Expenses for State Parks System Allocations. – In allocating funds in the Trust Fund under subdivision (1) of subsection (b) of this section, the North Carolina Parks and Recreation Authority shall consider the operating expenses associated with each capital project, repair and renovation project, and each land acquisition. In considering the operating expenses, the North Carolina Parks and Recreation Authority shall determine both:

- (1) The minimal anticipated operating expenses, which are determined by the minimum staff and other operating expenses needed to maintain the project.
- (2) The optimal anticipated operating budget, which is determined by the level of staff and other operating expenses required to achieve a more satisfactory level of operation under the project.

(c) Reports. – The North Carolina Parks and Recreation Authority shall report no later than October 1 of each year to the Joint Legislative Commission on Governmental Operations,

the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission on allocations from the Trust Fund from the prior fiscal year. For funds allocated from the Trust Fund under subdivision (b1) of this section, this report shall include the operating expenses determined under subdivisions (1) and (2) of subsection (b3) of this section.

..."

RECLASSIFY SEVEN VACANT POSITIONS IN THE DIVISION OF PARKS AND RECREATION

SECTION 13.12. The Division of Parks and Recreation of the Department of Environment and Natural Resources shall reclassify seven vacant positions within the Division and shall fill these reclassified positions in a timely manner in order to provide support for new or expanding parks within the State Parks System, as defined in G.S. 113-44.9.

STATE PARKS SYSTEM PLAN

SECTION 13.13. G.S. 113-44.11 is amended by adding a new subsection to read:

"(d) No later than October 1 of each year, the Department shall submit electronically the State Parks System Plan to the Environmental Review Commission, the Senate and the House of Representatives Appropriations Subcommittees on Natural and Economic Resources, and the Fiscal Research Division. Concurrently, the Department shall submit a summary of each change to the Plan that was made during the previous fiscal year."

NO NEW FEES FOR PARKING IN STATE PARKS

SECTION 13.14. Notwithstanding any provision to the contrary, the funds appropriated to the Department of Environment and Natural Resources for State Parks for the 2010-2011 fiscal year shall not be reduced or replaced with fees for parking at State Parks, unless these fees were charged prior to the 2010-2011 fiscal year. No fees shall be charged and no fees shall be collected for parking in a State Park during the 2010-2011 fiscal year, unless these fees were charged prior to the 2010-2011 fiscal year.

AUTHORITY FOR THE DEPARTMENT OF REVENUE TO SHARE INFORMATION WITH DENR

SECTION 13.15. G.S. 105-259(b) is amended by adding a new subdivision to read:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person except as provided in this subsection. Standards used or to be used for the selection of returns for examination and data used or to be used for determining the standards may not be disclosed for any purpose. All other tax information may be disclosed only if the disclosure is made for one of the following purposes:

...

- (41) To furnish the Division of Forest Resources of the Department of Environment and Natural Resources pertinent contact and financial information concerning companies that are involved in the primary processing of timber products so that the Secretary of Environment and Natural Resources is able to comply with G.S. 113A-193 under the Primary Forest Product Assessment Act."

DIVISION OF MARINE FISHERIES AND DIVISION OF FOREST RESOURCES AIRCRAFT MAINTENANCE

SECTION 13.16.(a) The Division of Marine Fisheries of the Department of Environment and Natural Resources shall use mechanics employed by the Division of Forest Resources of the Department of Environment and Natural Resources for the purpose of

performing aircraft maintenance for all aircraft of the Division of Marine Fisheries except for a particular instance when this would be impracticable.

SECTION 13.16.(b) The Division of Forest Resources of the Department of Environment and Natural Resources shall perform aircraft maintenance using its mechanics for all aircraft of the Division of Marine Fisheries, except for a particular instance when this would be impracticable. The Division of Forest Resources shall develop a process to establish priorities for the aviation maintenance needs of all the aircraft in both the Division of Forest Resources and the Division of Marine Fisheries.

PURCHASE OF COMPUTER SOFTWARE BY DENR FOR DENR AIRCRAFT FLIGHTS AND MAINTENANCE RECORDKEEPING

SECTION 13.17. The Department of Environment and Natural Resources shall purchase computer software to be used to establish and maintain a record of the flights and the maintenance of aircraft of the Department of Environment and Natural Resources. For the purchase under this section, the Department of Environment and Natural Resources shall use funds realized from the sale of aircraft by the divisions within the department that operate aircraft. The Department of Environment and Natural Resources shall work with the Division of Marine Fisheries, the Division of Forest Resources, and the Aviation Division of the Department of Transportation to develop the specifications for this software system and to evaluate the best product available to accomplish the purpose set forth in this section. The Department should evaluate all available options, including the purchase of a commercially available system and the purchase of a license to use a software system that is currently used by another State agency. The purchase under this section is subject to all State laws and rules regarding the procurement of distributed information technology assets, as defined in G.S. 147-33.81.

REPORT ON DENR AVIATION ACTIVITIES

SECTION 13.18.(a) No later than October 1, 2010, the Department of Environment and Natural Resources shall submit a report to the Joint Legislative Commission on Governmental Operations, the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources, and the Fiscal Research Division. The report shall:

- (1) Describe the uses of the State aircraft fleet within the control of either the Division of Forest Resources of the Department of Environment and Natural Resources or the Division of Marine Fisheries of the Department of Environment and Natural Resources; and
- (2) Describe the progress of the Department of Environment and Natural Resources in implementing the eight management practices that were recommended by the Program Evaluation Division of the General Assembly in its report entitled "Selling 25 Underutilized Aircraft May Yield Up to \$8.1 Million and Save \$1.5 Million Annually" (Report 2010-04), based upon its study of the State's aircraft fleets, as authorized by Section 14.6 of S.L. 2009-451.

SECTION 13.18.(b) The Department of Environment and Natural Resources shall include in its report under subsection (a) of this section a summary of the Conklin & de Decker report that is due to be submitted to the Division of Forest Resources in August 2010, including any recommendations included in the Conklin & de Decker report and a description of the Department's plan to implement the Conklin & de Decker report recommendations.

CLOSE/TRANSFER CERTAIN DENR SPECIAL FUNDS

SECTION 13.21.(a) The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Environment and Natural Resources, shall transfer to the Division of Soil and Water Conservation (General Fund code

14300-1310) any unencumbered cash balance as of June 30, 2010, of each of the following special funds within the Department and then close each of these special funds:

- (1) SWC – CREP (Special Fund code 24308-2313).
- (2) SWC – EEP Agreement (Special Fund code 24308-2317).

SECTION 13.21.(b) The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Environment and Natural Resources, shall transfer to the Division of Water Quality (General Fund code 14300-1635) the operating budget, positions, and any unencumbered cash balance as of June 30, 2010, in the special fund DWQ – Lab Certification Fees (Special Fund code 24300-2335) within the Department and then close this special fund.

SECTION 13.21.(c) The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Environment and Natural Resources, shall transfer to the General Fund any unencumbered cash balance as of June 30, 2010, in each of the following special funds within the Department and then close each of these special funds:

- (1) DWM – Kernersville Site (Special Fund code 24308-2116).
- (2) DWM – Meadowview Site (Special Fund code 24308-2118).
- (3) DWR – Streamwatch Project (Special Fund code 24308-2180).
- (4) DAQ – Terrorism Defense (Special Fund code 24308-2343).
- (5) MNS – E A Publications (Special Fund code 24308-2461).
- (6) MNS – Mus Nat Sci/School Science Fairs (Special Fund code 24308-2462).
- (7) MNS – Mus Nat Sci/Scientific Pub. (Special Fund code 24308-2465).
- (8) DFR – Hurricane Frances (Special Fund code 24310-2786).
- (9) DFR – Hurricane Ivan (Special Fund code 24310-2797).
- (10) DFR – Dare Bomb Range Isabel Interest (Special Fund code 24310-2249).

SECTION 13.21.(d) The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Environment and Natural Resources, shall transfer to Special Fund code 24317 any unencumbered cash balance as of June 30, 2010, of each of the following special funds within the Department and then close each of these special funds:

- (1) SWC – Agricultural Cost Share Programs (Special Fund code 24308-2510).
- (2) SWC – Animal Waste Cost Share (Special Fund code 24308-2520).
- (3) NC07 – Network Date IT Project (Special Fund code 24308-2931).

SECTION 13.21.(e) The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Environment and Natural Resources, shall transfer to Special Fund code 64305 any unencumbered cash balance as of June 30, 2010, of the special fund DWM – Noncommercial Leaking Petroleum Storage (Special Fund code 64308-6371) within the Department and then close this special fund.

SECTION 13.21.(f) The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Environment and Natural Resources, shall transfer to Special Fund code 24300 the operating budget, positions, and any unencumbered cash balance as of June 30, 2010, of each special fund within the Department with Special Fund code 24308 that is not subject to closure under the provisions of other subsections of this section.

PART XIV. DEPARTMENT OF COMMERCE

ONE NORTH CAROLINA FUND

SECTION 14.1. Section 14.1 of S.L. 2009-451 reads as rewritten:

"**SECTION 14.1.** Of the funds appropriated in this act to the One North Carolina Fund for the ~~2009-2010~~2010-2011 fiscal year, the Department of Commerce may use up to three hundred thousand dollars (\$300,000) to cover its expenses in administering the One North

Carolina Fund and other economic development incentive grant programs during the ~~2009-2010~~2010-2011 fiscal year."

NER BLOCK GRANTS

SECTION 14.2.(a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2011, according to the following schedule:

COMMUNITY DEVELOPMENT BLOCK GRANT

01. State Administration	\$ 1,000,000
02. Scattered Site Housing	16,500,000
03. Economic Development	7,210,000
04. Small Business/Entrepreneurship	3,000,000
05. NC Catalyst	8,240,000
06. State Technical Assistance	450,000
07. Infrastructure	8,000,000
08. Capacity Building	600,000
TOTAL COMMUNITY DEVELOPMENT BLOCK GRANT – 2010 Program Year	\$ 45,000,000

SECTION 14.2.(b) Decreases in Federal Fund Availability. – If federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of these federal block grants shall be reduced by the same percentage as the reduction in federal funds.

SECTION 14.2.(c) Increases in Federal Fund Availability for Community Development Block Grant. – Any block grant funds appropriated by the Congress of the United States in addition to the funds specified in this section shall be expended as follows: each program category under the Community Development Block Grant shall be increased by the same percentage as the increase in federal funds.

SECTION 14.2.(d) Limitations on Community Development Block Grant Funds. – Of the funds appropriated in this section for the Community Development Block Grant, the following shall be allocated in each category for each program year: up to one million dollars (\$1,000,000) may be used for State Administration; up to sixteen million five hundred thousand dollars (\$16,500,000) may be used for Scattered Site Housing; up to seven million two hundred ten thousand dollars (\$7,210,000) may be used for Economic Development; up to three million dollars (\$3,000,000) may be used for Small Business/Entrepreneurship; not less than eight million two hundred forty thousand dollars (\$8,240,000) shall be used for NC Catalyst; up to four hundred fifty thousand dollars (\$450,000) may be used for State Technical Assistance; up to eight million dollars (\$8,000,000) may be used for Infrastructure; six hundred thousand dollars (\$600,000) may be used for Capacity Building. If federal block grant funds are reduced or increased by the Congress of the United States after the effective date of this act, then these reductions or increases shall be allocated in accordance with subsection (b) or (c) of this section, as applicable.

SECTION 14.2.(e) Increase Capacity for Nonprofit Organizations. – Assistance to nonprofit organizations to increase their capacity to carry out CDBG-eligible activities in

partnership with units of local government is an eligible activity under any program category in accordance with federal regulations. Capacity building grants may be made from funds available within program categories, program income, or unobligated funds.

SECTION 14.2.(f) The Department of Commerce shall consult with the Joint Legislative Commission on Governmental Operations prior to reallocating Community Development Block Grant Funds. Notwithstanding the provisions of this subsection, whenever the Director of the Budget finds that:

- (1) A reallocation is required because of an emergency that poses an imminent threat to public health or public safety, the Director of the Budget may authorize the reallocation without consulting the Commission. The Department of Commerce shall report to the Commission on the reallocation no later than 30 days after it was authorized and shall identify in the report the emergency, the type of action taken, and how it was related to the emergency.
- (2) The State will lose federal block grant funds or receive less federal block grant funds in the next fiscal year unless a reallocation is made. The Department of Commerce shall provide a written report to the Commission on the proposed reallocation and shall identify the reason that failure to take action will result in the loss of federal funds. If the Commission does not hear the issue within 30 days of receipt of the report, the Department may take the action without consulting the Commission.

SECTION 14.2.(g) By September 1, 2010, the Division of Community Assistance, Department of Commerce, shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the use of Community Development Block Grant Funds appropriated in the prior fiscal year.

NER BLOCK GRANTS/REALLOCATE 2010 PROGRAM YEAR FUNDING

SECTION 14.2A. Section 14.8 of S.L. 2009-451 reads as rewritten:

"SECTION 14.8.(a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2010, according to the following schedule:

COMMUNITY DEVELOPMENT BLOCK GRANT

01. State Administration	\$ 1,000,000 <u>1,078,849</u>
02. Urgent Needs and Contingency	1,000,000 <u>0</u>
03. Scattered Site Housing	13,200,000 <u>14,685,989</u>
04. Economic Development	8,710,000 <u>9,474,832</u>
05. Small Business/Entrepreneurship	1,000,000
06. Community Revitalization	13,000,000 <u>0</u>
07. State Technical Assistance	450,000 <u>489,424</u>
08. Housing Development	1,500,000 <u>1,421,225</u>
09. Infrastructure	5,140,000 <u>0</u>
<u>10. NC CDBG Economic Recovery</u>	<u>20,792,112</u>
TOTAL COMMUNITY DEVELOPMENT BLOCK GRANT – 2009-2010 Program Year	\$45,000,000<u>48,942,431</u>

"SECTION 14.8.(b) Decreases in Federal Fund Availability. – If federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of these federal block grants shall be reduced by the same percentage as the reduction in federal funds.

"SECTION 14.8.(c) Increases in Federal Fund Availability for Community Development Block Grant. – Any block grant funds appropriated by the Congress of the United States in addition to the funds specified in this section shall be expended as follows: each program category under the Community Development Block Grant shall be increased by the same percentage as the increase in federal funds.

"SECTION 14.8.(d) Limitations on Community Development Block Grant Funds. – Of the funds appropriated in this section for the Community Development Block Grant, the following shall be allocated in each category for each program year: up to ~~one million dollars (\$1,000,000)~~ one million seventy-eight thousand eight hundred forty-nine dollars (\$1,078,849) may be used for State Administration; ~~not less than one million dollars (\$1,000,000) available de-obligated funds~~ may be used for ~~Urgent Needs and~~Contingency; up to ~~thirteen million two hundred thousand dollars (\$13,200,000)~~ fourteen million six hundred eighty-five thousand nine hundred eighty-nine dollars (\$14,685,989) may be used for Scattered Site Housing; ~~eight million seven hundred ten thousand dollars (\$8,710,000)~~ nine million four hundred seventy-four thousand eight hundred thirty-two dollars (\$9,474,832) may be used for Economic Development; ~~up to one million dollars (\$1,000,000)~~ may be used for Small Business/Entrepreneurship; ~~not less than thirteen million dollars (\$13,000,000) shall be used for Community Revitalization;~~ up to ~~four hundred fifty thousand dollars (\$450,000)~~ four hundred eighty-nine thousand four hundred twenty-four dollars (\$489,424) may be used for State Technical Assistance; up to ~~one million five hundred thousand dollars (\$1,500,000)~~ one million four hundred twenty-one thousand two hundred twenty-five dollars (\$1,421,225) may be used for Housing Development; up to ~~five million one hundred forty thousand dollars (\$5,140,000)~~ may be used for Infrastructure. twenty million seven hundred ninety-two thousand one hundred twelve dollars (\$20,792,112) may be used for North Carolina Community Development Block Grant Economic Recovery. If federal block grant funds are reduced or increased by the Congress of the United States after the effective date of this act, then these reductions or increases shall be allocated in accordance with subsection (b) or (c) of this section, as applicable.

"SECTION 14.8.(e) Increase Capacity for Nonprofit Organizations. – Assistance to nonprofit organizations to increase their capacity to carry out CDBG-eligible activities in partnership with units of local government is an eligible activity under any program category in accordance with federal regulations. Capacity building grants may be made from funds available within program categories, program income, or unobligated funds.

"SECTION 14.8.(f) The Department of Commerce shall consult with the Joint Legislative Commission on Governmental Operations prior to reallocating Community Development Block Grant Funds. Notwithstanding the provisions of this subsection, whenever the Director of the Budget finds that:

- (1) A reallocation is required because of an emergency that poses an imminent threat to public health or public safety, the Director of the Budget may authorize the reallocation without consulting the Commission. The Department of Commerce shall report to the Commission on the reallocation no later than 30 days after it was authorized and shall identify in the report the emergency, the type of action taken, and how it was related to the emergency.
- (2) The State will lose federal block grant funds or receive less federal block grant funds in the next fiscal year unless a reallocation is made. The Department of Commerce shall provide a written report to the Commission on the proposed reallocation and shall identify the reason that failure to take action will result in the loss of federal funds. If the Commission does not

hear the issue within 30 days of receipt of the report, the Department may take the action without consulting the Commission.

"SECTION 14.8.(g) By ~~September 1, 2009~~, September 1, 2010, the Division of Community Assistance, Department of Commerce, shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the use of Community Development Block Grant Funds appropriated in the prior fiscal year."

STATE AGENCIES AND INSTITUTIONS/GREATER ENERGY EFFICIENCY REPORTING AND COMPLIANCE

SECTION 14.3. G.S. 143-64.12 reads as rewritten:

"§ 143-64.12. **Authority and duties of the Department; State agencies and State institutions of higher learning.**

(a) The Department of Commerce through the State Energy Office shall develop a comprehensive program to manage energy, water, and other utility use for State agencies and State institutions of higher learning and shall update this program annually. Each State agency and State institution of higher learning shall develop and implement a management plan that is consistent with the State's comprehensive program under this subsection to manage energy, water, and other utility ~~use-use,~~ and that addresses any findings or recommendations resulting from the energy audit required by subsection (b1) of this section. The energy consumption per gross square foot for all State buildings in total shall be reduced by twenty percent (20%) by 2010 and thirty percent (30%) by 2015 based on energy consumption for the 2002-2003 fiscal year. Each State agency and State institution of higher learning shall update its management plan annually and include strategies for supporting the energy consumption reduction requirements under this subsection. Each community college shall submit to the State Energy Office an annual written report of utility consumption and costs.

...

(b1) The Department of Administration, as part of the Facilities Condition and Assessment Program, shall identify and recommend energy conservation maintenance and operating procedures that are designed to reduce energy consumption within the facility of a State agency or a State institution of higher learning and that require no significant expenditure of funds. Every State agency or State institution of higher learning shall implement these recommendations. Where energy management equipment is proposed for any facility of a State agency or of a State institution of higher learning, the maximum interchangeability and compatibility of equipment components shall be required. As part of the Facilities Condition and Assessment Program under this section, the Department of ~~Administration-Administration,~~ in consultation with the State Energy Office, shall develop an energy audit and a procedure for conducting energy audits. Every five years the Department shall conduct an energy audit for each State agency or State institution of higher ~~learning-learning,~~ and the energy audits conducted shall serve as a preliminary energy survey. The State Energy Office shall be responsible for system-level detailed surveys.

(b2) The Department of Administration shall submit a report of the energy audit required by subsection (b1) of this section to the affected State agency or State institution of higher learning and to the State Energy Office. The State Energy Office shall review each audit and, in consultation with the affected State agency or State institution of higher learning, incorporate the audit findings and recommendations into the management plan required by subsection (a) of this section.

...

(h) When conducting ~~an energy audit~~ a facilities condition and assessment under this section, the Department of Administration shall identify and recommend to the State Energy Office any facility of a State agency or State institution of higher learning as suitable for building commissioning to reduce energy consumption within the facility or as suitable for installing an energy savings measure pursuant to a guaranteed energy savings contract under Part 2 of this Article.

...

(j) The State Energy Office shall submit a report by December 1 of each year to the Joint Legislative Commission on Governmental Operations describing the comprehensive program to manage energy, water, and other utility use for State agencies and State institutions of higher learning required by subsection (a) of this section. The report shall also contain the following:

- (1) A comprehensive overview of how State agencies and State institutions of higher learning are managing energy, water, and other utility use and achieving efficiency gains.
- (2) Any new measures that could be taken by State agencies and State institutions of higher learning to achieve greater efficiency gains, including any changes in general law that might be needed.
- (3) A summary of the State agency and State institutions of higher learning management plans required by subsection (a) of this section and the energy audits required by subsection (b1) of this section.
- (4) A list of the State agencies and State institutions of higher learning that did and did not submit management plans required by subsection (a) of this section and a list of the State agencies and State institutions of higher learning that received an energy audit.
- (5) Any recommendations on how management plans can be better managed and implemented."

LOCAL WORKFORCE DEVELOPMENT BOARDS/CONSUMER CHOICE REQUIREMENTS

SECTION 14.4. G.S. 143B-438.11(a) is amended by adding the following new subdivision to read as follows:

"(a) Duties. – Local Workforce Development Boards shall have the following powers and duties:

...

- (8) To provide the appropriate guidance and information to Workforce Investment Act consumers to ensure that they are prepared and positioned to make informed choices in selecting a training provider. Each local workforce development board shall ensure that consumer choice is properly maintained in the one-stop centers and that consumers are provided the full array of public and private training provider information."

WANCHESE SEAFOOD INDUSTRIAL PARK/OREGON INLET FUNDS

SECTION 14.5. Section 14.4 of S.L. 2009-451 reads as rewritten:

"**SECTION 14.4.(a)** Funds appropriated to the Department of Commerce for the ~~2009-2010~~2010-2011 fiscal year for the Wanchese Seafood Industrial Park that are unexpended and unencumbered as of ~~June 30, 2009,~~June 30, 2011, shall not revert to the General Fund on ~~June 30, 2009,~~June 30, 2011, but shall remain available to the Department to be expended by the Wanchese Seafood Industrial Park for operations, maintenance, repair, and capital improvements in accordance with Article 23C of Chapter 113 of the General Statutes. These funds shall be in addition to funds available to the North Carolina Seafood Industrial Park Authority for operations, maintenance, repair, and capital improvements under Article 23C of Chapter 113 of the General Statutes.

~~"SECTION 14.4.(b) Funds appropriated to the Department of Commerce for the 2009-2010 fiscal year for the Oregon Inlet Project that are unexpended and unencumbered as of June 30, 2009, shall not revert to the General Fund on June 30, 2009, but shall remain available to the Department to be expended by the Wanchese Seafood Industrial Park for securing adequate channel maintenance of the Oregon Inlet and for operations, maintenance, repair, and capital improvements in accordance with Article 23C of Chapter 113 of the General Statutes. These funds shall be in addition to funds available to the North Carolina Seafood Industrial~~

~~Park Authority for operations, maintenance, repair, and capital improvements under Article 23C of Chapter 113 of the General Statutes.~~

"SECTION 14.4.(c) This section becomes effective ~~June 30, 2009~~ June 30, 2010."

CONSOLIDATE PASSENGER AIRCRAFT

SECTION 14.6.(a) The Executive Aircraft Division of the Department of Commerce is transferred to the Division of Aviation of the Department of Transportation. This transfer shall have all the elements of a Type I transfer, as defined by G.S. 143A-6.

SECTION 14.6.(b) G.S. 143B-437.011 is repealed.

SECTION 14.6.(c) Article 7 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-102.9. Use of aircraft managed by the Department of Transportation.

Of the aircraft managed by the Department of Transportation, the use of aircraft for economic development purposes shall take precedence over all other uses except in cases of emergency or disaster response. The Department of Transportation shall annually review the rates charged for the use of aircraft and shall adjust the rates, as necessary, to account for upgraded aircraft and inflationary increases in operating costs, including jet fuel prices. If an aircraft is used to attend athletic events or for any other purpose related to collegiate athletics, the rate charged shall be equal to the direct cost of operating the aircraft as established by the aircraft's manufacturer, adjusted for inflation."

MAIN STREET SOLUTIONS FUND

SECTION 14.6A. G.S. 143B-472.35 reads as rewritten:

"§ 143B-472.35. Establishment of fund; use of funds; application for grants; disbursal; repayment; inspections; rules; reports.

(a) A fund to be known as the Main Street Solutions Fund is established in the Department of Commerce. This Fund shall be administered by the Department of Commerce. The Department of Commerce shall be responsible for receipt and disbursement of all funds as provided in this section. Interest earnings shall be credited to the Main Street Solutions Fund.

(a1) The Main Street Solutions Fund is a reimbursable, matching grant program. The Department of Commerce and the North Carolina Main Street Center are authorized to award grants from the Main Street Solutions Fund totaling not more than two hundred thousand dollars (\$200,000) to each eligible local government. Funds from eligible local governments, main street organizations, downtown organizations, downtown economic development organizations, and sources other than the State or federal government must be committed to match the amount of any grant from the Main Street Solutions Fund on the basis of a minimum of two non-State dollars (\$2.00) for every one dollar (\$1.00) provided by the State from the Main Street Solutions Fund.

(a2) Definitions. – For purposes of this section, the following definitions shall apply:

- (1) Active North Carolina main street community. – A community in a Tier 1, 2, or 3 county that has been selected by the Department of Commerce to participate in the Main Street Program or the Small Town Main Street Program and that meets the reporting and eligibility requirements of the respective Program.
- (2) Designated micropolitan. – A geographic entity containing an urban core and having a population of between 10,000 and 50,000 people, according to the most recent federal decennial census.
- (3) Designated downtown area. – A designated area within a community that is considered the primary, traditional downtown business district of the community.
- (4) Downtown economic development organization. – An agency that is part of a public-private partnership intended to develop and recruit business

- opportunities or to undertake economic development projects that will create jobs.
- (5) Downtown organization. – An agency that is part of a public-private partnership on the local level and whose core mission is to revitalize a traditional downtown business district.
 - (6) Eligible local government. – A municipal government that is located in a designated micropolitan or an active North Carolina main street community.
 - (7) Historic properties. – Properties that have been designated as historically significant by the National Register of Historic Places or a local historic properties commission.
 - (8) Interlocal small business economic development project. – A project or group of projects in a cluster of communities or counties or in a region that share a common economic development strategy for small business growth and job creation.
 - (9) Main Street Organization. – An agency working in a public-private partnership on the local level, guided by a professional downtown manager, board of directors, or revitalization committee, and charged with administering the local Main Street Program initiative and facilitating revitalization initiatives in the traditional downtown business district through appropriate design, promotion, and economic restructuring activities.
 - (10) Main Street Program. – The program developed by the National Trust for Historic Preservation to promote downtown revitalization through economic development within the context of historic preservation.
 - (11) Mixed-use centers. – Areas zoned and developed for a mix of uses, including retail, service, professional, governmental, institutional, and residential.
 - (12) Main Street Center. – The agency within the North Carolina Department of Commerce, Office of Urban Development, which receives applications and makes decisions with respect to Main Street Solutions Fund grant applications from eligible local governments.
 - (13) Private investment. – A project or group of projects in a designated downtown area that will spur private investment and improve property. A project must be owned and maintained by a private entity and must provide a direct benefit to small businesses.
 - (14) Public improvements and public infrastructure. – The improvement of property or infrastructure that is owned and maintained by a city or county.
 - (15) Revolving loan programs for private investment. – A property redevelopment or small business assistance fund that is administered on the local level and that may be used to stabilize or appropriately redevelop properties located in the downtown area in connection with private investment or that may be used to provide necessary operating capital for small business creation or expansion in connection with private investment in a designated downtown area.
 - (16) Small business. – An independently owned and operated business with less than 100 employees and with annual revenues of less than six million dollars (\$6,000,000).
 - (17) Small Town Main Street Program. – A program based upon the Main Street Program developed by the National Trust for Historic Preservation to promote downtown revitalization through economic development within the context of historic preservation. The purpose of the Small Town Main Street Program is to provide guidance to local communities that have a population of less than 7,500 and do not have a downtown manager.
 - (18) Tier 1, 2, or 3 counties. – North Carolina counties annually ranked by the Department of Commerce based upon the counties' economic well-being and

assigned a Tier designation. The 40 most distressed counties are designated as Tier 1, the next 40 as Tier 2, and the 20 least distressed as Tier 3.

(a3) The purpose of the Main Street Program is to provide economic development planning assistance and coordinated grant support to designated micropolitans located in Tier 2 and 3 counties and to active North Carolina main street communities. To achieve the purposes of the Main Street Program, the Main Street Center shall develop criteria for community participation and shall provide technical assistance and strategic planning support to eligible local governments. Local governments, in collaboration with a main street organization, downtown organization, or downtown economic development organization, and the small businesses that will directly benefit from these funds may apply for grants from the Main Street Solutions Fund as provided in this section.

(a4) The Secretary of Commerce, through the Main Street Center, shall award grants from the Main Street Solutions Fund to eligible designated micropolitans and active North Carolina main street communities. Grant funds awarded from the Main Street Solutions Fund shall be used as provided by the provisions of this section and any rules or regulations adopted by the Secretary of Commerce.

(b) Funds in the Main Street Solutions Fund shall be available only to micropolitan cities in development tier two and three counties designated micropolitans in Tier 2 and 3 counties and to active North Carolina main street communities in the State. For purposes of this section, a "micropolitan city" is a city located within the State with a population, according to the most recent U.S. census, of between 10,000 and 50,000 people. Funds in the Main Street Solutions Fund shall be used for any of the following eligible activities:

- ~~(1) The acquisition or rehabilitation of properties in connection with private investment in a designated downtown area.~~
- (1a) Downtown economic development initiatives that do any of the following:
 - a. Encourage the development or redevelopment of traditional downtown areas by increasing the capacity for mixed-use centers of activity within downtown core areas. Funds may be used to support the rehabilitation of properties, utility infrastructure improvements, new construction, and the development or redevelopment of parking lots or facilities. Projects under this sub-subdivision must foster private investment and provide direct benefit to small business retention, expansion, or recruitment.
 - b. Attract and leverage private-sector investments and entrepreneurial growth in downtown areas through strategic planning efforts, market studies, and downtown master plans in association with direct benefit to small business retention, expansion, or recruitment.
 - c. Attract and stimulate the growth of business professionals and entrepreneurs within downtown core areas.
 - d. Establish revolving loan programs for private investment and small business assistance in downtown historic properties.
 - e. Encourage public improvement projects that are necessary to create or stimulate private investment in the designated downtown area and provide a direct benefit to small businesses.
- ~~(2) The establishment of revolving loan programs for private investment in a designated downtown area.~~
- (2a) Historic preservation initiatives outside of downtown core areas that enhance: (i) community economic development and small business retention, expansion, or recruitment; and (ii) regional or community job creation.
- ~~(3) The subsidization of interest rates for these revolving loan programs.~~
- (3a) Public improvements and public infrastructure outside of downtown core areas that are consistent with sound municipal planning and that support

community economic development, small business retention, expansion, or recruitment, and regional or community job creation.

- ~~(4) The establishment of facade incentive grants in connection with private investment in a designated downtown area.~~
- ~~(4a) Interlocal small business economic development projects designed to enhance regional economic growth and job creation.~~
- ~~(5) Market studies, design studies, design assistance, or strategic planning efforts, provided the activity can be shown to lead directly to private investment in a designated downtown area.~~
- ~~(6) Any approved project that provides construction or rehabilitation in a designated downtown area and can be shown to lead directly to private investment in the designated downtown area.~~
- ~~(7) Public improvements and public infrastructure within a designated downtown area, provided these improvements are necessary to create or stimulate private investment in the designated downtown area.~~

~~(e) Any micropolitan city located within a development tier two or three county may apply for assistance from the Main Street Solutions Fund by submitting an application to the Main Street Center in the Division of Community Assistance, Department of Commerce. Any city affiliated with the North Carolina Main Street Center Program may apply for a grant for a proposed project.~~

~~(c1) The application shall include each of the following:~~

- ~~(1) A copy of the consensus local economic development plan developed by the micropolitan city in conjunction with the Department's Main Street Program and the city's regional economic development commission or its local council of government or both.~~
- ~~(1a) The proposed activities for which the funds are to be used and the projected cost of the project.~~
- ~~(2) The amount of grant funds requested for these activities.~~
- ~~(3) Projections of the dollar amount of public and private investment that is are expected to occur in the designated micropolitan or designated downtown area as a direct result of the city's proposed activities.~~
- ~~(4) Whether local public dollars are required to match any grant funds according to the provisions of subdivision (g)(2) of this section, and if so, the amount of local public funds required.~~
- ~~(5) An explanation of the nature of the private investment in the designated micropolitan or designated downtown area that will result from the city's proposed activities.~~
- ~~(6) Projections of the time needed to complete the city's proposed activities.~~
- ~~(7) Projections of the time needed to realize the private investment that is expected to result from the city's proposed activities.~~
- ~~(8) Identification of the proposed source of funds to be used for repayment of any loan obligations.~~
- ~~(9) Any additional or supplemental information requested by the Division.~~

~~(d) A committee, comprised of representatives of the Division of Community Assistance of the Department of Commerce, the North Carolina Main Street Program, the Local Government Commission, and the League of Municipalities shall do each of the following:~~

- ~~(1) Review a city's application.~~
- ~~(2) Determine whether the activities listed in the application are activities that are eligible for a grant.~~
- ~~(3) Determine which applicants are selected to receive funds from the Main Street Solutions Fund.~~

~~A city local government whose application is denied may file a new or amended application.~~

~~(e) A Main Street City that is selected may not receive a grant pursuant to this section totaling less than twenty thousand dollars (\$20,000) or more than three hundred thousand dollars (\$300,000).~~

(f) Repealed by Session Laws 2009-451, s. 14.10, effective July 1, 2009.

(g) (1) A city-local government that has been selected to receive a grant shall use the full amount of the grant for the activities that were approved pursuant to ~~subsection (d)~~ the provisions of this section. Funds are deemed used if the city-local government is legally committed to spend the funds on the approved activities.

(2) ~~If a city has received approval to use the grant for public improvements or public infrastructure, that city shall be required to raise, before funds for these public improvements may be drawn from the city's account, local public funds to match the amount of the grant from the Main Street Solutions Fund on the basis of at least one local public dollar (\$1.00) for every one dollar (\$1.00) from the Main Street Solutions Fund. This match requirement applies only to those funds received for public improvements or public infrastructure and is in addition to the requirement set forth in subdivision (1) of this subsection.~~

(3) A city-local government that fails to satisfy the condition set forth in subdivision (1) of this subsection shall lose any funds that have not been used within three years of being selected. These unused funds shall be credited to the Main Street Solutions Fund. A city-local government that fails to satisfy the conditions set forth in ~~subdivisions (1) and (2)~~ subdivision (1) of this subsection may file a new application.

(4) Any funds repaid or credited to the Main Street Solutions Fund pursuant to subdivision (3) of this subsection shall be available to other applicants as long as the Main Street Solutions Fund is in effect.

(h) Repealed by Session Laws 2009-451, s. 14.10, effective July 1, 2009.

(i) After a project financed ~~in whole or in part~~ pursuant to this section has been completed, the city-local government shall report the actual cost of the project to the Department of Commerce. ~~If the actual cost of the project exceeds the projected cost upon which the grant was based, the city may submit an application to the Department of Commerce for a grant for the difference. If the actual cost of the project is less than the projected cost, the city shall arrange to pay the difference to the Main Street Solutions Fund according to terms set by the Department.~~

(j) Inspection of a project for which a grant has been awarded may be performed by personnel of the Department of Commerce. No person may be approved to perform inspections who is an officer or employee of the unit of local government to which the grant was made or who is an owner, officer, employee, or agent of a contractor or subcontractor engaged in the construction of any project for which the grant was made.

(k) The Department of Commerce may adopt, modify, and repeal rules establishing the procedures to be followed in the administration of this section and regulations interpreting and applying the provisions of this section, as provided in the Administrative Procedure Act.

(l) The Department of Commerce and ~~cities-local governments~~ cities-local governments that have been selected to receive a grant from the Main Street Solutions Fund shall prepare and file on or before September 1 of each year with the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division a consolidated report for the preceding fiscal year concerning the allocation of grants authorized by this section.

The portion of the annual report prepared by the Department of Commerce shall set forth for the preceding fiscal year itemized and total allocations from the Main Street Solutions Fund for grants. The Department of Commerce shall also prepare a summary report of all allocations made from the fund for each fiscal year; the total funds received and allocations made and the total unallocated funds in the Fund.

The portion of the report prepared by the ~~city~~ local government shall include each of the following:

- (1) The total amount of public and private funds that was committed and the amount that was invested in the designated micropolitan or designated downtown area during the preceding fiscal year.
 - (2) ~~The total amount of local public matching funds that was raised, if required by subdivision (g)(2) of this section.~~
 - (3) The total amount of grants received from the Main Street Solutions Fund during the preceding fiscal year.
 - (4) Repealed by Session Laws 2009-451, s. 14.10, effective July 1, 2009.
 - (5) A description of how the grant funds and funds from public and private investors were used during the preceding fiscal year.
 - (6) Details regarding the types of private investment created or stimulated, the dates of this activity, the amount of public money involved, and any other pertinent information, including any jobs created, businesses started, and number of jobs retained due to the approved activities.
- (m) The Department of Commerce may annually use up to ~~fifty thousand dollars (\$50,000)~~ seventy-five thousand dollars (\$75,000) of the funds in the Main Street Solutions Fund for expenses related to the administration of the Fund."

AMEND JDIG REPORTING REQUIREMENTS

SECTION 14.8. G.S. 143B-437.55 reads as rewritten:

"§ 143B-437.55. **Applications; fees; reports; study.**

...

(c) Annual Reports. – The Committee shall publish a report on the Job Development Investment Grant Program on or before April 30 of each year. The Committee shall submit the report electronically to the House of Representatives Finance Committee, the Senate Finance Committee, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division. The report shall include the following:

...

(d) Quarterly Reports. – The Committee shall publish a report on the Job Development Investment Grant Program within two months of the end of each quarter. This report shall include a listing of each grant awarded during the preceding quarter, including the name of the business, the cost/benefit analysis conducted by the Committee during the application process, a description of the project, and the amount of the grant expected to be made under the agreement during the current fiscal year. The Committee shall submit the report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division.

(e) Study. – The Committee shall conduct a study to determine the minimum funding level required to implement the Job Development Investment Grant Program successfully. The Committee shall report the results of this study to the House of Representatives Finance Committee, the Senate Finance Committee, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division no later than ~~March 1~~ April 1 of each year."

INDUSTRIAL DEVELOPMENT FUND/REPORTING REQUIREMENTS

SECTION 14.9. G.S. 143B-437.01 reads as rewritten:

"§ 143B-437.01. **Industrial Development Fund.**

...

(c) Reports. – The Department of Commerce shall report ~~annually to the General Assembly~~ to the Joint Legislative Commission on Governmental Operations on September 1 of each year concerning the applications made to the fund and the payments made from the fund

and the impact of the payments on job creation in the State. The Department of Commerce shall also report quarterly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the use of the moneys in the fund, including information regarding to whom payments were made, in what amounts, and for what purposes.

(c1) In addition to the reporting requirements of subsection (c) of this section, the Department of Commerce shall report ~~annually to the General Assembly~~ to the Joint Legislative Commission on Governmental Operations on September 1 of each year concerning the payments made from the Utility Account and the impact of the payments on job creation in the State. The Department of Commerce shall also report quarterly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the use of the moneys in the Utility Account including information regarding to whom payments were made, in what amounts, and for what purposes.

...."

WINE AND GRAPE GROWERS COUNCIL/REPORTING REQUIREMENT

SECTION 14.10. G.S. 143B-437.90 is amended by adding a new subdivision to read:

"§ **143B-437.90. North Carolina Wine and Grape Growers Council – Creation; powers and duties.**

There is created the North Carolina Wine and Grape Growers Council of the Department of Commerce. The North Carolina Wine and Grape Growers Council shall have the following powers and duties:

- ...
- (14) By September 1 of each year, to report to the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division on the activities of the Council, the status of the wine and grape industry in North Carolina and the United States, progress on the development and implementation of the State Viticulture Plan, and any contracts or agreements entered into by the Council for research, education, or marketing."

TOURIST DESTINATION MARKETING

SECTION 14.10A. Section 14.11 of S.L. 2009-451 reads as rewritten:

"**SECTION 14.11.(a)** The Department of Commerce shall promote historically underutilized businesses and supplier diversity within the State when marketing the State of North Carolina. Promotional efforts may include advertising with minority media outlets and with minorities in the motorsports industry. The Department and businesses that contract with the Department to promote historically underutilized businesses and supplier diversity shall make a good-faith effort to achieve diversity in the bidding and awarding of marketing and advertising contracts.

"**SECTION 14.11.(b)** The Department of Commerce shall report on its efforts during the prior fiscal year to promote historically underutilized businesses, supplier diversity, and advertising in minority media outlets to the Joint Legislative Commission on Governmental Operations by September 1, 2010, and September 1, 2011."

PROMOTE NORTH CAROLINA DISTILLED SPIRITS

SECTION 14.12.(a) G.S. 18B-800 is amended by adding a new subsection to read:

"(e) Each ABC store shall display spirits which are distilled in North Carolina in an area dedicated solely to North Carolina products."

SECTION 14.12.(b) G.S. 18B-902(d) is amended by adding a new subdivision to read:

"(42) Spirituous liquor tasting permit – \$100.00."

SECTION 14.12.(c) G.S. 18B-1001 is amended by adding a new subdivision to read:

"(19) Spirituous liquor tasting permit. – The holder of any distillery permit authorized by G.S. 18B-1105 may conduct a consumer tasting event on the premises of the distillery subject to the following conditions:

- a. Any person pouring spirituous liquor at a tasting shall be an employee of the distillery and at least 21 years of age.
- b. The person pouring the spirituous liquor shall be responsible for checking the identification of patrons being served at the tasting.
- c. Each consumer is limited to tasting samples of 0.25 ounce of each spirituous liquor which total no more than 1.5 ounces of spirituous liquor in any calendar day.
- d. The consumer shall not be charged for any spirituous liquor tasting sample.
- e. The spirituous liquor used in the consumer tasting event shall be distilled at the distillery where the event is being held by the permit holder conducting the event.
- f. A consumer tasting event shall not be allowed when the sale of spirituous liquor is otherwise prohibited.
- g. Tasting samples are not to be offered to, or allowed to be consumed by, any person under the legal age for consuming spirituous liquor.

The distillery permit holder shall be solely liable for any violations of this Chapter occurring in connection with the tasting. The Commission shall adopt rules to assure that the tastings are limited to samplings and not a subterfuge for the unlawful sale or distribution of spirituous liquor and that the tastings are not used by industry members for unlawful inducements to retail permit holders."

SECTION 14.12.(d) This section becomes effective October 1, 2010.

EMPLOYMENT SECURITY COMMISSION FUNDS

SECTION 14.13. Section 14.17 of S.L. 2009-451 reads as rewritten:

"SECTION 14.17.(a) Funds from the Employment Security Commission Reserve Fund shall be available to the Employment Security Commission of North Carolina to use as collateral to secure federal funds and to pay the administrative costs associated with the collection of the Employment Security Commission Reserve Fund surcharge. The total administrative costs paid with funds from the Reserve in the ~~2009-2010~~2010-2011 fiscal year shall not exceed two million five hundred thousand dollars (\$2,500,000).

"SECTION 14.17.(b) There is appropriated from the Employment Security Commission Reserve Fund to the Employment Security Commission of North Carolina the sum of twenty million dollars (\$20,000,000) for the ~~2009-2010~~2010-2011 fiscal year to be used for the following purposes:

- (1) Nineteen million five hundred thousand dollars (\$19,500,000) for the operation and support of local Employment Security Commission offices.
- (2) Two hundred thousand dollars (\$200,000) ~~for the State Occupational Information Coordinating Committee to develop and operate an interagency~~to operate the system ~~to track~~that tracks former participants in State education and training programs.
- (3) Three hundred thousand dollars (\$300,000) to maintain compliance with Chapter 96 of the General Statutes, which directs the Commission to employ

the Common Follow-Up Management Information System to evaluate the effectiveness of the State's job training, education, and placement programs.

"SECTION 14.17.(c) There is appropriated from the Employment Security Commission Reserve Fund to the Employment Security Commission of North Carolina an amount not to exceed one million dollars (\$1,000,000) for the ~~2009-2010~~2010-2011 fiscal year to fund State initiatives not currently funded through federal grants.

"SECTION 14.17.(d) There is appropriated from the Employment Security Commission Reserve Fund to the Employment Security Commission of North Carolina an amount not to exceed ~~one million five hundred thousand dollars (\$1,500,000)~~one million two hundred thousand dollars (\$1,200,000) for the ~~2009-2010~~2010-2011 fiscal year to fund a system upgrade to the Common Follow-Up Management Information System.

~~**"SECTION 14.17.(e)** The Employment Security Commission of North Carolina may use funds in the Employment Security Commission Reserve Fund to contract with nonprofit organizations to provide dislocated workers with assistance in obtaining health care benefits, receiving vocational training, and securing employment.~~

"SECTION 14.17.(f) There is appropriated from the Worker Training Trust Fund to the Employment Security Commission of North Carolina the sum of one million dollars (\$1,000,000) for the 2010-2011 fiscal year to fund the 'Tar Heel Works Program' which provides work based training opportunities to recipients of unemployment insurance benefits. The Tar Heels Works Program must meet all of the following factors:

- (1) The training, even though it includes actual operation of the facilities of the employer, is similar to what would be given in a vocational school or academic educational instruction.
- (2) The training is for the benefit of the trainee.
- (3) The trainees do not displace regular employees, but work under their close observation.
- (4) The employer who provides the training derives no immediate advantage from the activities of the trainees and, on occasion, the employer's operations may actually be impeded.
- (5) The trainees are not necessarily entitled to a job at the conclusion of the training period.
- (6) The employer and the trainees understand that the trainees are not entitled to wages for the time spent in training.

"SECTION 14.17.(g) Of the funds credited to and held in the State of North Carolina's account in the Unemployment Trust Fund by the Secretary of the Treasury of the United States pursuant to and in accordance with section 903 of the Social Security Act and pursuant to Title II of P.L. 111-5, the Assistance for Unemployed Workers and Struggling Families Act, the Employment Security Commission of North Carolina may expend the sum of two hundred five million sixty-three thousand five hundred fifty-two dollars (\$205,063,552) as follows: (i) one hundred million dollars (\$100,000,000) shall be used to design and build the integrated unemployment insurance benefit and tax accounting system; and (ii) the remaining funds shall be used for the operation of the unemployment insurance program."

SET REGULATORY FEE FOR UTILITIES COMMISSION

SECTION 14.14. Section 14.26 of S.L. 2009-451 reads as rewritten:

"SECTION 14.26.(a) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is twelve one-hundredths of one percent (0.12%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after ~~July 1, 2009~~July 1, 2010.

"SECTION 14.26.(b) The electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the ~~2009-2010~~2010-2011 fiscal year is two hundred thousand dollars (\$200,000).

"SECTION 14.26.(c) This section becomes effective ~~July 1, 2009~~July 1, 2010."

REGIONAL ECONOMIC DEVELOPMENT COMMISSIONS ALLOCATIONS

SECTION 14.15.(a) Funds appropriated in this act to the Department of Commerce for regional economic development commissions shall be allocated to the following commissions in accordance with subsection (b) of this section: Western North Carolina Regional Economic Development Commission, Research Triangle Regional Partnership, Southeastern North Carolina Regional Economic Development Commission, Piedmont Triad Partnership, Northeastern North Carolina Regional Economic Development Commission, North Carolina's Eastern Region Economic Development Partnership, and Carolinas Partnership, Inc.

SECTION 14.15.(b) Funds appropriated pursuant to subsection (a) of this section shall be allocated to each regional economic development commission as follows:

- (1) First, the Department shall establish each commission's allocation by determining the sum of allocations to each county that is a member of that commission. Each county's allocation shall be determined by dividing the county's development factor by the sum of the development factors for eligible counties and multiplying the resulting percentage by the amount of the appropriation. As used in this subdivision, the term "development factor" means a county's development factor as calculated under G.S. 143B-437.08; and
- (2) Next, the Department shall subtract from funds allocated to the North Carolina's Eastern Region Economic Development Partnership the sum of two hundred thirty thousand three hundred twenty-five dollars and thirty-three cents (\$230,325.33) in the 2010-2011 fiscal year, which sum represents: (i) the total interest earnings in the prior fiscal year on the estimated balance of the seven million five hundred thousand dollars (\$7,500,000) appropriated to the Global TransPark Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws; and (ii) the total interest earnings in the prior fiscal year on loans made from the seven million five hundred thousand dollars (\$7,500,000) appropriated to the Global TransPark Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws; and
- (3) Next, the Department shall redistribute the sum of two hundred thirty thousand three hundred twenty-five dollars and thirty-three cents (\$230,325.33) in the 2010-2011 fiscal year to the seven regional economic development commissions named in subsection (a) of this section. Each commission's share of this redistribution shall be determined according to the development factor formula set out in subdivision (1) of this subsection. This redistribution shall be in addition to each commission's allocation determined under subdivision (1) of this subsection.

SECTION 14.15.(c) No more than one hundred twenty thousand dollars (\$120,000) in State funds shall be used for the annual salary of any one employee of a regional economic development commission.

SECTION 14.15.(d) The General Assembly finds that successful economic development requires the collaboration of the State, regions of the State, counties, and municipalities. Therefore, the regional economic development commissions are encouraged to seek supplemental funding from their county and municipal partners to continue and enhance their efforts to attract and retain business in the State.

E-NC AUTHORITY/REPORTING REQUIREMENT

SECTION 14.16. G.S. 143B-437.47 reads as rewritten:

"§ 143B-437.47. (This part has a delayed repeal date. See notes.) Powers, duties, and goals of the Authority.

...

(e) Reports. – ~~The~~ By September 1 of each year, the Authority shall submit ~~quarterly reports~~ a report to the Governor, the Joint Legislative Oversight Committee on Information Technology, and the Joint Legislative Commission on Governmental Operations. The ~~reports~~ report shall summarize the Authority's activities during the ~~quarter~~ prior State fiscal year and contain any information about the Authority's activities that is requested by the Governor, the Committee, or the Commission."

DEFENSE AND SECURITY TECHNOLOGY ACCELERATOR/REPORTING REQUIREMENT

SECTION 14.17. By September 1, 2010, and September 1, 2011, the Defense and Security Technology Accelerator shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on prior State fiscal year program activities, objectives, and accomplishments and prior State fiscal year itemized expenditures and fund sources.

NC INDIAN ECONOMIC DEVELOPMENT INITIATIVE/RTI INTERNATIONAL/REPORTING REQUIREMENTS

SECTION 14.17A. The North Carolina Indian Economic Development Initiative and RTI International shall do the following:

- (1) By September 1 of 2011, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on prior State fiscal year program activities, objectives, and accomplishments, and prior State fiscal year itemized expenditures and fund sources.
- (2) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

COUNCIL OF GOVERNMENT FUNDS

SECTION 14.18. Section 14.21(a) of S.L. 2009-451 reads as rewritten:

"**SECTION 14.21.(a)** Of the funds appropriated in this act to the Department of Commerce, the sum of four hundred twenty-five thousand dollars (\$425,000) for the 2009-2010 fiscal year and the sum of ~~four hundred twenty-five thousand dollars (\$425,000)~~ four hundred three thousand seven hundred fifty dollars (\$403,750) for the 2010-2011 fiscal year shall only be used as provided by this section. Each regional council of government or lead regional organization is allocated up to twenty-five thousand dollars (\$25,000) for the 2009-2010 and the 2010-2011 fiscal years."

STRATEGIC PLAN ON THE COMMERCIALIZATION OF LIFE SCIENCE TECHNOLOGIES

SECTION 14.18A. The North Carolina Biotechnology Center shall prepare a strategic plan to accelerate the commercialization of promising life science technologies and discoveries being developed in universities and private companies in North Carolina and the related development and production of new commercial products. The plan shall describe the potential national and international market for these products. The plan shall assess the economic potential of such acceleration including the potential for statewide job creation, tax base expansion, additional revenues for State and local government, and related economic development. The plan shall outline the funding and administrative infrastructure required and shall describe the sources of potential financial support including federal, State, local, private, and philanthropic sources. In preparing this strategic plan, the Center shall involve other organizations in North Carolina that have an interest in this subject. The Center shall present its findings and a suggested strategic plan to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division by January 15, 2011.

RURAL ECONOMIC DEVELOPMENT CENTER

SECTION 14.19. Section 14.27(a) of S.L. 2009-451 reads as rewritten:

"**SECTION 14.27.(a)** Of the funds appropriated in this act to the North Carolina Rural Economic Development Center, Inc. (Rural Center), the sum of four million six hundred two thousand four hundred thirty-six dollars (\$4,602,436) for the 2009-2010 fiscal year and the sum of ~~four million five hundred twenty seven thousand four hundred thirty six dollars (\$4,527,436)~~ three million nine hundred eighty-one thousand eight hundred sixty-four dollars (\$3,981,864) for the 2010-2011 fiscal year shall be allocated as follows:

	2009-2010	2010-2011	
Center Administration, Technical Assistance, & Oversight	\$1,555,000	\$1,523,000	<u>\$1,446,850</u>
Research and Demonstration Grants	\$351,000	\$344,000	<u>\$326,800</u>
Institute for Rural Entrepreneurship	\$136,000	\$134,000	<u>\$127,300</u>
Community Development Grants	\$987,436	\$987,436	<u>\$938,064</u>
Microenterprise Loan Program	\$185,000	\$182,000	<u>\$172,900</u>
Water/Sewer/Business Development Matching Grants	\$840,000	\$821,000	<u>\$779,950</u>
Statewide Water/Sewer Database	\$ 95,000	\$93,000	<u>\$88,350</u>
Agricultural Advancement Consortium	\$110,000	\$107,000	<u>\$101,650"</u>

RURAL ECONOMIC DEVELOPMENT CENTER/INFRASTRUCTURE PROGRAM

SECTION 14.20. Section 14.28 of S.L. 2009-451 reads as rewritten:

"**SECTION 14.28.(a)** Of the funds appropriated in this act to the North Carolina Rural Economic Development Center, Inc. (Rural Center), the sum of nineteen million three hundred five thousand dollars (\$19,305,000) for the 2009-2010 fiscal year and the sum of ~~nineteen million three hundred five thousand dollars (\$19,305,000)~~ eighteen million three hundred thirty-nine thousand seven hundred fifty dollars (\$18,339,750) for the 2010-2011 fiscal year shall be allocated as follows:

- (1) To continue the North Carolina Infrastructure Program. The purpose of the Program is to provide grants to local governments to construct critical water and wastewater facilities and to provide other infrastructure needs, including technology needs, to sites where these facilities will generate private job-creating investment. At least ~~fifteen million dollars (\$15,000,000)~~ fourteen million two hundred fifty thousand dollars (\$14,250,000) of the funds appropriated in this act for ~~each year of the biennium~~ the 2010-2011 fiscal year must be used to provide grants under this Program.
- (2) To provide matching grants to local governments in distressed areas and equity investments in public-private ventures that will productively reuse vacant buildings and properties, with priority given to towns or communities with populations of less than 5,000.
- (3) To provide economic development research and demonstration grants.

"**SECTION 14.28.(b)** The Rural Center may contract with other State agencies, constituent institutions of The University of North Carolina, and colleges within the North Carolina Community College System for certain aspects of the North Carolina Infrastructure Program, including design of Program guidelines and evaluation of Program results.

"**SECTION 14.28.(c)** ~~During each year of the 2009-2011 biennium,~~ For the 2010-2011 fiscal year, the Rural Center may use up to ~~three hundred eighty five thousand dollars (\$385,000)~~ three hundred sixty-five thousand seven hundred fifty dollars (\$365,750) of the funds appropriated in this act to cover its expenses in administering the North Carolina Economic Infrastructure Program.

"**SECTION 14.28.(d)** Of the funds appropriated in subsection (a) of this section to the Rural Center for the 2009-2010 fiscal year, the sum of one million five hundred forty-four

thousand four hundred dollars (\$1,544,400) shall be transferred to the Department of Environment and Natural Resources to be used to provide the State match to draw down maximum federal funds for the Clean Water State Revolving Loan Fund.

"**SECTION 14.28.(e)** By September 1 of each year, and more frequently as requested, the Rural Center shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division concerning the progress of the North Carolina Economic Infrastructure Program in the prior State fiscal year."

OPPORTUNITIES INDUSTRIALIZATION CENTERS FUNDS

SECTION 14.21. Section 14.30(a) of S.L. 2009-451 reads as rewritten:

"**SECTION 14.30.(a)** Of the funds appropriated in this act to the North Carolina Rural Economic Development Center, Inc. (Rural Center), the sum of three hundred forty-three thousand dollars (\$343,000) for the 2009-2010 fiscal year and the sum of ~~three hundred thirty-six thousand dollars (\$336,000)~~ three hundred nineteen thousand two hundred dollars (\$319,200) for the 2010-2011 fiscal year shall be equally distributed among the certified Opportunities Industrialization Centers (OI Centers)."

RURAL CENTER/REALLOCATION OF CLEAN WATER BOND FUNDS

SECTION 14.22. Notwithstanding the provisions of S.L. 1998-132, S.L. 2000-156, and S.L. 2001-416, if the North Carolina Rural Economic Development Center, Inc. (Rural Center) determines that there has been a change in any fiscal year in the relative needs for funds between the supplemental, capacity, and unsewered communities categories of Clean Water Bond funding, the Rural Center may reallocate funds between these categories. The Board of Directors of the Rural Center must approve in advance any reallocation under this section. At least 30 days before making a reallocation under this section, the Rural Center must consult with the Joint Legislative Commission on Governmental Operations.

PART XV. JUDICIAL DEPARTMENT

COLLECTION OF WORTHLESS CHECK FUNDS

SECTION 15.1. Notwithstanding the provisions of G.S. 7A-308(c), the Judicial Department may use any balance remaining in the Collection of Worthless Check Fund on June 30, 2010, for the purchase or repair of office or information technology equipment during the 2010-2011 fiscal year. Prior to using any funds under this section, the Judicial Department shall report to the Joint Legislative Commission on Governmental Operations and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the equipment to be purchased or repaired and the reasons for the purchases.

OFFICE OF INDIGENT DEFENSE SERVICES EXPANSION FUNDS

SECTION 15.3. Section 15.12 of S.L. 2009-451 reads as rewritten:

"**SECTION 15.12.** The Judicial Department, Office of Indigent Defense Services, may use up to the sum of two million five hundred one thousand one hundred fifty dollars (\$2,501,150) in appropriated funds during the 2009-2010 fiscal year and up to the sum of two million four hundred thirty-three thousand seven hundred dollars (\$2,433,700) in appropriated funds during the 2010-2011 fiscal year for the expansion of existing public defender offices currently providing legal services to the indigent population under the oversight of the Office of Indigent Defense Services, or for the creation of new public defender offices within existing public defender districts currently providing those services, by creating up to 20 new attorney positions and 10 new support staff ~~positions~~ positions during the 2009-2010 fiscal year. In addition, the Office of Indigent Defense Services may use up to the sum of one million dollars (\$1,000,000) in appropriated funds to create up to 12 new attorney positions and six new support positions during the 2010-2011 fiscal year. These funds may be used for salaries, benefits, equipment, and related expenses. Prior to using funds for this purpose, the Office of

Indigent Defense Services shall report to the Chairs of the House of Representatives and the Senate Appropriations Subcommittees on Justice and Public Safety on the proposed expansion."

CORRECT DEATH PENALTY LITIGATION FUNDING AMOUNT

SECTION 15.4. Section 15.3 of S.L. 2009-451 reads as rewritten:

"**SECTION 15.3.** Of the funds appropriated in this act to the Office of Indigent Defense Services for the 2009-2011 fiscal biennium, the Office may use up to the sum of three hundred seventy-six thousand one hundred twenty-five dollars (\$376,125) for the 2009-2010 fiscal year and up to the sum of ~~three hundred seventy-six thousand one hundred twenty-five dollars (\$376,125)~~ four hundred fifty-two thousand six hundred four dollars (\$452,604) for the 2010-2011 fiscal year to contract with the Center for Death Penalty Litigation to provide training, consultation, brief banking, and other assistance to attorneys representing indigent capital defendants. The Office of Indigent Defense Services shall report by February 1 of each year in the biennium to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the activities funded by this section."

INCREASE CERTAIN COURT FEES

SECTION 15.5.(a) G.S. 7A-304(a) reads as rewritten:

"§ 7A-304. **Costs in criminal actions.**

(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected, except that when the judgment imposes an active prison sentence, costs shall be assessed and collected only when the judgment specifically so provides, and that no costs may be assessed when a case is dismissed.

...

(4) For support of the General Court of Justice, the sum of ~~ninety-five dollars and fifty cents (\$95.50)~~ one hundred dollars and fifty cents (\$100.50) in the district court, including cases before a magistrate, and the sum of one hundred two dollars and fifty cents (\$102.50) in the superior court, to be remitted to the State Treasurer. For a person convicted of a felony in superior court who has made a first appearance in district court, both the district court and superior court fees shall be assessed. The State Treasurer shall remit the sum of two dollars and five cents (\$2.05) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4, and ninety-five cents (\$.95) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.19.

...

(6) For support of the General Court of Justice, the sum of two hundred dollars (\$200.00) is payable by a defendant who fails to appear to answer the charge as scheduled, unless within 20 days after the scheduled appearance, the person either appears in court to answer the charge or disposes of the charge pursuant to G.S. 7A-146, and the sum of ~~twenty-five dollars (\$25.00)~~ fifty dollars (\$50.00) is payable by a defendant who fails to pay a fine, penalty, or costs within 20 days of the date specified in the court's judgment. Upon a showing to the court that the defendant failed to appear because of an error or omission of a judicial official, a prosecutor, or a law-enforcement officer, the court shall waive the fee for failure to appear. These fees shall be remitted to the State Treasurer.

...."

SECTION 15.5.(b) G.S. 7A-305(a)(2) reads as rewritten:

"§ 7A-305. **Costs in civil actions.**

(a) In every civil action in the superior or district court, except for actions brought under Chapter 50B of the General Statutes, shall be assessed:

...

- (2) For support of the General Court of Justice, the sum of ~~ninety-three dollars (\$93.00)~~ one hundred twenty-five dollars (\$125.00) in the superior court, except that if a case is assigned to a special superior court judge as a complex business case under G.S. 7A-45.3, an additional one thousand dollars (\$1,000) shall be paid upon its assignment, and the sum of ~~seventy-three dollars (\$73.00)~~ eighty dollars (\$80.00) in the district court except that if the case is assigned to a magistrate the sum shall be fifty-five dollars (\$55.00). Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of two dollars and five cents (\$2.05) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4, and ninety-five cents (\$.95) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.19."

SECTION 15.5.(c) This section becomes effective October 1, 2010, and applies to fees assessed or collected on or after that date.

CHILD SUPPORT FEE MODIFICATION

SECTION 15.6. G.S. 110-134 reads as rewritten:

"§ 110-134. **Filing of affidavits, agreements, and orders; fees.**

All affidavits, agreements, and resulting orders entered into under the provisions of G.S. 110-132 and G.S. 110-133 shall be filed by the clerk of superior court in the county in which they are entered. The filing fee for the institution of an action through the entry of an order under either of these provisions shall be ~~four dollars (\$4.00)~~ in an amount equal to that provided in G.S. 7A-308(a)(18)."

EXPERT FEES

SECTION 15.7. G.S. 7A-314(d) reads as rewritten:

"(d) An expert witness, other than a salaried State, county, or municipal law-enforcement officer, shall receive such compensation and allowances as the court, or the Judicial Standards Commission, in its discretion, may authorize. A law-enforcement officer who appears as an expert witness shall receive reimbursement for travel expenses only, as provided in subsection (b) of this section. Compensation of experts acting on behalf of the court or prosecutorial offices shall be paid in accordance with the rules established by the Administrative Office of the Courts. Compensation of experts provided under G.S. 7A-454 shall be in accordance with rules established by the Office of Indigent Defense Services."

PROVIDE CERTAIN COUNTERCLAIM FEES IN DOMESTIC VIOLENCE ACTIONS

SECTION 15.8.(a) G.S. 7A-305(a1) reads as rewritten:

"(a1) Costs apply to any and all additional and subsequent actions filed by amendment or counterclaim to the original action brought under Chapter 50B of the General Statutes, unless such additional and subsequent amendment or counterclaim to the action is ~~also brought under~~ limited to requests for relief authorized by Chapter 50B of the General Statutes."

SECTION 15.8.(b) This section becomes effective October 1, 2010, and applies to counterclaims filed on or after that date.

MODIFY FEES FOR RESUMPTION OF MAIDEN OR FORMER NAME

SECTION 15.9.(a) G.S. 50-12 reads as rewritten:

"§ 50-12. Resumption of maiden or premarriage surname.

(a) Any woman whose marriage is dissolved by a decree of absolute divorce may, upon application to the clerk of court of the county in which she resides or where the divorce was granted setting forth her intention to do so, change her name to any of the following:

- (1) Her maiden name; or
- (2) The surname of a prior deceased husband; or
- (3) The surname of a prior living husband if she has children who have that husband's surname.

(a1) A man whose marriage is dissolved by decree of absolute divorce may, upon application to the clerk of court of the county in which he resides or where the divorce was granted setting forth his intention to do so, change the surname he took upon marriage to his premarriage surname.

(b) The application and fee required by subsection (e) of this section shall be addressed presented to the clerk of the court of the county in which such divorced person resides or where the divorce was granted, and shall set forth the full name of the former spouse of the applicant, the name of the county and state in which the divorce was granted, and the term or session of court at which such divorce was granted, and shall be signed by the woman in her full maiden name, or by the man in his full premarriage surname. The clerks of court of the several counties of the State shall record and index such applications in such manner as shall be required by the Administrative Office of the Courts.

(c) If an applicant, since the divorce, has adopted one of the surnames listed in subsection (a) or (a1) of this section, the applicant's use and adoption of that name is validated.

(d) In the complaint, or counterclaim for divorce filed by any person in this State, the person may petition the court to adopt any surname as provided by this section, and the court is authorized to incorporate in the divorce decree an order authorizing the person to adopt that surname.

(e) For support of the General Court of Justice, a fee in the amount of ten dollars (\$10.00) shall be assessed against each person requesting the resumption of maiden or premarriage surname in accordance with this section. Sums collected under this section shall be remitted to the State Treasurer."

SECTION 15.9.(b) This section becomes effective October 1, 2010, and applies to fees assessed or collected on or after that date.

INCREASE ATTORNEY APPOINTMENT FEE

SECTION 15.11.(a) G.S. 7A-455.1 reads as rewritten:

"§ 7A-455.1. Appointment fee in criminal cases.

(a) In every criminal case in which counsel is appointed at the trial level, the judge shall order the defendant to pay to the clerk of court an appointment fee of ~~fifty dollars (\$50.00)-~~ sixty dollars (\$60.00). No fee shall be due unless the person is convicted.

(b) The mandatory ~~fifty-dollar (\$50.00)~~ sixty-dollar (\$60.00) fee may not be remitted or revoked by the court and shall be added to any amounts the court determines to be owed for the value of legal services rendered to the defendant and shall be collected in the same manner as attorneys' fees are collected for such representation.

(c) Repealed by Session Laws 2005-250 s. 3, effective August 4, 2005.

(d) Inability, failure, or refusal to pay the appointment fee shall not be grounds for denying appointment of counsel, for withdrawal of counsel, or for contempt.

(e) The appointment fee required by this section shall be assessed only once for each attorney appointment, regardless of the number of cases to which the attorney was assigned. An additional appointment fee shall not be assessed if the charges for which an attorney was appointed were reassigned to a different attorney.

(f) Of each appointment fee collected under this section, the sum of ~~forty-five dollars (\$45.00)~~ fifty-five dollars (\$55.00) shall be credited to the Indigent Persons' Attorney Fee Fund and the sum of five dollars (\$5.00) shall be credited to the Court Information Technology Fund under G.S. 7A-343.2. These fees shall not revert.

(g) The Office of Indigent Defense Services shall adopt rules and develop forms to govern implementation of this section."

SECTION 15.11.(b) This section becomes effective October 1, 2010, and applies to fees assessed or collected on or after that date.

MODIFICATION TO THE DUTIES OF THE DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE COURTS WITH RESPECT TO PAYMENT OF INTERPRETERS AND EXPERT WITNESSES

SECTION 15.12. G.S. 7A-343 is amended by adding two new subdivisions to read:

"(9e) Prescribe policies and procedures for the appointment and payment of deaf and hearing-impaired interpreters, in accordance with G.S. 8B-8(a), for those cases specified in G.S. 8B-8(b) and (c). These policies and procedures shall be applied uniformly throughout the General Court of Justice. After consultation with the Joint Legislative Commission on Governmental Operations, the Director may also convert contractual hearing-impaired interpreter positions to permanent State positions when the Director determines that it is more cost-effective to do so.

(9f) Prescribe policies and procedures for the payment of those experts acting on behalf of the court or prosecutorial offices, as provided for in G.S. 7A-314(d)."

ESTABLISH A PILOT PROGRAM FOR ELECTRONIC FILING IN DOMESTIC VIOLENCE AND CIVIL NO-CONTACT CASES IN ALAMANCE COUNTY

SECTION 15.13.(a) A pilot program for electronic filing in domestic violence cases is established in District Court District 15A. In order to implement the program, the chief district court judge in District Court District 15A may adopt local rules that permit the clerk of superior court for Alamance County to accept electronically filed complaints requesting Chapter 50B of the General Statutes ex parte domestic violence protective orders, and Chapter 50C of the General Statutes ex parte civil no-contact orders, that are transmitted from the Alamance County Family Justice Center.

SECTION 15.13.(b) This section expires June 30, 2012.

PART XVI. DEPARTMENT OF JUSTICE

REPORTING BY MEDICAID FRAUD CONTROL UNIT

SECTION 16.1. Article 1 of Chapter 114 of the General Statutes is amended by adding a new section to read:

"§ 114-2.5A. Report by the Medicaid Fraud Control Unit required annually.

By September 1 of each year, the Medicaid Fraud Control Unit of the Department of Justice shall file a written report about its activities with the Chairs of the Appropriations Subcommittees on Justice and Public Safety and Health and Human Services of the Senate and House of Representatives and with the Fiscal Research Division of the Legislative Services Office. This report may be combined with the report required by G.S. 1-617 and shall include the following information about the Unit's activities during the previous fiscal year:

- (1) The number of matters reported to the Unit.
- (2) The number of cases investigated.
- (3) The number of criminal convictions and civil settlements.
- (4) The total amount of funds recovered in each case.

- (5) The allocation of recovered funds in each case to (i) the federal government; (ii) the State Medical Assistance Program; (iii) the Civil Penalty and Forfeiture Fund; (iv) the Department of Justice; and (v) other victims."

PART XVII. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

AMEND LAW ENFORCEMENT SUPPORT SERVICES FEE AUTHORITY

SECTION 17.1.(a) The General Assembly finds that a centralized evidence and DNA storage facility will provide local law enforcement agencies and clerks of court with a lower cost storage alternative, reducing or eliminating the need for local entities to provide their own storage and streamlining the evidence storage process.

SECTION 17.1.(b) G.S. 143B-475.2 is repealed.

SECTION 17.1.(c) Part 7 of Article 11 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-508.1. Fees for services provided by the Division.

Fees shall be established and collected by the Department for all program services provided by the Law Enforcement Support Services Division, except for Department of Defense property being transferred pursuant to the National Defense Authorization Act of 1997. The fees collected are departmental receipts and are applied to the Division's costs in providing services to these entities. The fees apply to the following:

- (1) A law enforcement agency that receives any services from the Division.
- (2) An agency for which the Department stores evidence."

SECTION 17.1.(d) Subsections (b) and (c) of this section become effective July 1, 2010, and fees established pursuant to subsection (c) of this section apply to program services provided on or after that date.

REQUIRE DEVELOPMENT AND REPORTING OF LESS FEE SCHEDULE

SECTION 17.2.(a) The Department of Crime Control and Public Safety, Law Enforcement Support Services Division (LESS), shall, in consultation with the Fiscal Research Division of the General Assembly, develop a fee schedule for the services provided by LESS. In developing this fee schedule, the Department shall consider the following:

- (1) Fees charged in other states for similar services.
- (2) Utilization rates for each of the three main program areas of LESS for the last five years.
- (3) Actual workload requirements for each of the three main program areas of LESS, including the average time to complete a single transaction for each of the programs. For example, the Division shall determine, on average, how many person hours it takes to log in a piece of evidence for storage.
- (4) Projected evidence storage needs for the next five years.
- (5) Projected space costs and the feasibility of purchasing a permanent storage facility rather than continuing to lease space.

SECTION 17.2.(b) The fee schedule required to be developed pursuant to this section shall be reported to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Fiscal Research Division of the General Assembly not later than October 1, 2010.

TRANSFER TUITION ASSISTANCE PROGRAM

SECTION 17.3.(a) The North Carolina National Guard Tuition Assistance Program of the Department of Crime Control and Public Safety is transferred to the State Education Assistance Authority. This transfer shall have all of the elements of a Type I transfer, as defined in G.S. 143A-6.

SECTION 17.3.(b) Article 15 of Chapter 127A of the General Statutes is recodified as Part 2 of Article 23 of Chapter 116 of the General Statutes, G.S. 116-209.50

through G.S. 116-209.55. The remainder of Article 23 of Chapter 116 of the General Statutes is recodified as Part 1 of Article 23 of Chapter 116 of the General Statutes and shall be designated "State Education Assistance Authority".

SECTION 17.3.(c) Part 2 of Article 23 of Chapter 116 of the General Statutes, as recodified as Part 2 of Article 23 of Chapter 116 of the General Statutes by subsection (b) of this section, reads as rewritten:

"Part 2. North Carolina National Guard Tuition Assistance Act of 1975.

"§ 116-209.50. Short title.

This Article shall be known and may be cited as the North Carolina National Guard Tuition Assistance Act of 1975.

"§ 116-209.51. Purpose.

The General Assembly of North Carolina, recognizing that the North Carolina National Guard is the only organized, trained and equipped military force subject to the control of the State, hereby establishes a program of tuition assistance for qualifying guard members for the purpose of encouraging voluntary membership in the guard, improving the educational level of its members, and thereby benefiting the State as a whole.

"§ 116-209.52. Definitions.

(a) **Academic Year.** – Any period of 365 days beginning with the first day of enrollment for a course of instruction.

(a1) **Business or Trade School.** – Any school within the State of North Carolina which is licensed by the State Board of Education and listed by that Board as an approved private business school or an approved private trade school.

(b) **Private Educational Institutions.** – Any junior college, senior college or university which is operated and governed by private interests not under the control of the federal, State or any local government, which is located within and licensed by the State of North Carolina, which does not operate for profit, whose curriculum is primarily directed toward the awarding of associate, baccalaureate or graduate degrees, which agrees to the applicable administration and funding provisions of this Article.

(c) **Secretary.** ~~The Secretary of Crime Control and Public Safety or his or her designee.~~

(d) **State Educational Institutions.** – Any of the constituent institutions of the University of North Carolina, or any community college operated under the provisions of Chapter 115D of the General Statutes of North Carolina.

(e) Repealed by Session Laws 2008-94, s. 2, effective July 1, 2008.

(f) **Student Loan.** – A loan or loans made to eligible students or parents of students to aid in attaining an education beyond the high school level.

"§ 116-209.53. Benefit.

The benefit provided under this Article shall consist of a monetary educational assistance grant not to exceed the highest amount charged by a State educational institution per academic year or a lesser amount, as prescribed by the ~~Secretary, Authority,~~ to remain within the funds appropriated, to qualifying members of the North Carolina National Guard. Benefits provided under ~~G.S. 127A-195(g)~~ G.S. 116-209.55(g) shall be payable for a period of one year at a time, renewable at the option of the ~~Secretary.~~ Authority. All other benefits provided under this Article shall be payable for a period of one academic year at a time, renewable at the option of the ~~Secretary.~~ Authority.

"§ 116-209.54. Eligibility.

(a) Active members of the North Carolina National Guard who are enrolled or who shall enroll in any business or trade school, private educational institution, or State educational institution shall be eligible to apply for this tuition assistance benefit: Provided, that the applicant has a minimum obligation of two years remaining as a member of the National Guard from the end of the academic period for which tuition assistance is provided or that the applicant commit himself or herself to extended membership for at least two additional years from the end of that academic period.

(b) This tuition assistance benefit shall be applicable to students in the following categories:

- (1) Students seeking to achieve completion of their secondary school education at a community college or technical institute.
- (2) Students seeking trade or vocational training or education.
- (3) Students seeking to achieve a two-year associate degree.
- (4) Students seeking to achieve a four-year baccalaureate degree.
- (5) Students seeking to achieve a graduate degree.

(c) The following persons shall be eligible to apply for disbursements to pay outstanding student loans pursuant to ~~G.S. 127A-195(g)~~: G.S. 116-209.55(g):

- (1) Persons described in subsections (a) and (b) of this section.
- (2) Active members of the North Carolina National Guard who were previously enrolled in any business or trade school, private educational institution, or State educational institution, but only if:
 - a. The applicant has a minimum obligation of two years remaining as a member of the National Guard from the time of the application; or
 - b. The applicant commits himself or herself to extended membership for at least two additional years from the time of the application."

"§ 116-209.55. Administration and funding.

(a) The ~~Secretary of Crime Control and Public Safety~~ Authority is charged with the administration of the tuition assistance program under this Article. ~~He may delegate administrative tasks to other persons within the Department of Crime Control and Public Safety as he deems best for the orderly administration of this program.~~

(b) The ~~Secretary~~ Authority shall determine the eligibility of applicants, select the benefit recipients, establish the effective date of the benefit, and may suspend or revoke the benefit if ~~he~~ the Authority finds that the recipient does not maintain an adequate academic status, or if the recipient engages in riots, unlawful demonstrations, the seizure of educational buildings, or otherwise engages in disorderly conduct, breaches of the peace, or unlawful assemblies. The ~~Secretary~~ Authority shall maintain such records and shall promulgate such rules and regulations as ~~he~~ the Authority deems necessary for the orderly administration of this program. The ~~Secretary~~ Authority may require of business or trade schools or State or private educational institutions such reports and other information as ~~he~~ the Authority may need to carry out the provisions of this Article and ~~he~~ the Authority shall disburse benefit payments for recipients upon certification of enrollment by the enrolling institutions.

(c) All tuition benefit disbursements shall be made to the business or trade school or State or private educational institution concerned, for credit to the tuition account of each recipient. Funds disbursed pursuant to subsection (g) of this section shall be made to the student loan creditor concerned to be applied against the outstanding student loans of each National Guard member beneficiary.

(d) The participation by any business or trade school or private educational institution in this program shall be subject to the applicable provisions of this Article and to examination by the State Auditor of the accounts of the benefit recipients attending or having attended such private schools or institutions. The ~~Secretary~~ Authority may defer making an award or may suspend an award in any business or trade school or private educational institution which does not comply with the provisions of this Article relating to said institutions. The manner of payment to any business or trade school or private educational institution shall be as prescribed by the ~~Secretary~~ Authority.

(e) Irrespective of other provisions of this Article, the ~~Secretary~~ Authority may prescribe special procedures for adjusting the accounts of benefit recipients who, for reasons of illness, physical inability to attend classes or for other valid reason satisfactory to the ~~Secretary~~ Authority, may withdraw from any business or trade school or State or private educational institution prior to the completion of the term, semester, quarter or other academic period being attended at the time of withdrawal.

(f) Any balance of the monetary educational assistance grant up to the maximum for the academic year remaining after tuition is paid pursuant to subsection (c) of this section may be disbursed to the recipient as reimbursement for required course books and materials. The manner of obtaining the reimbursement payment for these required books and materials shall be as prescribed by the ~~Secretary-Authority~~.

(g) Any funds not needed to accomplish the other purposes of this Article may be used to help members of the North Carolina National Guard repay outstanding student loans in accordance with rules to be adopted by the ~~Secretary-Authority~~. These rules shall provide that the length of a member's deployment may be considered in determining whether or not, and in what amount, a member receives assistance pursuant to this subsection. There shall be no reimbursement under this subsection for payments already made on student loans, and funds shall not be provided under this subsection for the purpose of paying student loans obtained for courses from which the member withdrew or for which the member did not receive a passing grade. Payments for outstanding loans shall not exceed the maximum benefit available under ~~G.S. 127A-193~~. G.S. 116-209.53."

PART XVIII. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS

SECTION 18.1. Funds appropriated in this act to the Department of Juvenile Justice and Delinquency Prevention for the 2010-2011 fiscal year may be used as matching funds for the Juvenile Accountability Incentive Block Grants. If North Carolina receives Juvenile Accountability Incentive Block Grants or a notice of funds to be awarded, the Office of State Budget and Management and the Governor's Crime Commission shall consult with the Department of Juvenile Justice and Delinquency Prevention regarding the criteria for awarding federal funds. The Office of State Budget and Management, the Governor's Crime Commission, and the Department of Juvenile Justice and Delinquency Prevention shall report to the Appropriations Committees of the Senate and House of Representatives and the Joint Legislative Commission on Governmental Operations prior to allocation of the federal funds. The report shall identify the amount of funds to be received for the 2010-2011 fiscal year and the allocation of funds by program and purpose.

REPEAL STAFFING CAP AT YOUTH DEVELOPMENT CENTERS

SECTION 18.2. Section 18.4 of S.L. 2009-451 is repealed.

PART XIX. DEPARTMENT OF CORRECTION

FEDERAL GRANT MATCHING FUNDS

SECTION 19.1. Section 19.9 of S.L. 2009-451 reads as rewritten:

"**SECTION 19.9.** Notwithstanding the provisions of G.S. 143C-6-9, the Department of Correction may use up to the sum of one million two hundred thousand dollars (\$1,200,000) during the 2009-2010 fiscal year and up to the sum of one million two hundred thousand dollars (\$1,200,000) during the 2010-2011 fiscal year from funds available to the Department to provide the State match needed in order to receive federal grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds."

PLAN FOR A PILOT PROGRAM ON PROBATION SERVICES

SECTION 19.2. The Department of Correction, Division of Community Corrections, shall develop a plan for implementing a pilot program on the privatization of probation services. The plan shall include a determination of what resources and policy changes

are necessary to conduct a pilot program for fee-based supervision of low-risk or community-level offenders by private entities.

No pilot program shall be implemented without the prior approval of the General Assembly. The Division shall report its plan to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Fiscal Research Division by March 1, 2011.

INCREASE FEES FOR PROBATION, PAROLE, AND POST-RELEASE SUPERVISION

SECTION 19.3.(a) G.S. 15A-1343(c1) reads as rewritten:

"(c1) Supervision Fee. – Any person placed on supervised probation pursuant to subsection (a) of this section shall pay a supervision fee of ~~thirty dollars (\$30.00)~~ forty dollars (\$40.00) per month, unless exempted by the court. The court may exempt a person from paying the fee only for good cause and upon motion of the person placed on supervised probation. No person shall be required to pay more than one supervision fee per month. The court may require that the fee be paid in advance or in a lump sum or sums, and a probation officer may require payment by such methods if he is authorized by subsection (g) to determine the payment schedule. Supervision fees must be paid to the clerk of court for the county in which the judgment was entered or the deferred prosecution agreement was filed. Fees collected under this subsection shall be transmitted to the State for deposit into the State's General Fund."

SECTION 19.3.(b) G.S. 15A-1368.4(f) reads as rewritten:

"(f) Required Supervision Fee. – The Commission shall require as a condition of post-release supervision that the supervisee pay a supervision fee of ~~thirty dollars (\$30.00)~~ forty dollars (\$40.00) per month. The Commission may exempt a supervisee from this condition only if it finds that requiring payment of the fee is an undue economic burden. The fee shall be paid to the clerk of superior court of the county in which the supervisee was convicted. The clerk shall transmit any money collected pursuant to this subsection to the State to be deposited in the State's General Fund. In no event shall a supervisee be required to pay more than one supervision fee per month."

SECTION 19.3.(c) G.S. 15A-1374(c) reads as rewritten:

"(c) Supervision Fee. – The Commission must require as a condition of parole that the parolee pay a supervision fee of ~~thirty dollars (\$30.00)~~ forty dollars (\$40.00) per month. The Commission may exempt a parolee from this condition of parole only if it finds that requiring him to pay the fee will constitute an undue economic burden. The fee must be paid to the clerk of superior court of the county in which the parolee was convicted. The clerk must transmit any money collected pursuant to this subsection to the State to be deposited in the general fund of the State. In no event shall a person released on parole be required to pay more than one supervision fee per month."

SECTION 19.3.(d) This section becomes effective October 1, 2010, and applies to persons placed on supervised probation, parole, or post-release prior to that date and to all persons placed on supervised probation, parole, or post-release on or after that date.

INCREASE FEE FOR COMMUNITY SERVICE PROGRAM

SECTION 19.4.(a) G.S. 143B-262.4(b) reads as rewritten:

"(b) A fee of ~~two hundred twenty five dollars (\$225.00)~~ two hundred fifty dollars (\$250.00) shall be paid by all persons who participate in the program or receive services from the program staff. Only one fee may be assessed for each sentencing transaction, even if the person is assigned to the program on more than one occasion, or while on deferred prosecution, or while serving a sentence for the offense. A sentencing transaction shall include all offenses considered and adjudicated during the same term of court. Fees collected pursuant to this subsection shall be deposited in the General Fund. If the person is convicted in a court in this State, the fee shall be paid to the clerk of court in the county in which the person is convicted, regardless of whether the person is participating in the program as a condition of probation

imposed by the court or pursuant to the exercise of authority delegated to the probation officer pursuant to G.S. 15A-1343.2(e) or (f). If the person is participating in the program as a result of a deferred prosecution or similar program, the fee shall be paid to the clerk of court in the county in which the agreement is filed. If the person is participating in the program as a condition of parole, the fee shall be paid to the clerk of the county in which the person is released on parole. Persons participating in the program for any other reason shall pay the fee to the clerk of court in the county in which the services are provided by the program staff. The fee shall be paid in full before the person may participate in the community service program, except that:

- (1) A person convicted in a court in this State may be given an extension of time or allowed to begin the community service before the person pays the fee by the court in which the person is convicted; or
- (2) A person performing community service pursuant to a deferred prosecution or similar agreement may be given an extension of time or allowed to begin community service before the fee is paid by the official or agency representing the State in the agreement.
- (3) A person performing community service as a condition of parole may be given an extension of time to pay the fee by the Post-Release Supervision and Parole Commission. No person shall be required to pay the fee before beginning the community service unless the Commission orders the person to do so in writing.
- (4) A person performing community service as ordered by a probation officer pursuant to authority delegated by G.S. 15A-1343.2 may be given an extension of time to pay the fee by the probation officer exercising the delegated authority."

SECTION 19.4.(b) This section becomes effective October 1, 2010, and applies to fees assessed or collected on or after that date.

MISDEMEANOR RECLASSIFICATION REPORT

SECTION 19.5. It is the intent of the General Assembly that there be only three misdemeanor punishment levels: Class A1, Class 1, and Class 2. The North Carolina Sentencing and Policy Advisory Commission, in consultation with the Conference of District Attorneys, the Office of Indigent Defense Services, and the School of Government, shall review all Class 3 misdemeanor offenses and provide recommendations to the 2011 General Assembly for reclassifying each Class 3 misdemeanor as either an infraction or a Class 2 misdemeanor. The Commission may, in its discretion, consider other misdemeanor offenses for reclassification as infractions.

INMATE MEDICAL COST CONTAINMENT

SECTION 19.6.(a) The Department of Correction may reimburse those providers and facilities providing inmate medical services at a rate not to exceed seventy percent (70%) of the amount charged based on the usual and customary charges in effect for all other patients as of July 1, 2010. Usual and customary charges shall be established for each provider or facility based on the schedule of usual and customary charges used for all other patients furnished by that provider or facility providing inmate medical services in effect on July 1, 2010. Information furnished by providers and facilities regarding their usual and customary charges under this section is deemed as a matter of law to meet all the conditions of G.S. 132-1.2(1). The limitation on payment for inmate medical services under this subsection shall not apply to reimbursement rates the Department of Correction has otherwise contracted for under contracts in effect as of June 30, 2010.

This subsection applies to all medical and facility services provided outside the correctional facility, including hospitalizations, professional services, medical supplies, and other medications provided to any inmate confined in a correctional facility.

SECTION 19.6.(b) The Department of Correction shall make every effort to contain inmate medical costs by making use of its own hospital and health care facilities to provide health care services to inmates. To the extent that the Department of Correction must utilize other facilities and services to provide health care services to inmates, the Department shall make reasonable efforts to make use of hospitals or other providers with which it has a contract or, if none is reasonably available, hospitals with available capacity or other health care facilities in a region to accomplish that goal. The Department shall make reasonable efforts to equitably distribute inmates among all hospitals or other appropriate health care facilities.

With respect to any single hospital, the Department of Correction shall make best efforts to seek admission of the number of inmates representing no more than five percent (5%) of all inmates requiring hospitalization or hospital services on an annual basis, unless the failure to do so would jeopardize the health of an inmate or unless a higher level is agreed to by contract.

The Department shall also give preference to those hospitals or other health care facilities in the same county or an adjoining county to the correctional facility where an inmate requiring hospitalization is incarcerated.

SECTION 19.6.(c) The Department of Correction shall consult with the Division of Medical Assistance in the Department of Health and Human Services to develop protocols for prisoners who would be eligible for Medicaid if they were not incarcerated to access Medicaid while in custody or under extended limits of confinement. The Department shall seek reimbursement from Medicaid for those health care costs incurred by the Department in those instances when an inmate's Medicaid eligibility has been temporarily reinstated due to a hospitalization. The Department of Correction shall also work with the Division of Medical Assistance to determine the feasibility of applying for a Medicaid waiver to cover the inmate population.

SECTION 19.6.(d) The Department of Correction, in consultation with the Office of State Budget and Management, shall study the impact on inmate medical costs resulting from the measures set forth in subsections (a), (b), and (c) of this section. The Department shall present its findings by March 1, 2011, to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee.

SECTION 19.6.(e) The Department of Correction shall make every effort to explore other cost containment methods not expressly outlined in this section. These methods may include the following:

- (1) Contracting with a private third party to manage and provide all inmate medical services;
- (2) Partnering with the federal government to allow for treatment of State inmates in federal correctional hospitals; and
- (3) Purchasing a fixed number of beds at a hospital.

SECTION 19.6.(f) The Department of Correction shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee no later than October 1, 2010, on:

- (1) The Department's progress with the RFP process initiated pursuant to Section 19.20(b) of S.L. 2009-451, as rewritten by Section 15A of S.L. 2009-575, to contract for claims processing, medical management services, and the development and management of a medical professional and facility provider network.
- (2) The anticipated effects on medical care provided to inmates as a result of the new hospital at Central Prison and the updated facilities at the North Carolina Correctional Institute for Women, as well as any other new medical services capacity within the Department. Specifically, the Department shall report on:

- a. The types and volumes of services that the new and updated facilities will provide that previously would have been provided by community providers; and
- b. The projected types and volumes of services that will still be referred to community providers.

The report shall also address changes in statewide inmate custody that are needed to maximize the utilization of the new facilities and the Department's ability to contract with community providers with the available capacity throughout the State.

SECTION 19.6.(g) The Department of Correction shall report to the Joint Legislative Commission on Governmental Operations no later than October 1, 2010, and quarterly thereafter on:

- (1) The volume of services provided by community medical providers that can be scheduled in advance and, of that volume, the percentage of those services that are provided by contracted providers; and
- (2) The volume of services provided by community medical providers that cannot be scheduled in advance and, of that volume, the percentage of those services that are provided by contracted providers.

SECTION 19.6.(h) Section 19.20(a) of S.L. 2009-451, as amended by Section 15A of S.L. 2009-575, is repealed.

COMMUNITY-BASED RESIDENTIAL REENTRY PROGRAM FOR INMATES – PILOT INITIATIVE

SECTION 19.7. The Department of Correction may contract with a community-based residential facility that provides a range of offender services to pilot a two-year reentry program for selected inmates. The Department may use funds available to support the pilot. The eligible inmates shall be assessed by the Department of Correction as low-risk and eligible for minimum custody security level. Selected inmates may be housed at a community-based residential facility with other populations such as those on community supervision and nonoffenders. The pilot will begin during the 2010-2011 fiscal year and end during the 2011-2012 fiscal year. The Department shall report on the outcome of the pilot to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by February 1, 2012. The report shall include the number of inmates served, the number who successfully completed the program/program services, a cost comparison between placement in a community-based residential facility and incarceration in the State prison system, and may make recommendations regarding continuing placement of offenders in such facilities.

STUDY INMATE MEDICAL COSTS

SECTION 19.8.(a) The Legislative Research Commission may study the issue of inmate medical costs and develop recommendations for effective means of containing those costs.

SECTION 19.8.(b) The Legislative Research Commission may make an interim report to the 2011 General Assembly and shall make its final report to the 2011 General Assembly, Regular Session 2012.

CRIMINAL JUSTICE PARTNERSHIP PROGRAM GRANT REQUIREMENT

SECTION 19.9. G.S. 143B-273.14 is amended by adding a new subsection to read:

"(a1) Funding provided under this Article for personnel for satellite substance abuse centers shall only be used for personnel who provide direct services to offenders."

PROHIBIT CONTRACTING FOR MAINTENANCE OF PRISONS

SECTION 19.10.(a) Notwithstanding any other provision of law, the Department of Correction shall not do either of the following on or after the effective date of this section:

- (1) Enter into any contract for maintenance services at prison facilities.
- (2) Expand any existing contract for maintenance services at prison facilities to additional prison facilities.

SECTION 19.10.(b) Subdivision (a)(1) of this section does not apply to the renewal of contracts existing at the time this section becomes effective.

PART XX. DEPARTMENT OF ADMINISTRATION**CURB EXCESS PRIVATE MOTOR VEHICLE EXPENSE REIMBURSEMENT**

SECTION 20.2. The Division of Motor Fleet Management of the Department of Administration shall work with State agencies to analyze the travel costs of employees receiving private automobile travel reimbursements associated with their job. The Division shall report by February 1, 2011, to the House Appropriations Subcommittee on General Government, the Senate Committee on Appropriations on General Government and Information Technology, and the Fiscal Research Division on the findings of the analysis of private automobile travel reimbursement.

PART XXI. OFFICE OF THE STATE AUDITOR**BATTLESHIP COMMISSION PAY FOR AUDIT**

SECTION 21.1. G.S. 143B-74.1 reads as rewritten:

"§ 143B-74.1. **U.S.S. North Carolina Battleship Commission – funds.**

The Commission shall establish and maintain a "Battleship Fund" composed of the moneys which may come into its hands from admission or inspection fees, gifts, donations, grants, or bequests, which funds will be used by the Commission to pay all costs of maintaining and operating the ship for the purposes herein set forth. The Commission shall maintain books of accounting records concerning revenue derived and all expenses incurred in maintaining and operating the ship as a public memorial. The operations of the Commission shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. The Commission shall reimburse the State Auditor the cost of any audit. The Commission shall establish a reserve fund in an amount to be determined by the Secretary of Cultural Resources to be maintained and used for contingencies and emergencies beyond those occurring in the course of routine maintenance and operation, and may authorize the deposit of this reserve fund in a depository to be selected by the Treasurer of North Carolina."

STATE PORTS AUTHORITY PAY FOR AUDIT

SECTION 21.2. G.S. 143B-464 reads as rewritten:

"§ 143B-464. **Audit.**

The operations of the State Ports Authority shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. The State Ports Authority shall reimburse the State Auditor the cost of any audit."

PART XXII. DEPARTMENT OF CULTURAL RESOURCES**MODIFY TERMS OF THE 2007-2008 GRANT-IN-AID FOR FREEDOM MONUMENT**

SECTION 22.1. Funds appropriated by the 2007 General Assembly as a grant-in-aid for North Carolina Freedom Monument Project, Inc., to fabricate and construct a monument that have not been used for this purpose may be used by North Carolina Freedom Monument Project, Inc., for planning and development of preconstruction stages of the monument.

PART XXIII. HOUSING FINANCE AGENCY**ALLOW HOUSING FINANCE AGENCY TO CREATE A CORPORATION TO RECEIVE "HARDEST HIT HOUSING MARKETS" FUNDING**

SECTION 23.1.(a) G.S. 122A-5 reads as rewritten:

"§ 122A-5. **General powers.**

The Agency shall have all of the powers necessary or convenient to carry out ~~and effectuate~~ the ~~purposes and~~ provisions of this Chapter, including, but without limiting the generality of the foregoing, the power:

...

(28) To form corporations under either Chapter 55 or Chapter 55A of the General Statutes only for the purpose of receiving and administering funds from federal programs for which the Agency is not qualified to receive and administer the funds directly. A corporation formed by the Agency under this subdivision shall report to the Board of Directors of the Agency and to the Joint Legislative Commission on Governmental Operations upon request as provided by either the Agency or the Commission."

SECTION 23.1.(b) If the Housing Finance Agency has not formed a corporation under G.S. 122A-5(28), as enacted by this act, by March 1, 2011, then G.S. 122A-5(28) is repealed.

PART XXIV. DEPARTMENT OF INSURANCE**DEPARTMENT OF INSURANCE HEALTH REFORM AUTHORITY AND POSITIONS**

SECTION 24.2.(a) G.S. 58-2-40 is amended by adding a new subdivision to read:

"(10) Administer and enforce the provisions of the federal Patient Protection and Affordable Care Act (Public Law 111-148) and the provisions of the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152) to the extent that the provisions apply to persons subject to the Commissioner's jurisdiction and to the extent that the provisions are not under the exclusive jurisdiction of any federal agency."

SECTION 24.2.(b) The Department of Insurance (Department) shall apply for federal funds that are available through the Patient Protection and Affordable Insurance Care Act, Public Law 111-148, or the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, to support the following 13 positions within the Department to implement this section:

- (1) Attorney III.
- (2) Health Actuary.
- (3) Examiner III.
- (4) Insurance Regulatory Analysts I, II (two positions), and III.
- (5) Office Assistant, and Program Assistant.
- (6) Insurance Investigator.
- (7) Insurance Complaint Analyst (two positions).
- (8) Complaint Analyst Supervisor.

The Department shall use its best efforts in seeking federal funding. By September 1, 2010, the Department shall report to the Joint Legislative Commission on Governmental Operations on the results of those efforts.

SECTION 24.2.(c) If the Department is unsuccessful in its efforts to obtain federal funding as provided in subsection (b) of this section, then, after prior consultation with the Joint Legislative Commission on Governmental Operations, the sum of one million one hundred fifty thousand six hundred ninety-three dollars (\$1,150,693) for the 2010-2011 fiscal year shall be allocated from the Office of State Budget and Management-Special Appropriations to the

Department for implementation of this section during fiscal year 2010-2011. If the Department is successful in its efforts to obtain federal funding as provided in subsection (b) of this section, then those federal funds shall be used to implement this section and funds appropriated to the Office of State Budget and Management-Special Appropriations pursuant to this subsection shall revert.

AUTHORIZE STATE HIGH RISK POOL TO ADMINISTER FEDERAL HIGH RISK POOL

SECTION 24.3. G.S. 58-50-180(e) is amended by adding a new subdivision to read:

"(15) Enter into contracts with the United States Department of Health and Human Services as is necessary or proper to administer the federal high risk health insurance pool established by the United States Congress in Public Law 111-148, the Patient Protection and Affordable Care Act, as amended."

PART XXVI. DEPARTMENT OF REVENUE

MODIFICATION OF METHOD BY WHICH LOCAL GOVERNMENTS REIMBURSE THE STATE FOR PROGRAMS THAT SUPPORT LOCAL GOVERNMENTS

SECTION 26.1.(a) G.S. 105-501(b) reads as rewritten:

"(b) Deductions. – ~~In determining the net proceeds of the tax to be distributed, the Secretary must deduct from the collections to be allocated an amount equal to one twelfth of the costs during the preceding fiscal year of:~~

- ~~(1) The Department of Revenue in performing the duties imposed by G.S. 105-275.2 and by Article 15 of this Chapter.~~
- ~~(1a) Seventy percent (70%) of the expenses of the Department of Revenue in performing the duties imposed by Article 2D of this Chapter.~~
- ~~(2) The Property Tax Commission.~~
- ~~(3) The School of Government at the University of North Carolina at Chapel Hill in operating a training program in property tax appraisal and assessment.~~
- ~~(4) The personnel and operations provided by the Department of State Treasurer for the Local Government Commission.~~

The costs incurred by the State to provide the functions listed in this subsection that support local governments are deductible from the collections to be allocated each month for distribution.

- (1) The Department's cost of the following for the preceding month must be deducted and credited to the Department:
 - a. Performing the duties imposed by Article 15 of this Chapter.
 - b. The Property Tax Commission.
- (2) One-twelfth of the costs of the following for the preceding fiscal year must be deducted and credited to the General Fund:
 - a. The School of Government at the University of North Carolina at Chapel Hill in operating a training program in property tax appraisal and assessment.
 - b. The personnel and operations provided by the Department of State Treasurer for the Local Government Commission.
 - c. Seventy percent (70%) of the expenses of the Department of Revenue in performing the duties imposed by Article 2D of this Chapter."

SECTION 26.1.(b) For fiscal year 2010-2011, the amount deducted under G.S. 105-501 from the net proceeds of the one-half percent (1/2%) sales and use tax levied under Article 42 of Chapter 105 of the General Statutes is increased by an amount equal to the

2009-2010 costs of the Department of Revenue and the Property Tax Commission in performing the duties imposed on the Department and the Commission under Article 15 of Chapter 105 of the General Statutes. The deduction required under this subsection may be made on a quarterly or other periodic basis, as determined by the Secretary of Revenue. The amount deducted under this section must be credited to the General Fund.

SECTION 26.1.(c) This section becomes effective July 1, 2010.

PART XXVII. STATE BOARD OF ELECTIONS

FUND ELECTION INSPECTORS FROM HAVA

SECTION 27.2. Of federal funds received under the Help America Vote Act (HAVA) on account of Maintenance of Effort appropriations made by this act, the sum of one hundred sixty thousand dollars (\$160,000) shall be used in the 2010-2011 fiscal year to fund two Election Inspectors at the State Board of Elections, including salaries and benefits. These are time-limited positions not to exceed three years.

PART XXVII-A. OFFICE OF STATE BUDGET AND MANAGEMENT

MILITARY MORALE AND WELFARE FUND

SECTION 27A.1.(a) Of the funds appropriated to the Office of State Budget and Management, the sum of five hundred thousand dollars (\$500,000) for the 2010-2011 fiscal year shall be placed in a Reserve for the Military Morale, Recreation, and Welfare Fund.

SECTION 27A.1.(b) The Office of State Budget and Management shall distribute for the purposes described in this section the amount appropriated by subsection (a) of this section. That amount shall be distributed to each military installation on a per capita basis.

SECTION 27A.1.(c) Funds distributed to a military installation exchange under this section must be deposited in the Military Morale, Recreation, and Welfare Fund for that installation and used only for community services and other expenditures to improve quality of life programs for military members and their families in North Carolina.

SECTION 27A.1.(d) Beginning with the 2010-2011 fiscal year, each military installation shall report at least annually on the allocation and use of the funding to the Joint Legislative Commission on Governmental Operations.

FUNDS FOR NC SYMPHONY

SECTION 27A.2.(a) Of the funds appropriated in this act to the Office of State Budget and Management-Special Appropriations, the sum of one million five hundred thousand dollars (\$1,500,000) in nonrecurring funds for the 2010-2011 fiscal year shall be allocated to the North Carolina Symphony in accordance with this section.

SECTION 27A.2.(b) It is the intent of the General Assembly that the NC Symphony achieve its goal of raising the sum of eight million dollars (\$8,000,000) in non-State funding to support the operations of the Symphony. To that end, upon demonstrating to the Office of State Budget and Management that the NC Symphony has reached fund-raising targets in the amounts set forth in this subsection, the NC Symphony shall receive allocations from the Office of State Budget and Management as follows:

- (1) Upon raising the initial sum of four million dollars (\$4,000,000) in non-State funding, the NC Symphony shall receive the sum of five hundred thousand dollars (\$500,000).
- (2) Upon raising an additional sum of two million dollars (\$2,000,000) in non-State funding for a total amount of six million dollars (\$6,000,000) in non-State funds, the NC Symphony shall receive the sum of five hundred thousand dollars (\$500,000).
- (3) Upon raising an additional sum of two million dollars (\$2,000,000) in non-State funding for a total sum of eight million dollars (\$8,000,000) in

non-State funds, the NC Symphony shall receive the final sum of five hundred thousand dollars (\$500,000) for the 2010-2011 fiscal year.

SECTION 27A.2.(c) Funds allocated pursuant to this section are in addition to any other funds allocated to the NC Symphony in this act.

PART XXVII-B. OFFICE OF THE STATE CONTROLLER

ADD OFFICE OF STATE PERSONNEL DIRECTOR TO BEACON PROJECT STEERING COMMITTEE

SECTION 27B.1. Section 6.16(b) of S.L. 2008-107, as amended by S.L. 2008-118, reads as rewritten:

"**SECTION 6.16.(b)** The State Controller shall serve as the Chairman of the BEACON Project Steering Committee. The other members of the committee shall be the State Chief Information Officer, the State Treasurer, the Attorney General, the Secretary of Correction, the Administrative Officer of the Courts, the State Budget Officer, the Secretary of Administration, the State Personnel Director, and the Chief Financial Officer of the Department of Transportation."

PAYMENT CARD REBATE PROGRAM

SECTION 27B.2. The Office of State Controller shall establish a payment card rebate program by July 1, 2011. The Office of State Controller may use up to two hundred seventy thousand dollars (\$270,000) in receipts generated from the program to cover (i) the salaries and benefits of three receipt-supported positions and (ii) operating costs.

The Office of State Controller shall report quarterly to the Joint Legislative Commission on Governmental Operations on the implementation progress of the payment card rebate program. The first report under this section shall be due October 1, 2010.

PART XXVIII. DEPARTMENT OF TRANSPORTATION

CASH FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATIONS

SECTION 28.1.(a) Section 25.1 of S.L. 2009-451 is repealed.

SECTION 28.1.(b) The General Assembly authorizes and certifies anticipated revenues of the Highway Fund as follows:

For Fiscal Year 2011-2012	\$ 1,793.1 million
For Fiscal Year 2012-2013	\$ 1,880.6 million
For Fiscal Year 2013-2014	\$ 1,920.5 million
For Fiscal Year 2014-2015	\$ 1,958.9 million

SECTION 28.1.(c) The General Assembly authorizes and certifies anticipated revenues of the Highway Trust Fund as follows:

For Fiscal Year 2011-2012	\$ 989.2 million
For Fiscal Year 2012-2013	\$ 1,046.4 million
For Fiscal Year 2013-2014	\$ 1,078.3 million
For Fiscal Year 2014-2015	\$ 1,120.4 million

DRIVER EDUCATION PROGRAM FUNDING STUDY

SECTION 28.2. The Office of State Budget and Management (OSBM) shall review the funding and efficacy of the Driver Education Program to determine the most appropriate source of funds to support the program and outcomes of the funding on student driving. The study shall examine the existing distribution, redistribution, and reversion system used by the Department of Public Instruction to distribute funds to local school administrative units. As part of its review, OSBM shall collect data to compare the number of students served at year-end to the baseline per pupil allocation for which funds were awarded and make funding recommendations to determine if funds may be reverted in the future. The review shall

include recommendations for improving services, reducing costs and/or duplication, and alternative funding mechanisms including fees. OSBM shall also work with the Department of Public Instruction to establish performance measures for the program to be used to determine the program's effectiveness. OSBM shall make recommendations to the Governor and the General Assembly no later than November 1, 2010.

GLOBAL TRANSPARK REPORT ON ANTICIPATED REPAYMENT SCHEDULE AND PROGRAM EVALUATION DIVISION REVIEW

SECTION 28.3.(a) The Board of Directors of the Global TransPark Authority shall report on or before December 31, 2010, to the House Appropriations Subcommittee on Transportation and the Senate Committee on Appropriations on Department of Transportation on the Authority's strategic, business, and financial plans. The report shall include the Authority's proposed schedule to achieve financial self-sufficiency and proposed schedule to repay to the Escheat Fund the investment authorized under G.S. 147-69.2(b)(11) and any accumulated interest, both of which totaled thirty-seven million seven hundred ninety-eight thousand eight hundred ninety-eight dollars and fifty cents (\$37,798,898.50) as of March 31, 2010.

SECTION 28.3.(b) The Program Evaluation Division of the General Assembly shall conduct a comprehensive program and financial review of the North Carolina Global TransPark Authority. The program review shall examine the Authority's operations and evaluate the effectiveness of the Authority in meeting its mission and goals. The financial review shall study the cost-effectiveness of all State funds appropriated to the Authority to date, examine potential efficiency savings, study the long-term operating needs of the Authority, examine the Authority's current business practices, and make recommendations for it to become financially self-sustaining and to fully repay the Escheat Fund. The Division shall prepare a report of the findings and recommendations of the study and submit it to the Joint Legislative Program Evaluation Oversight Committee no later than March 1, 2011.

ADJUST ROAD NAMING POLICY

SECTION 28.4. The Department of Transportation shall remove the existing prohibition on naming State roads after specific military veterans and shall adopt a policy for naming highways after specific military veterans. This new policy shall be part of the Department of Transportation's existing system for naming State roads after people. The Department of Transportation shall report to the Joint Legislative Transportation Oversight Committee no later than December 1, 2011, on the new policy and the Department's implementation of the policy.

ESTABLISH NC MOBILITY FUND

SECTION 28.7.(a) Chapter 136 of the General Statutes is amended by adding a new Article to read:

"Article 14A.

"North Carolina Mobility Fund.

"§ 136-187. Creation of the North Carolina Mobility Fund.

(a) A special fund designated as the North Carolina Mobility Fund is hereby created. The Mobility Fund consists of revenue from appropriations or transfers by the General Assembly.

(b) The amounts deposited to the Mobility Fund shall be used as provided in this Article, notwithstanding any provision of Article 14 of this Chapter to the contrary. The provisions of G.S. 136-17.2A shall not apply to the application of the Mobility Fund.

"§ 136-188. Use of North Carolina Mobility Fund.

(a) The Department of Transportation shall use the Mobility Fund to fund transportation projects, selected by the Department, of statewide and regional significance that

relieve congestion and enhance mobility across all modes of transportation. The Department of Transportation shall establish project selection criteria based on the provisions of this Article.

(b) The initial project funded from the Mobility Fund shall be the widening and improvement of Interstate 85 north of the Yadkin River Bridge.

"§ 136-189. Reports by Department of Transportation.

The Department of Transportation shall develop, and update annually, a report containing a completion schedule for all projects to be funded from the Mobility Fund, including the selection criteria and reasoning used for each project. The annual update shall indicate the projects, or portions thereof, that were completed during the preceding fiscal year, any changes in the original completion schedules, and the reasons for the changes. The report shall also include the Department's anticipated schedule for future projects. The Department shall submit the report and the annual updates to the Joint Legislative Transportation Oversight Committee."

SECTION 28.7.(b) The Department of Transportation shall develop selection criteria under G.S. 136-188, as enacted by this act, and shall report to the Joint Legislative Transportation Oversight Committee on its development of the selection criteria. A preliminary report on the selection criteria for projects is due to the Joint Legislative Transportation Oversight Committee by October 1, 2010. A final report is due to the Joint Legislative Transportation Oversight Committee by December 15, 2010. When developing the project criteria and selection process, the Department shall give preferential consideration to projects qualified to receive State grants from the Congestion Relief and Intermodal Transportation 21st Century Fund under Article 19 of Chapter 136 of the General Statutes. When developing the project criteria and selection process, the Department shall involve the public and other stakeholders, including, but not limited to, the North Carolina Association of Municipal Planning Organizations, the North Carolina Association of Rural Planning Organizations, the North Carolina League of Municipalities, the North Carolina Association of County Commissioners, the North Carolina Metropolitan Mayors Coalition, and the North Carolina Council of Regional Governments.

SECTION 28.7.(c) G.S. 136-176(b2), as amended by Subsection 25.5.(f) of S.L. 2008-107, reads as rewritten:

"(b2) There is annually appropriated to the North Carolina Turnpike Authority from the Highway Trust Fund the sum of ~~ninety-nine million dollars (\$99,000,000)~~ eighty-four million dollars (\$84,000,000). Of the amount allocated by this subsection, twenty-five million dollars (\$25,000,000) shall be used to pay debt service or related financing costs and expenses on revenue bonds or notes issued for the construction of the Triangle Expressway, twenty-four million dollars (\$24,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Monroe Connector/Bypass, fifteen million dollars (\$15,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Mid-Currituck Bridge, and ~~thirty-five million dollars (\$35,000,000)~~ twenty million dollars (\$20,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Garden Parkway. The amounts appropriated to the Authority pursuant to this subsection shall be used by the Authority to pay debt service or related financing costs and expenses on revenue bonds or notes issued by the Authority to finance the costs of one or more Turnpike Projects, to refund such bonds or notes, or to fund debt service reserves, operating reserves, and similar reserves in connection therewith. The appropriations established by this subsection constitute an agreement by the State to pay the funds appropriated hereby to the Authority within the meaning of G.S. 159-81(4). Notwithstanding the foregoing, it is the intention of the General Assembly that the enactment of this provision and the issuance of bonds or notes by the Authority in reliance thereon shall not in any manner constitute a pledge of the faith and credit and taxing power of the State, and nothing contained herein shall prohibit the General Assembly from amending the appropriations made in this subsection at any time to decrease or eliminate the amount annually appropriated to the Authority. Funds transferred from the

Highway Trust Fund to the Authority pursuant to this subsection are not subject to the equity formula in G.S. 136-17.2A."

SECTION 28.7.(d) Any funds appropriated to the North Carolina Turnpike Authority in fiscal year 2009-2010 under G.S. 136-176(b2) to cover debt service or related financing costs for the Monroe Connector/Bypass project and that remain unencumbered at the end of fiscal year 2009-2010 are hereby transferred to the North Carolina Mobility Fund, as enacted by this act, to be used for Phase II of the Yadkin River Bridge project, which is the widening and improvement of Interstate 85 north of the Yadkin River Bridge. Additionally, there is transferred from the Highway Trust Fund to the Mobility Fund the sum of fifteen million dollars (\$15,000,000) for fiscal year 2010-2011 to be used for Phase II of the Yadkin River Bridge project.

SECTION 28.7.(e) The Joint Legislative Transportation Oversight Committee shall study the debt affordability for State transportation funding. The study shall include a comparison of State transportation debt practices to those of other states with strong credit ratings and shall make recommendations on the appropriate use of debt for strategic transportation projects. The Committee shall contract with the Kenan-Flagler Business School at the University of North Carolina at Chapel Hill for the completion of the study. The committee shall report the results of the study to the 2011 General Assembly.

SECTION 28.7.(f) G.S. 105-187.9 reads as rewritten:

"§ 105-187.9. **Disposition of tax proceeds.**

...

(b) ~~Transfer. General Fund Transfer.~~ – In each fiscal year, the State Treasurer shall transfer the amounts provided below from the taxes deposited in the Trust Fund to the General Fund. The transfer of funds authorized by this section may be made by transferring one-fourth of the amount at the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue.

(1) The sum of ~~seventy-one million dollars (\$71,000,000).~~ forty million dollars (\$40,000,000).

...

(c) Mobility Fund Transfer. – In each fiscal year, the State Treasurer shall transfer thirty-one million dollars (\$31,000,000) from the taxes deposited in the Trust Fund to the Mobility Fund. The transfer of funds authorized by this section may be made by transferring one-fourth of the amount at the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue."

SECTION 28.7.(g) G.S. 136-176(b2), as amended by subsection (c) of this section, reads as rewritten:

"(b2) There is annually appropriated to the North Carolina Turnpike Authority from the Highway Trust Fund the sum of ~~eighty-four million dollars (\$84,000,000).~~ ninety-nine million dollars (\$99,000,000). Of the amount allocated by this subsection, twenty-five million dollars (\$25,000,000) shall be used to pay debt service or related financing costs and expenses on revenue bonds or notes issued for the construction of the Triangle Expressway, twenty-four million dollars (\$24,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Monroe Connector/Bypass, fifteen million dollars (\$15,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Mid-Currituck Bridge, and ~~twenty million dollars (\$20,000,000)~~ thirty-five million dollars (\$35,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Garden Parkway. The amounts appropriated to the Authority pursuant to this subsection shall be used by the Authority to pay debt service or related financing costs and expenses on revenue bonds or notes issued by the Authority to finance the costs of one or more Turnpike Projects, to refund such bonds or notes, or to fund debt service reserves, operating reserves, and similar reserves in connection therewith. The appropriations established by this subsection constitute an agreement by the State to pay the funds appropriated hereby to the Authority

within the meaning of G.S. 159-81(4). Notwithstanding the foregoing, it is the intention of the General Assembly that the enactment of this provision and the issuance of bonds or notes by the Authority in reliance thereon shall not in any manner constitute a pledge of the faith and credit and taxing power of the State, and nothing contained herein shall prohibit the General Assembly from amending the appropriations made in this subsection at any time to decrease or eliminate the amount annually appropriated to the Authority. Funds transferred from the Highway Trust Fund to the Authority pursuant to this subsection are not subject to the equity formula in G.S. 136-17.2A."

SECTION 28.7.(h) G.S. 105-187.9, as amended by subsection (f) of this section, reads as rewritten:

"§ **105-187.9. Disposition of tax proceeds.**

...

(b) General Fund Transfer. – In each fiscal year, the State Treasurer shall transfer the amounts provided below from the taxes deposited in the Trust Fund to the General Fund. The transfer of funds authorized by this section may be made by transferring one-fourth of the amount at the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue.

- (1) The sum of ~~forty million dollars (\$40,000,000)~~ twenty-six million dollars (\$26,000,000).

...

(c) Mobility Fund Transfer. – In each fiscal year, the State Treasurer shall transfer ~~thirty one million dollars (\$31,000,000)~~ forty-five million dollars (\$45,000,000) from the taxes deposited in the Trust Fund to the Mobility Fund. The transfer of funds authorized by this section may be made by transferring one-fourth of the amount at the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue."

SECTION 28.7.(i) G.S. 105-187.9(b) is repealed.

SECTION 28.7.(j) G.S. 105-187.9(c), as amended by subsection (h) of this section, reads as rewritten:

"(c) Mobility Fund Transfer. – In each fiscal year, the State Treasurer shall transfer ~~forty five million dollars (\$45,000,000)~~ fifty-eight million dollars (\$58,000,000) from the taxes deposited in the Trust Fund to the Mobility Fund. The transfer of funds authorized by this section may be made by transferring one-fourth of the amount at the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue."

SECTION 28.7.(k) G.S. 136-176(b2), as amended by subsection (g) of this section, reads as rewritten:

"(b2) There is annually appropriated to the North Carolina Turnpike Authority from the Highway Trust Fund the sum of ~~ninety nine million dollars (\$99,000,000)~~ one hundred twelve million dollars (\$112,000,000). Of the amount allocated by this subsection, twenty-five million dollars (\$25,000,000) shall be used to pay debt service or related financing costs and expenses on revenue bonds or notes issued for the construction of the Triangle Expressway, twenty-four million dollars (\$24,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Monroe Connector/Bypass, ~~fifteen million dollars (\$15,000,000)~~ twenty-eight million dollars (\$28,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Mid-Currituck Bridge, and thirty five million dollars (\$35,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Garden Parkway. The amounts appropriated to the Authority pursuant to this subsection shall be used by the Authority to pay debt service or related financing costs and expenses on revenue bonds or notes issued by the Authority to finance the costs of one or more Turnpike Projects, to refund such bonds or notes, or to fund debt service reserves, operating reserves, and similar reserves in connection therewith. The appropriations established by this subsection

constitute an agreement by the State to pay the funds appropriated hereby to the Authority within the meaning of G.S. 159-81(4). Notwithstanding the foregoing, it is the intention of the General Assembly that the enactment of this provision and the issuance of bonds or notes by the Authority in reliance thereon shall not in any manner constitute a pledge of the faith and credit and taxing power of the State, and nothing contained herein shall prohibit the General Assembly from amending the appropriations made in this subsection at any time to decrease or eliminate the amount annually appropriated to the Authority. Funds transferred from the Highway Trust Fund to the Authority pursuant to this subsection are not subject to the equity formula in G.S. 136-17.2A."

SECTION 28.7.(l) Subsections (f) and (g) of this section become effective July 1, 2011. Subsection (h) of this section becomes effective July 1, 2012. Subsections (i), (j), and (k) of this section become effective July 1, 2013. The remainder of this section becomes effective July 1, 2010.

EXEMPT YADKIN RIVER BRIDGE PHASE I "GARVEE" BONDS FROM EQUITY FORMULA

SECTION 28.8. G.S. 136-17.2A(i) reads as rewritten:

"(i) All funds used in repayment of "GARVEE" bonds issued pursuant to ~~G.S. 136-18(12b)~~ G.S. 136-18(12b), except for funds used in repayment of "GARVEE" bonds related to Phase I of the Yadkin River Bridge project, shall be subject to the provisions of this section."

SEMIANNUAL PERSONNEL REPORT

SECTION 28.9. Article 1 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-12.2. Semiannual report on Department personnel positions.

The Department of Transportation shall report twice annually to the General Assembly on personnel positions within the Department. On May 1 of each year, the Department shall report to the House Appropriations Subcommittee on Transportation and the Senate Committee on Appropriations on Department of Transportation. On November 1 of each year, the Department shall report to the Joint Legislative Transportation Oversight Committee. The report shall detail the Department's vacancies by funding source. The report shall be tied to the Department's work plan. Vacant no-cost positions expected to be filled in the six-month period between reports shall be referenced back to the work plan. The report shall identify positions with cost savings, report on the anticipated need to fill positions, and justify extended vacancies. The first report under this section is due on November 1, 2010."

EXEMPT APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM FUNDS FROM EQUITY FORMULA

SECTION 28.10. G.S. 136-17.2A(a) reads as rewritten:

"(a) Funds expended for the Intrastate System projects listed in G.S. 136-179 and both State and federal-aid funds expended under the Transportation Improvement Program, other than federal congestion mitigation and air quality improvement program funds appropriated to the State by the United States pursuant to 23 U.S.C. § 104(b)(2) and 23 U.S.C. § 149, funds expended on an urban loop project listed in ~~G.S. 136-180~~ G.S. 136-180, funds from the federal government for the Appalachian Development Highway System, and funds received through competitive awards or discretionary grants through federal appropriations either for local governments, transportation authorities, transit authorities, or the Department, shall be distributed throughout the State in accordance with this section.

- (1) Distribution Region A consists of the following counties: Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Johnston, Martin, Nash, Northampton, Pasquotank, Perquimans, Tyrrell, Washington, Wayne, and Wilson.

- (2) Distribution Region B consists of the following counties: Beaufort, Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New Hanover, Onslow, Pamlico, Pender, Pitt, and Sampson.
- (3) Distribution Region C consists of the following counties: Bladen, Columbus, Cumberland, Durham, Franklin, Granville, Harnett, Person, Robeson, Vance, Wake, and Warren.
- (4) Distribution Region D consists of the following counties: Alamance, Caswell, Davidson, Davie, Forsyth, Guilford, Orange, Rockingham, Rowan, and Stokes.
- (5) Distribution Region E consists of the following counties: Anson, Cabarrus, Chatham, Hoke, Lee, Mecklenburg, Montgomery, Moore, Randolph, Richmond, Scotland, Stanly, and Union.
- (6) Distribution Region F consists of the following counties: Alexander, Alleghany, Ashe, Avery, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Surry, Watauga, Wilkes, and Yadkin.
- (7) Distribution Region G consists of the following counties: Buncombe, Burke, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey."

VISITOR CENTER FUNDS

SECTION 28.11. G.S. 20-79.7(c)(2) reads as rewritten:

"(c) Use of Funds in Special Registration Plate Account. –

...

- (2) From the funds remaining in the Special Registration Plate Account after the deductions in accordance with subdivision (1) of this subsection, there is annually appropriated from the Special Registration Plate Account the sum of ~~one million dollars (\$1,000,000)~~ one million two hundred thousand dollars (\$1,200,000) to provide operating assistance for the Visitor Centers:
 - a. on U.S. Highway 17 in Camden County, (\$100,000);
 - b. on U.S. Highway 17 in Brunswick County, (\$100,000);
 - c. on U.S. Highway 441 in Macon County, (\$100,000);
 - d. in the Town of Boone, Watauga County, (\$100,000);
 - e. on U.S. Highway 29 in Caswell County, (\$100,000);
 - f. on U.S. Highway 70 in Carteret County, (\$100,000);
 - g. on U.S. Highway 64 in Tyrrell County, (\$100,000);
 - h. at the intersection of U.S. Highway 701 and N.C. 904 in Columbus County, (\$100,000);
 - i. on U.S. Highway 221 in McDowell County, (\$100,000); ~~and~~
 - j. on Staton Road in Transylvania County, ~~(\$100,000)~~; (\$100,000);
 - k. in the Town of Fair Bluff, Columbus County, near the intersection of U.S. Highway 76 and N.C. 904, (\$100,000); and
 - l. on U.S. Highway 421 in Wilkes County, (\$100,000)."

PART XXIX. SALARIES AND BENEFITS

FURLOUGHS AUTHORIZED/PUBLIC SCHOOLS

SECTION 29.1.(a) The General Assembly finds that:

- (1) North Carolina's citizens and businesses are suffering from the effects of a significant State financial crisis.
- (2) The financial crisis has resulted in large reductions in revenues projected to be available to fund the State's budget for the 2010-2011 fiscal year.
- (3) Each local school administrative unit is required to reduce its budget and should attempt to protect employees when possible.

- (4) The implementation of furloughs may be necessary to balance local school administrative unit budgets for the 2010-2011 fiscal year.

SECTION 29.1.(b) In accordance with Section 7.13 of this act, local boards of education may implement furloughs of State-funded public school employees to offset the LEA funding flexibility adjustment.

SECTION 29.1.(c) The following definitions apply in this section:

- (1) Furlough. – A temporary period of leave from employment without pay that (i) is ordered by a local board of education and (ii) is not in connection with a demotion or other disciplinary action.
- (2) Public school employee. – Any person employed by a local school administrative unit. The term includes public officers.

SECTION 29.1.(d) The provisions of Section 26.14E(b) and (c) of S.L. 2009-451 apply to public school employees furloughed pursuant to the section.

SECTION 29.1.(e) Local school administrative units shall cooperate with the Department of Public Instruction in the implementation of a furlough, if required.

SECTION 29.1.(f) As soon as practicable, and no more than 30 calendar days from the effective date of this section, the State Board of Education shall adopt rules for the implementation of this section in accordance with G.S. 150B-21.1A, except that notwithstanding G.S. 150B-21.1A(d), those emergency rules may remain in effect until the expiration of this section. These rules shall be applied by local boards of education in designating the times public school employees may be subject to furlough. These rules shall provide, at a minimum, that:

- (1) Employees who work only on instructional days shall not be subject to furlough.
- (2) Employees who earn an annual salary of thirty-two thousand dollars (\$32,000) or less shall not be subject to furlough.
- (3) A furlough for other employees shall be for the same number of days for all such employees and shall be for a maximum of two days.
- (4) No teacher shall be subject to a furlough on an instructional day or a protected work day.
- (5) A local board of education shall have a public hearing and shall disclose the local school administrative unit's finances before the local board implements a furlough.
- (6) The local school administrative unit shall cut all bonus pay before it imposes a furlough.
- (7) A local school administrative unit may spread the salary or wage reduction for furloughed employees over the contract period in order to lessen the impact on the employees.
- (8) All savings realized as a result of a furlough shall be used to offset the LEA funding flexibility adjustment.
- (9) A county in which a local school administrative unit implements a furlough pursuant to this section shall not supplant existing local current expense funds for schools.
- (10) Each local board of education shall report to the State Board of Education on the details of any furlough implemented by the local school administrative unit and certify that the furlough complied with the provisions of this section and the rules adopted by the State Board.

SECTION 29.1.(g) The provisions of Section 26.14E(e) of S.L. 2009-451 apply to furloughs under this section.

SECTION 29.1.(h) A furlough as implemented by this section does not constitute a demotion pursuant to Part 3 of Article 22 of Chapter 115C of the General Statutes or under any other personnel law or policy.

SECTION 29.1.(i) Notwithstanding G.S. 115C-273, 115C-285(b), 115C-302.1(h), and 115C-316(b), or any other provision of law, public school employees who are not paid out of State funds shall receive the same reduction in pay applicable to State-paid employees in the event a furlough is enacted by a local school administrative unit.

SECTION 29.1.(j) This section is effective when it becomes law and expires June 30, 2011.

TEACHER SALARY SCHEDULES

SECTION 29.2.(a) The following monthly salary schedules shall apply for the 2010-2011 fiscal year to certified personnel of the public schools who are classified as teachers. The schedules contain 34 steps, with each step corresponding to one year of teaching experience. Public school employees paid according to this salary schedule and receiving NBPTS certification or obtaining a master's degree shall not be prohibited from receiving the appropriate increase in salary. Provided, however, teachers employed during the 2009-2010 school year who did not work the required number of months to acquire an additional year of experience shall not receive a decrease in salary as otherwise would be required by the salary schedule below.

2010-2011 Monthly Salary Schedule		
"A" Teachers		
Years of Experience	"A" Teachers	NBPTS Certification
0	\$3,043	N/A
1	\$3,043	N/A
2	\$3,043	N/A
3	\$3,085	\$3,455
4	\$3,129	\$3,504
5	\$3,264	\$3,656
6	\$3,404	\$3,812
7	\$3,538	\$3,963
8	\$3,667	\$4,107
9	\$3,771	\$4,224
10	\$3,819	\$4,277
11	\$3,868	\$4,332
12	\$3,918	\$4,388
13	\$3,967	\$4,443
14	\$4,018	\$4,500
15	\$4,069	\$4,557
16	\$4,122	\$4,617
17	\$4,176	\$4,677
18	\$4,231	\$4,739
19	\$4,286	\$4,800
20	\$4,345	\$4,866
21	\$4,403	\$4,931
22	\$4,461	\$4,996
23	\$4,523	\$5,066
24	\$4,584	\$5,134
25	\$4,650	\$5,208
26	\$4,714	\$5,280
27	\$4,779	\$5,352
28	\$4,845	\$5,426
29	\$4,913	\$5,503
30	\$4,984	\$5,582
31	\$5,055	\$5,662

32	\$5,153	\$5,771
33+	\$5,255	\$5,886

2010-2011 Monthly Salary Schedule

Years of Experience	"M" Teachers	NBPTS Certification
0	\$3,347	N/A
1	\$3,347	N/A
2	\$3,347	N/A
3	\$3,394	\$3,801
4	\$3,442	\$3,855
5	\$3,590	\$4,021
6	\$3,744	\$4,193
7	\$3,892	\$4,359
8	\$4,034	\$4,518
9	\$4,148	\$4,646
10	\$4,201	\$4,705
11	\$4,255	\$4,766
12	\$4,310	\$4,827
13	\$4,364	\$4,888
14	\$4,420	\$4,950
15	\$4,476	\$5,013
16	\$4,534	\$5,078
17	\$4,594	\$5,145
18	\$4,654	\$5,212
19	\$4,715	\$5,281
20	\$4,780	\$5,354
21	\$4,843	\$5,424
22	\$4,907	\$5,496
23	\$4,975	\$5,572
24	\$5,042	\$5,647
25	\$5,115	\$5,729
26	\$5,185	\$5,807
27	\$5,257	\$5,888
28	\$5,330	\$5,970
29	\$5,404	\$6,052
30	\$5,482	\$6,140
31	\$5,561	\$6,228
32	\$5,668	\$6,348
33+	\$5,781	\$6,475

SECTION 29.2.(b) Annual longevity payments for teachers shall be at the rate of one and one-half percent (1.5%) of base salary for 10 to 14 years of State service, two and twenty-five hundredths percent (2.25%) of base salary for 15 to 19 years of State service, three and twenty-five hundredths percent (3.25%) of base salary for 20 to 24 years of State service, and four and one-half percent (4.5%) of base salary for 25 or more years of State service. The longevity payment shall be paid in a lump sum once a year.

SECTION 29.2.(c) Certified public schoolteachers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers. Certified public schoolteachers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in

addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers.

SECTION 29.2.(d) The first step of the salary schedule for school psychologists shall be equivalent to Step 5, corresponding to five years of experience, on the salary schedule established in this section for certified personnel of the public schools who are classified as "M" teachers. Certified psychologists shall be placed on the salary schedule at an appropriate step based on their years of experience. Certified psychologists shall receive longevity payments based on years of State service in the same manner as teachers.

Certified psychologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for certified psychologists. Certified psychologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for certified psychologists.

SECTION 29.2.(e) Speech pathologists who are certified as speech pathologists at the master's degree level and audiologists who are certified as audiologists at the master's degree level and who are employed in the public schools as speech and language specialists and audiologists shall be paid on the school psychologist salary schedule.

Speech pathologists and audiologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for speech pathologists and audiologists. Speech pathologists and audiologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for speech pathologists and audiologists.

SECTION 29.2.(f) Certified school nurses who are employed in the public schools as nurses shall be paid on the "M" salary schedule.

SECTION 29.2.(g) As used in this section, the term "teacher" shall also include instructional support personnel.

SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE

SECTION 29.3.(a) The following base salary schedule for school-based administrators shall apply only to principals and assistant principals. This base salary schedule shall apply for the 2010-2011 fiscal year, commencing July 1, 2010. Provided, however, school-based administrators (i) employed during the 2009-2010 school year who did not work the required number of months to acquire an additional year of experience and (ii) employed during the 2010-2011 school year in the same classification shall not receive a decrease in salary as otherwise would be required by the salary schedule below.

Years of Exp	Classification				
	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)
0-6	\$3,781	-	-	-	-
7	\$3,931	-	-	-	-
8	\$4,074	-	-	-	-
9	\$4,189	-	-	-	-
10	\$4,243	\$4,243	-	-	-
11	\$4,298	\$4,298	-	-	-
12	\$4,353	\$4,353	\$4,408	-	-
13	\$4,408	\$4,408	\$4,464	-	-
14	\$4,464	\$4,464	\$4,521	\$4,579	-
15	\$4,521	\$4,521	\$4,579	\$4,640	\$4,701

16	\$4,579	\$4,579	\$4,640	\$4,701	\$4,762
17	\$4,640	\$4,640	\$4,701	\$4,762	\$4,828
18	\$4,701	\$4,701	\$4,762	\$4,828	\$4,891
19	\$4,762	\$4,762	\$4,828	\$4,891	\$4,956
20	\$4,828	\$4,828	\$4,891	\$4,956	\$5,025
21	\$4,891	\$4,891	\$4,956	\$5,025	\$5,092
22	\$4,956	\$4,956	\$5,025	\$5,092	\$5,166
23	\$5,025	\$5,025	\$5,092	\$5,166	\$5,237
24	\$5,092	\$5,092	\$5,166	\$5,237	\$5,310
25	\$5,166	\$5,166	\$5,237	\$5,310	\$5,383
26	\$5,237	\$5,237	\$5,310	\$5,383	\$5,458
27	\$5,310	\$5,310	\$5,383	\$5,458	\$5,537
28	\$5,383	\$5,383	\$5,458	\$5,537	\$5,617
29	\$5,458	\$5,458	\$5,537	\$5,617	\$5,725
30	\$5,537	\$5,537	\$5,617	\$5,725	\$5,839
31	\$5,617	\$5,617	\$5,725	\$5,839	\$5,956
32	\$5,725	\$5,725	\$5,839	\$5,956	\$6,075
33	\$5,839	\$5,839	\$5,956	\$6,075	\$6,197
34	-	\$5,956	\$6,075	\$6,197	\$6,321
35	-	-	\$6,197	\$6,321	\$6,447
36	-	-	\$6,321	\$6,447	\$6,576
37	-	-	-	\$6,576	\$6,708
38	-	-	-	\$6,708	\$6,842
39	-	-	-	-	\$6,979

2010-2011 Principal and Assistant Principal Salary Schedules
Classification

Years of Exp	Prin V (44-54)	Prin VI (55-65)	Prin VII (66-100)	Prin VIII (101+)
0-16	\$4,828	-	-	-
17	\$4,891	-	-	-
18	\$4,956	\$5,025	-	-
19	\$5,025	\$5,092	\$5,237	-
20	\$5,092	\$5,166	\$5,310	\$5,383
21	\$5,166	\$5,237	\$5,383	\$5,458
22	\$5,237	\$5,310	\$5,458	\$5,537
23	\$5,310	\$5,383	\$5,537	\$5,617
24	\$5,383	\$5,458	\$5,617	\$5,725
25	\$5,458	\$5,537	\$5,725	\$5,839
26	\$5,537	\$5,617	\$5,839	\$5,956
27	\$5,617	\$5,725	\$5,956	\$6,075
28	\$5,725	\$5,839	\$6,075	\$6,197
29	\$5,839	\$5,956	\$6,197	\$6,321
30	\$5,956	\$6,075	\$6,321	\$6,447
31	\$6,075	\$6,197	\$6,447	\$6,576
32	\$6,197	\$6,321	\$6,576	\$6,708
33	\$6,321	\$6,447	\$6,708	\$6,842
34	\$6,447	\$6,576	\$6,842	\$6,979
35	\$6,576	\$6,708	\$6,979	\$7,119
36	\$6,708	\$6,842	\$7,119	\$7,261
37	\$6,842	\$6,979	\$7,261	\$7,406
38	\$6,979	\$7,119	\$7,406	\$7,554
39	\$7,119	\$7,261	\$7,554	\$7,705

40	\$7,261	\$7,406	\$7,705	\$7,859
41	-	\$7,554	\$7,859	\$8,016
42	-	\$7,705	\$8,016	\$8,176
43	-	-	\$8,176	\$8,340

SECTION 29.3.(b) The appropriate classification for placement of principals and assistant principals on the salary schedule, except for principals in alternative schools and in cooperative innovative high schools, shall be determined in accordance with the following schedule:

Classification	Number of Teachers Supervised
Assistant Principal	
Principal I	Fewer than 11 Teachers
Principal II	11-21 Teachers
Principal III	22-32 Teachers
Principal IV	33-43 Teachers
Principal V	44-54 Teachers
Principal VI	55-65 Teachers
Principal VII	66-100 Teachers
Principal VIII	More than 100 Teachers

The number of teachers supervised includes teachers and assistant principals paid from State funds only; it does not include teachers or assistant principals paid from non-State funds or the principal or teacher assistants.

The beginning classification for principals in alternative schools and in cooperative innovative high school programs shall be the Principal III level. Principals in alternative schools who supervise 33 or more teachers shall be classified according to the number of teachers supervised.

SECTION 29.3.(c) A principal shall be placed on the step on the salary schedule that reflects total number of years of experience as a certificated employee of the public schools and an additional step for every three years of experience as a principal. Provided, however, a principal who acquires an additional step for the 2009-2010 or 2010-2011 fiscal years shall not receive a corresponding increase in salary during the 2009-2011 fiscal biennium. A principal or assistant principal shall also continue to receive any additional State-funded percentage increases earned for the 1997-1998, 1998-1999, and 1999-2000 school years for improvement in student performance or maintaining a safe and orderly school.

SECTION 29.3.(d) Principals and assistant principals with certification based on academic preparation at the six-year degree level shall be paid a salary supplement of one hundred twenty-six dollars (\$126.00) per month and at the doctoral degree level shall be paid a salary supplement of two hundred fifty-three dollars (\$253.00) per month.

SECTION 29.3.(e) Longevity pay for principals and assistant principals shall be as provided for State employees under the State Personnel Act.

SECTION 29.3.(f) If a principal is reassigned to a higher job classification because the principal is transferred to a school within a local school administrative unit with a larger number of State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the higher job classification.

If a principal is reassigned to a lower job classification because the principal is transferred to a school within a local school administrative unit with a smaller number of State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the lower job classification.

This subsection applies to all transfers on or after the effective date of this section, except transfers in school systems that have been created, or will be created, by merging two or

more school systems. Transfers in these merged systems are exempt from the provisions of this subsection for one calendar year following the date of the merger.

SECTION 29.3.(g) Participants in an approved full-time master's in school administration program shall receive up to a 10-month stipend at the beginning salary of an assistant principal during the internship period of the master's program. For the 2006-2007 fiscal year and subsequent fiscal years, the stipend shall not exceed the difference between the beginning salary of an assistant principal plus the cost of tuition, fees, and books and any fellowship funds received by the intern as a full-time student, including awards of the Principal Fellows Program. The Principal Fellows Program or the school of education where the intern participates in a full-time master's in school administration program shall supply the Department of Public Instruction with certification of eligible full-time interns.

SECTION 29.3.(h) During the 2010-2011 fiscal year, the placement on the salary schedule of an administrator with a one-year provisional assistant principal's certificate shall be at the entry-level salary for an assistant principal or the appropriate step on the teacher salary schedule, whichever is higher.

FURLOUGHS AUTHORIZED/UNC

SECTION 29.4.(a) Findings. – The General Assembly finds that:

- (1) North Carolina's citizens and businesses are suffering from the effects of a significant State financial crisis.
- (2) The financial crisis has resulted in large reductions in revenues projected to be available to fund the State's budget for the 2010-2011 fiscal year.
- (3) The University of North Carolina and its constituent institutions are required to reduce their budgets and should attempt to protect university employees when possible.
- (4) The implementation of furloughs may be necessary to balance The University of North Carolina's and its constituent institutions' budgets for the 2010-2011 fiscal year.

SECTION 29.4.(b) The President of The University of North Carolina may implement furloughs of university employees or delegate furlough authority to a chancellor of a constituent institution to offset the UNC Management Flexibility Reduction.

SECTION 29.4.(c) Definitions. – The following definitions apply in this section:

- (1) Furlough. – A temporary period of leave from employment without pay that (i) is ordered by the President of The University of North Carolina or a chancellor when delegated and (ii) is not in connection with a demotion or other disciplinary action.
- (2) University employee. – Any permanent full-time, permanent part-time, or time-limited employee of The University of North Carolina, including employees exempt from the State Personnel Act under G.S. 126-5(c), 126-5(c1), 126-5(c7), and 126-5(c8). The term includes public officers.

SECTION 29.4.(d) Compensation and Benefits. – The provisions of Section 26.14E(b) and (c) of S.L. 2009-451 apply to university employees furloughed pursuant to the section.

SECTION 29.4.(e) Cooperation with The University of North Carolina – General Administration. – Constituent institutions shall cooperate with UNC General Administration in the implementation of furloughs, if required.

SECTION 29.4.(f) As soon as practicable, and no more than 30 calendar days from the effective date of this section, the Board of Governors of The University of North Carolina shall adopt policies for the implementation of this section to remain in effect until the expiration of this section. These policies shall be applied by the President and the constituent institutions in implementing a furlough of university employees. These policies shall provide, at a minimum, that:

- (1) The President may establish a salary threshold below which university employees shall not be subject to furlough. In no event may any full-time university employee, prorated for any part-time employee, earning an annual salary of thirty-two thousand dollars (\$32,000) or less be subject to furlough.
- (2) The scheduling of any furlough period shall be at the discretion of the President or the chancellor of the constituent institution when delegated.
- (3) Paid leave shall not be used to offset all or any portion of a furlough.
- (4) If a holiday falls during the mandatory furlough period, the university employee must be paid for the holiday.
- (5) All savings realized as a result of a furlough shall be used to offset the Management Flexibility Reduction for The University of North Carolina.

SECTION 29.4.(g) Reporting Requirements. – The provisions of Section 26.14E(e) of S.L. 2009-451 apply to furloughs under this section.

SECTION 29.4.(h) Upon delegation of furlough authority to a chancellor, the constituent institution shall develop a furlough plan to be approved by the President consistent with the policies adopted by the UNC Board of Governors. Access to approved furlough plans shall be provided to all affected employees.

SECTION 29.4.(i) Effective Date. – This section is effective when it becomes law and expires June 30, 2011.

MONITOR COMPLIANCE WITH FREEZE ON MOST SALARY INCREASES

SECTION 29.5.(a) The Office of State Budget and Management and the Office of State Personnel shall monitor jointly the compliance of the following units of government with the provisions of Section 26.1A of S.L. 2009-451, and beginning September 1, 2010, shall submit quarterly reports of their monitoring activities to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Fiscal Research Division: (i) State agencies, departments, and institutions, including authorities, boards, and commissions; (ii) the judicial branch; and (iii) The University of North Carolina and its constituent institutions.

The quarterly reports required by this section shall include the following information:

- (1) For agencies reporting through the BEACON HR/Payroll system, (i) a breakdown by action type (including promotion, reallocation, career progression, salary adjustment, and any similar actions increasing employee pay) of the number and annual amount of those increases and (ii) a breakdown by action reason (including in-range higher level, acting pay, trainee adjustment, and other similar action reasons) of the number and annual amount of those action types coded as salary adjustment.
- (2) For The University of North Carolina and its constituent institutions, a breakdown of the number and annual amount of those increases categorized by the university as promotions, changes in job duties or responsibilities, Distinguished Professorships, retention pay, career progression, and any similar actions increasing employee pay.
- (3) A summary of actions taken by the Office of State Budget and Management and the Office of State Personnel with respect to unauthorized salary increases.

SECTION 29.5.(b) Beginning September 1, 2010, and quarterly thereafter, the Legislative Services Officer shall report to the President Pro Tempore of the Senate and the Speaker of the House of Representatives on compliance with Section 26.1A of S.L. 2009-451.

AUTHORIZE SUPPLEMENTATION BY LOCAL GOVERNMENTS OF THE SALARIES OF NONELECTED JUDICIAL DEPARTMENT OFFICERS AND EMPLOYEES IN ORDER TO ATTRACT AND RETAIN THE BEST QUALIFIED OFFICERS AND EMPLOYEES FOR THE JUDICIAL BRANCH OF GOVERNMENT.

SECTION 29.7.(a) The prefatory language of G.S. 7A-300(a) reads as rewritten:

"(a) The operating expenses of the Judicial Department shall be paid from State funds, out of appropriations for this purpose made by the General Assembly, or from funds provided by local governments pursuant to ~~G.S. 153A-212.1 and G.S. 160A-289.1~~. G.S. 7A-300.1, 153A-212.1, or 160A-289.1. The Administrative Office of the Courts shall prepare budget estimates to cover these expenses, including therein the following items and such other items as are deemed necessary for the proper functioning of the Judicial Department:

...."

SECTION 29.7.(b) Article 27 of Chapter 7A of the General Statutes is amended by adding a new section to read:

"§ 7A-300.1. Local supplementation of salaries for certain officers and employees.

(a) In order to attract and retain the best qualified officers and employees for positions in the Judicial Branch of government, the Administrative Office of the Courts may contract with the governing body of a city or county for the provision of local funds to supplement the salaries of Judicial Department employees, other than elected officials and magistrates, who serve the superior court district, district court district, or prosecutorial district containing that unit of local government. Any employee who receives salary supplementation under this section shall be notified before receiving it that the supplementation is subject to the availability of local funds, may be discontinued at any time, and is not "compensation" for purposes of the Teachers' and State Employees' Retirement System or the Consolidated Judicial Retirement System.

(b) This section applies only to (i) cities with a population of 300,000 or more according to the most recent estimate of the Office of State Budget and Management and (ii) counties with a population of 300,000 or over according to the most recent estimate of the Office of State Budget and Management."

SECTION 29.7.(c) Section 26.1A(a) of S.L. 2009-451 as amended by S.L. 2009-575, s.21, reads as rewritten:

"SECTION 26.1A.(a) The salaries of those officers and employees, whose salaries for the 2008-2009 fiscal year were set or increased in Sections 26.1, 26.2, 26.3, 26.4, 26.5, 26.6, 26.7, 26.8, 26.9, 26.10, 26.11, 26.11A, 26.12, 26.12D, 26.13, 26.14, 26.18, and 26.19 of Session Law 2008-107, and in effect on June 30, 2009, or the last date in pay status during the 2008-2009 fiscal year if earlier, shall remain in effect and shall not increase for the 2009-2010 and 2010-2011 fiscal years, except:

- (1) As provided for by Section 29.20A of S.L. 2005-276.
- (2) For Community College faculty as otherwise provided in Section 8.1 of this act.
- (3) For University of North Carolina faculty as otherwise provided by the Faculty Recruiting and Retention Fund, the Distinguished Professors Endowment Fund, or retention adjustments funded from non-state funding sources.
- (3a) For Judicial Department employees for local supplementation as authorized under G.S. 7A-300.1.
- (4) Salaries may be increased for reallocations or promotions, in-range adjustments for job change, career progression adjustments for demonstrated competencies, or any other adjustment related to an increase in job duties or responsibilities, none of which are subject to the salary freeze otherwise provided by this subsection. All other salary increases are prohibited."

SECTION 29.7.(d) G.S. 135-1(7a)b. reads as rewritten:

- "b. "Compensation" shall not include any payment, as determined by the Board of Trustees, for the reimbursement of expenses or payments for housing or any other allowances whether or not classified as salary and wages. "Compensation" includes all special pay contribution of annual leave made to a 401(a) Special Pay Plan for the benefit of an employee. Notwithstanding any other provision of this Chapter, "compensation" shall not include:
1. Supplement/allowance provided to employee to purchase additional benefits such as health, life, or disability plans;
 2. Travel supplement/allowance (nonaccountable allowance plans);
 3. Employer contributions to eligible deferred compensation plans;
 4. Employer-provided fringe benefits (additional benefits such as health, life, or disability plans);
 5. Reimbursement of uninsured medical expenses;
 6. Reimbursement of business expenses;
 7. Reimbursement of moving expenses;
 8. Reimbursement/payment of personal expenses;
 9. Incentive payments for early retirement;
 10. Bonuses paid incident to retirement;
 - 10a. Local supplementation as authorized under G.S. 7A-300.1 for Judicial Department employees;
 11. Contract buyout/severance payments; and
 12. Payouts for unused sick leave."

SECTION 29.7.(e) G.S. 135-53(5) reads as rewritten:

- "(5) "Compensation" shall mean all salaries and wages derived from public funds which are earned by a member of the Retirement System for his service as a justice or judge, or district attorney, or clerk of superior court, or public defender, or the Director of Indigent Defense Services. Effective July 1, 2009, "compensation" also means payment of military differential wages. "Compensation" shall not include local supplementation as authorized under G.S. 7A-300.1 for Judicial Department employees."

PART XXX. CAPITAL APPROPRIATIONS

CAPITAL APPROPRIATIONS/GENERAL FUND

SECTION 30.1. There is appropriated from the General Fund for the 2010-2011 fiscal year the following amounts for capital improvements:

Capital Improvements – General Fund	2010-2011
Department of Crime Control and Public Safety	
Highway Patrol Training Facility – Phase One Planning	\$2,043,440
Department of Environment and Natural Resources	
Water Resources Development Projects	9,130,000
TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND	\$11,173,440

WATER RESOURCES DEVELOPMENT PROJECT FUNDS

SECTION 30.2.(a) The Department of Environment and Natural Resources shall allocate the funds appropriated in this act for water resources development projects in

accordance with the schedule that follows. These funds will provide a State match for an estimated twenty-seven million three hundred thousand dollars (\$27,300,000) in federal funds.

Name of Project	2010-2011
(1) Wilmington Harbor Deepening	\$900,000
(2) Wilmington Harbor Maintenance	2,000,000
(3) Morehead City Harbor Maintenance	100,000
(4) B. Everett Jordan Lake Water Supply Storage	200,000
(5) Dredging Contingency Fund	1,250,000
(6) AIWW Dredging	1,000,000
(7) Bogue Banks Shore Protection Study	5,000
(8) John H. Kerr Dam and Reservoir Sec. 216	50,000
(9) Neuse River Basin PED	-
(10) Princeville Flood Damage Reduction	200,000
(11) Currituck Sound Environmental Restoration Study	50,000
(12) Belhaven Harbor – Cap – Sec. 1135	350,000
(13) Surf City/North Topsail Beach Protection Study PED	-
(14) West Onslow Beach (Topsail Beach) PED	50,000
(15) Silver Lake Harbor Disposal Area Maintenance	800,000
(16) Manteo Old House Channel – CAP – Sec. 204	25,000
(17) Concord Streams Restoration – CAP – Sec. 206	-
(18) Planning Assistance to Communities	-
(19) State-Local Projects	1,650,000
(20) Aquatic Plant Control, Statewide and Lake Gaston	350,000
(21) Cape Fear River Basin Model Update	150,000
TOTALS	\$9,130,000

SECTION 30.2.(b) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects funded under subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 2010-2011 fiscal year, or if the projects funded under subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

- (1) U.S. Army Corps of Engineers project feasibility studies.
- (2) U.S. Army Corps of Engineers projects whose schedules have advanced and require State-matching funds in fiscal year 2010-2011.
- (3) State-local water resources development projects.

However, fund availability shall not be used to fund the North Carolina International Terminal. Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 2011-2012 fiscal year.

SECTION 30.2.(c) The Department shall make semiannual reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

- (1) All projects listed in this section.
- (2) The estimated cost of each project.
- (3) The date that work on each project began or is expected to begin.
- (4) The date that work on each project was completed or is expected to be completed.
- (5) The actual cost of each project.

The semiannual reports shall also show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

NON-GENERAL FUND CAPITAL IMPROVEMENT AUTHORIZATIONS

SECTION 30.3.(a) The General Assembly authorizes the following capital projects to be funded with receipts or from other non-General Fund sources available to the appropriate department:

Name of Project	Amount of Non-General Fund Funding Authorized for FY 2010-2011
Department of Agriculture and Consumer Services	
Food and Drug – Upgrade Steam Generation	\$18,000
Markets/Southeast NC Ag Center – Multipurpose Pavilion	\$1,290,000
Markets/Southeast NC Ag Center – Associated Development Around Multipurpose Pavilion	\$1,500,000
Markets/State Farmers Market – Electrical Improvements	\$200,000
Markets/State Farmers Market – Restroom Improvements	\$600,000
Markets/WNC Ag Center – Livestock Sales Area HVAC	\$500,000
Markets/WNC Ag Center – Code, Facility and Site Improvements	\$300,000
Plant Industry – Support Facility Renovations and Repairs	\$50,000
Research Stations – Irrigation	\$200,000
Research Stations – Grain Storage	\$400,000
State Fair – Site Development	\$500,000
State Fair – Hunt Horse Complex Improvements	\$250,000
Veterinary/Food and Drug – Standby Generators	\$700,000
Department of Correction	
Southern Medium Programs Building	\$600,000
Caledonia Programs Building	\$600,000
Caswell Programs Building	\$600,000
Southern Minimum Programs Building	\$600,000
Randolph Programs Building	\$600,000
Department of Cultural Resources	
USS NC Battleship Repairs, Dredging, Construction Commission Battleship Fund	\$1,700,000
Department of Environment and Natural Resources	
Forest Resources – Bladen Lakes Ranger Residence	\$399,000
Department of Justice	
NC Justice Academy Live Fire Shoot House	\$282,000
Wildlife Resources Commission	
Pisgah Education Center Repairs & Renovation	\$60,000
Outer Banks Education Center Repairs and Renovation	\$26,000
Mt. Holly Depot Acquisition	\$150,000
Statewide Boating Access Areas (BAA) Renovations	\$3,610,000
Table Rock Hatchery Residence Renovation	\$150,000
McKinney Lake Equipment Shed	\$70,000
Fishing Access Areas Construction	\$180,000
TOTAL AMOUNT OF NON-GENERAL FUND CAPITAL PROJECTS AUTHORIZED	\$16,135,000

SECTION 30.3.(b) From funds deposited with the State Treasurer in a capital improvement account to the credit of the Department of Agriculture and Consumer Services, pursuant to G.S. 146-30, the sum of thirty thousand dollars (\$30,000) for the 2010-2011 fiscal year shall be transferred to the Department of Agriculture and Consumer Services to be used, notwithstanding G.S. 146-30, by the Department for its plant conservation program under Article 19B of Chapter 106 of the General Statutes for costs incidental to the acquisition of land, such as land appraisals, land surveys, title searches, environmental studies, and for the management of the plant conservation program preserves owned by the Department.

REPAIRS AND RENOVATIONS RESERVE ALLOCATION

SECTION 30.4.(a) Of the funds in the Reserve for Repairs and Renovations for the 2010-2011 fiscal year, fifty percent (50%) shall be allocated to the Board of Governors of The University of North Carolina for repairs and renovations pursuant to G.S. 143C-4-3, in accordance with guidelines developed in The University of North Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as approved by the Board of Governors of The University of North Carolina, and fifty percent (50%) shall be allocated to the Office of State Budget and Management for repairs and renovations pursuant to G.S. 143C-4-3.

Notwithstanding G.S. 143C-4-3, the Board of Governors may allocate funds for the repair and renovation of facilities not supported from the General Fund if the Board determines that sufficient funds are not available from other sources and that conditions warrant General Fund assistance. Any such finding shall be included in the Board's submission to the Joint Legislative Commission on Governmental Operations on the proposed allocation of funds.

The Board of Governors and the Office of State Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations prior to the allocation or reallocation of these funds.

SECTION 30.4.(b) In addition to any other funds in the Reserve for Repairs and Renovations for the 2010-2011 fiscal year, the proceeds of any bonds and notes issued pursuant to subdivision 30.7(a)(1) are transferred to that reserve.

SECTION 30.4.(c) Of the funds allocated to the Board of Governors of The University of North Carolina in subsection (a) of this section, a portion shall be used by the Board of Governors for the installation of fire sprinklers in university residence halls. This portion shall be in addition to funds otherwise appropriated in this act for the same purpose. Such funds shall be allocated among the university's constituent institutions by the President of The University of North Carolina, who shall consider the following factors when allocating those funds:

- (1) The safety and well-being of the residents of campus housing programs.
- (2) The current level of housing rents charged to students and how that compares to an institution's public peers and other UNC institutions.
- (3) The level of previous authorizations to constituent institutions for the construction or renovation of residence halls funded from the General Fund, or from bonds or certificates of participation supported by the General Fund, since 1996.
- (4) The financial status of each constituent institution's housing system, including debt capacity, debt coverage ratios, credit rankings, required reserves, the planned use of cash balances for other housing system improvements, and the constituent institution's ability to pay for the installation of fire sprinklers in all residence halls.
- (5) The total cost of each proposed project, including the cost of installing fire sprinklers and the cost of other construction, such as asbestos removal and additional water supply needs.

The Board of Governors shall submit progress reports to the Joint Legislative Commission on Governmental Operations. Reports shall include the status of completed, current, and planned projects. Reports also shall include information on the financial status of

each constituent institution's housing system, the constituent institution's ability to pay for fire protection in residence halls, and the timing of installation of fire sprinklers. Reports shall be submitted on January 1 and July 1 until all residence halls have fire sprinklers.

SECTION 30.4.(d) Of the funds allocated to the Board of Governors of The University of North Carolina in subsection (a) of this section, a portion shall be used by the Board of Governors for campus public safety improvements allowable under G.S. 143C-4-3(b).

SECTION 30.4.(e) Of the funds allocated to the Office of State Budget and Management in subsection (a) of this section, five hundred thousand dollars (\$500,000) shall be transferred to the Department of Crime Control and Public Safety to be used for Armory Repair and Renovation.

AMEND 2009 WILDLIFE RESOURCES COMMISSION NON-GENERAL FUND CAPITAL IMPROVEMENT AUTHORIZATIONS

SECTION 30.5.(a) Subsection 27.4(a) of S.L. 2009-451 reads as rewritten:

"SECTION 27.4.(a) The General Assembly authorizes the following capital projects to be funded with receipts or from other non-General Fund sources available to the appropriate department:

Name of Project	Amount of Non-General Fund Funding Authorized for FY 2009-2010
Department of Crime Control and Public Safety	
Additions and Renovations to Armories	\$ 9,303,442
Camp Butner Cantonment – Phase 1 Design	1,367,000
Family Assistance Centers	2,000,000
Gastonia Armory Renovation and Expansion	1,100,000
Tactical Unmanned Aerial Systems Facility	6,746,000
Department of Cultural Resources	
Aycock Birthplace Picnic Shelter	86,100
Maritime Museum – Floating Dock	130,000
Museum of History Chronology Exhibit – Phase 2B (1900-1960)	1,200,000
Department of Environment and Natural Resources	
Zoo – Elephant Exhibit New Restrooms	300,000
Wildlife Resources Commission	
Armstrong Hatchery Lower Raceway Replacement	1,725,000
Centennial Campus Education Center Exhibit Completion	180,000
Chinquapin Equipment Storage Pole Shed	60,000
Chowan Bridge Fishing Pier and Edenton Boating Access	450,000
Emerald Isle New Boating Access Area	600,000
Falls Lake Office Building	550,000
Hampstead Land Acquisition	10,000,000
Land Acquisitions – State Gamelands	59,135,000 20,000,000
Lewelyn Branch New Boating Access Area	150,000
Manns Harbor Bridge Marina Acquisition	5,750,000
Marion Depot Drainage Repairs	200,000
<u>Marion Hatchery and Depot Renovation</u>	<u>4,000,000</u>
McKinney Lake Hatchery Kettles Replacement	1,700,000
Minor Boating Access Area Renovations – Various Locations	150,000
New Coldwater Fish Hatchery Construction	7,900,000
Ocean Isle Boating Access Area Renovations	150,000

Outer Banks Education Center Teaching Facility Repairs	245,000
Pechmann Fishing Education Center Pond Restoration	160,000
Pechmann Fishing Education Center Storage Building	220,000
Pisgah Education Center Gift Shop Renovation and Expansion	200,000
Pisgah Education Center Outdoor Exhibit Renovation	450,000
Pisgah Education Center Repairs	155,000
Pisgah Hatchery Water System Renovation	100,000
Rhodes Pond Dam Repairs	500,000
Sneads Ferry Land Acquisition	6,500,000
<u>Statewide Emergency Repair & Renovation</u>	<u>3,500,000</u>
Sunset Harbor Land Acquisition	925,000
Swan Quarter Land Acquisition	1,700,000
Sykes Depot Pond, Office, Storage Construction	350,000
Table Rock Hatchery Office and Workshop Replacement	345,000

TOTAL AMOUNT OF NON-GENERAL FUND CAPITAL**PROJECTS AUTHORIZED****\$122,782,54283,247,542"**

SECTION 30.5.(b) Section 27.4 of S.L. 2009-451 is amended by adding a new subsection to read:

"SECTION 27.4.(a1) The Wildlife Resources Commission shall not expend any of the funds authorized to be spent on Statewide Emergency Repair & Renovation by subsection (a) of this section without first obtaining approval from the Office of State Budget and Management."

AMEND COPS AUTHORIZATION LANGUAGE/UNCG

SECTION 30.6. Subdivision (13) of Section 27.8.(a) of S.L. 2008-107 reads as rewritten:

"(13) In the maximum aggregate principal amount of forty-two million six hundred seventy thousand dollars (\$42,670,000) to finance the capital facility costs of completing an academic classroom and office building at the University of North Carolina at Greensboro. These proceeds may also be used to acquire real property for the development and construction of a new railroad underpass to connect the current central campus to West Lee Street. No more than a maximum aggregate amount of twenty-one million dollars (\$21,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009."

SPECIAL INDEBTEDNESS PROJECTS

SECTION 30.7.(a) The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the projects described in this subsection. In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness:

- (1) In the maximum aggregate principal amount of one hundred twenty million dollars (\$120,000,000) to finance the capital facility costs of repairing and renovating State facilities and related infrastructure, to be allocated in accordance with Section 30.4 of this act.
- (2) In the maximum aggregate principal amount of fifty-five million dollars (\$55,000,000) to finance the capital facility costs of acquiring equipment and completing related capital improvements for use by The University of North Carolina System and the North Carolina Community College System, to be allocated in accordance with Section 30.11 of this act.

SECTION 30.7.(b) This section is effective when it becomes law.

STATUTORILY DEFINE "SCOPE"

SECTION 30.8. G.S. 143C-1-1(d) is amended by adding a new subdivision to read:

"§ 143C-1-1. Purpose and definitions.

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

...

(16a) Increase the scope. – With respect to a capital improvement project, either increasing the square footage of a capital improvement project by more than ten percent (10%) of the amount authorized or programming new functions into the project."

AMEND DEBT SERVICE FOR GREEN SQUARE COMPLEX PARKING CONSTRUCTION

SECTION 30.9. Section 27.8 of S.L. 2009-451 reads as rewritten:

"**SECTION 27.8.** Notwithstanding Item 61, Page M-11, of the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets for S.L. 2008-107, the General Fund shall service the debt for the Green Square Complex parking ~~deck during the 2009-2011 fiscal biennium.~~deck."

PROHIBIT GENERAL FUND EXPENDITURES FOR THE NORTH CAROLINA INTERNATIONAL TERMINAL

SECTION 30.10. Notwithstanding G.S. 136-253 and any other provision of law, funds from the General Fund shall not be used to fund the North Carolina International Terminal of the North Carolina State Ports Authority. This section does not apply to the use of agency receipts.

ALLOCATION AND USE OF PROCEEDS OF SPECIAL INDEBTEDNESS ISSUED FOR EQUIPMENT

SECTION 30.11.(a) Of the proceeds of special indebtedness issued or incurred pursuant to subdivision (a)(2) of Section 30.7, forty percent (40%) shall be allocated to the Board of Governors of The University of North Carolina and sixty percent (60%) shall be allocated to the State Board of Community Colleges. These funds shall be used by those institutions to purchase equipment for constituent institutions of The University of North Carolina and individual community colleges to be used for teaching and research in the fields of health, science, engineering, and technical education.

SECTION 30.11.(b) Funds allocated to the State Board of Community Colleges pursuant to subsection (a) of this section may also be used to make capital improvements to existing facilities that are necessary in order to use the equipment purchased pursuant to that subsection. Notwithstanding any other provision of law, community colleges are not required to match allocations made pursuant to this section. For purposes of this subsection, it is not sufficient that a capital improvement would facilitate the use of purchased equipment. The only capital improvements authorized by this subsection are those without which purchased equipment could not be effectively utilized.

SECTION 30.11.(c) The Board of Governors and the State Board of Community Colleges shall report to the Joint Legislative Commission on Governmental Operations on the allocation or reallocation of funds expended pursuant to this section.

PART XXXI. TAX CHANGES**IRC UPDATE**

SECTION 31.1.(a) G.S. 105-228.90(b)(1b) reads as rewritten:

"§ 105-228.90. **Scope and definitions.**

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

...
(1b) Code. – The Internal Revenue Code as enacted as of ~~May 1, 2009~~, May 1, 2010, including any provisions enacted as of that date ~~which~~ that become effective either before or after that date."

SECTION 31.1.(b) G.S. 105-134.6(d) reads as rewritten:

"§ 105-134.6. **Adjustments to taxable income.**

...
(d) Other Adjustments. – The following adjustments to taxable income shall be made in calculating North Carolina taxable income:

...
(7) The taxpayer shall add to taxable income the amounts listed in this subdivision. An addition is not required under this subdivision for a net operating loss deduction of an eligible small business as defined under section 172(b)(1)(H) of the Code. The amounts are:

a. For taxable years 2003, 2004, and 2005, the amount of any 2008 net operating loss deduction claimed on a federal return under section 172(b)(1)(H) or section 810(b)(4) of the Code.

b. For taxable years 2004, 2005, and 2006, the amount of any 2009 net operating loss deduction claimed on a federal return under section 172(b)(1)(H) or section 810(b)(4) of the Code.

(8) For taxable years 2011 through 2013, a taxpayer who made an addition under subdivision (7) of this subsection may deduct one-third of the taxpayer's net operating loss absorbed on the taxpayer's 2003, 2004, 2005, and 2006 federal returns under section 172(b)(1)(H) or section 810(b)(4) of the Code."

SECTION 31.1.(c) This section is effective when it becomes law. Notwithstanding subsection (a) of this section, any amendments to the Internal Revenue Code enacted after May 1, 2009, that increase North Carolina taxable income for the 2009 taxable year become effective for taxable years beginning on or after January 1, 2010.

SMALL BUSINESS TAX RELIEF

SECTION 31.1A.(a) Article 3B of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-129.16J. **Temporary unemployment insurance refundable tax credit.**

(a) Credit. – A small business that makes contributions during the taxable year to the State Unemployment Insurance Fund with respect to wages paid for employment in this State is allowed a credit equal to twenty-five percent (25%) of the contributions. A small business is a business whose cumulative gross receipts from business activity for the taxable year do not exceed one million dollars (\$1,000,000).

(b) Refundable. – Notwithstanding G.S. 105-129.17, the credit allowed by this section is subject to the following:

(1) The credit may only be claimed against the income taxes imposed by Article 4 of this Chapter.

(2) If the credit exceeds the amount of tax imposed by Article 4 of this Chapter for the taxable year reduced by the sum of all credits allowable, the excess is refundable. The refundable excess is governed by the provisions governing a

refund of an overpayment by the taxpayer of the tax imposed in that Article. In computing the amount of tax against which multiple credits are allowed, nonrefundable credits are subtracted before refundable credits.

(c) Applicability. – This section applies only to taxable years 2010 and 2011."

SECTION 31.1A.(b) This act is effective for taxes imposed for taxable years beginning on or after January 1, 2010.

LOWER SALES TAX COMPLIANCE BURDEN ON SMALL RETAILERS

SECTION 31.3.(a) G.S. 105-164.16(b1) reads as rewritten:

"(b1) Monthly. – A taxpayer who is consistently liable for at least one hundred dollars (\$100.00) but less than ~~ten thousand dollars (\$10,000)~~ fifteen thousand dollars (\$15,000) a month in State and local sales and use taxes must file a return and pay the taxes due on a monthly basis. A monthly return is due by the 20th day of the month following the calendar month covered by the return."

SECTION 31.3.(b) G.S. 105-164.16(b2) reads as rewritten:

"(b2) Prepayment. – A taxpayer who is consistently liable for at least ~~ten thousand dollars (\$10,000)~~ fifteen thousand dollars (\$15,000) a month in State and local sales and use taxes must make a monthly prepayment of the next month's tax liability. The prepayment is due on the date a monthly return is due. The prepayment must equal at least sixty-five percent (65%) of any of the following:

- (1) The amount of tax due for the current month.
- (2) The amount of tax due for the same month in the preceding year.
- (3) The average monthly amount of tax due in the preceding calendar year."

SECTION 31.3.(c) G.S. 105-164.16(b1), as amended by subsection (a) of this section, reads as rewritten:

"(b1) Monthly. – A taxpayer who is consistently liable for at least one hundred dollars (\$100.00) but less than ~~fifteen thousand dollars (\$15,000)~~ twenty thousand dollars (\$20,000) a month in State and local sales and use taxes must file a return and pay the taxes due on a monthly basis. A monthly return is due by the 20th day of the month following the calendar month covered by the return."

SECTION 31.3.(d) G.S. 105-164.16(b2), as amended by subsection (b) of this section, reads as rewritten:

"(b2) Prepayment. – A taxpayer who is consistently liable for at least ~~fifteen thousand dollars (\$15,000)~~ twenty thousand dollars (\$20,000) a month in State and local sales and use taxes must make a monthly prepayment of the next month's tax liability. The prepayment is due on the date a monthly return is due. The prepayment must equal at least sixty-five percent (65%) of any of the following:

- (1) The amount of tax due for the current month.
- (2) The amount of tax due for the same month in the preceding year.
- (3) The average monthly amount of tax due in the preceding calendar year."

SECTION 31.3.(e) When the Secretary of Revenue conducts a review of a taxpayer's sales and use tax payment schedule requirements under G.S. 105-164.16(b3), the Secretary must identify the taxpayers who are no longer required to make a monthly prepayment of the next month's sales and use tax liability because of the reduction of the sales tax payment threshold under this section and must notify those taxpayers of the change in the taxpayer's payment requirement.

SECTION 31.3.(f) Subsections (a) and (b) of this section become effective October 1, 2010. Subsections (c) and (d) of this section become effective October 1, 2011. The remainder of this section is effective when it becomes law.

RELIEVE ANNUAL REPORT COMPLIANCE BURDEN ON SMALL BUSINESS

SECTION 31.4.(a) G.S. 55-16-22(c) reads as rewritten:

"(c) Due Date. – An annual report eligible to be delivered to the Secretary of Revenue is due by the due date for filing the corporation's income and franchise tax returns. An extension of time to file a return is an extension of time to file an annual report. At the option of the filer, an annual report may be filed directly with the Secretary of State in electronic form. An annual report required to be delivered to the Secretary of State is due by the fifteenth day of the ~~third~~ fourth month following the close of the corporation's fiscal year."

SECTION 31.4.(b) G.S. 57C-2-23 reads as rewritten:

"§ 57C-2-23. **Annual report for Secretary of State.**

(a) Requirement and Content. – Each domestic limited liability company other than a professional limited liability company governed by G.S. 57C-2-01(c) and each foreign limited liability company authorized to transact business in this State, ~~shall deliver to the Secretary of State for filing an annual report, in State must file an annual report with the Secretary of State on a form prescribed by the Secretary of State, that sets forth all of the following and in the manner required by the Secretary. The annual report must specify the year to which the report applies and must set out the information listed in this subsection. The information must be current as of the date the company completes the report. If the information in the company's most recent annual report has not changed, the company may certify on its annual report that the information has not changed in lieu of restating the information.~~

The following information must be included on an annual report of a limited liability company:

- (1) The name of the limited liability or foreign limited liability company and the state or country under whose law it is formed.
- (2) The street address, and the mailing address if different from the street address, of the registered office, the county in which the registered office is located, and the name of its registered agent at that office in this State, and a statement of any change of the registered office or registered agent, or both.
- (3) The address and telephone number of its principal office.
- (4) The names and business addresses of its managers or, if the limited liability company has never had members, its organizers.
- (5) A brief description of the nature of its business.

~~If the information contained in the most recently filed annual report has not changed, a certification to that effect may be made instead of setting forth the information required by subdivisions (2) through (5) of this subsection. The Secretary of State shall make available the form required to file an annual report.~~

~~(b) Information in the annual report must be current as of the date the annual report is executed on behalf of the limited liability company or the foreign limited liability company.~~

(c) Notice and Due Date. – The Secretary of State must notify limited liability companies of the annual report filing requirement. ~~The first annual report shall be delivered to the Secretary of State of a limited liability company is due by April 15th of each year the year following the calendar year in which the company files its articles of organization with the Secretary of State. Each subsequent annual report is due by April 15.~~

(d) Incomplete Report. – If an annual report does not contain the information required by this section, the Secretary of State shall promptly notify the reporting domestic or foreign limited liability company in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the Secretary of State within 30 days after the effective date of notice, it is deemed to be timely filed.

(e) Amendments. – Amendments to any previously filed annual report may be filed with the Secretary of State at any time for the purpose of correcting, updating, or augmenting the information contained in the annual report."

SECTION 31.4.(c) A limited liability company that was formed on or after September 1, 2001, but before January 1, 2010, and has filed an annual report for each calendar

year after the calendar year in which it was formed is not required to file any additional annual reports for those years. A limited liability company that was formed on or after January 1, 2010, but before April 15, 2010, is not required to file an annual report until April 15, 2011. A limited liability company that has filed more annual reports than is required under this section is not allowed a refund of the annual report filing fee paid for filing the unnecessary report but is not required to pay the annual report filing fee when filing the annual report due April 15, 2011. The Secretary of State must provide a place on the annual report form for calendar year 2011 for a limited liability company to designate that it is not subject to the 2011 annual report filing fee in accordance with this section. The Secretary must also provide instructions that explain why some limited liability companies are subject to the 2011 annual report filing fee and some are not.

SECTION 31.4.(d) This section is effective when it becomes law.

EXTEND SUNSET ON EXPIRING TAX INCENTIVE INCOME TAX CREDITS AND SALES TAX REFUNDS

SECTION 31.5.(a) G.S. 105-129.75 reads as rewritten:

"§ 105-129.75. **Sunset.**

This Article expires ~~January 1, 2011~~, January 1, 2014, for rehabilitation projects for which an application for an eligibility certification is submitted on or after that date."

SECTION 31.5.(b) G.S. 105-163.015 reads as rewritten:

"§ 105-163.015. **Sunset.**

This Part is repealed effective for investments made on or after ~~January 1, 2011~~, January 1, 2013."

SECTION 31.5.(c) G.S. 105-164.14(a1) reads as rewritten:

"(a1) **Passenger Plane Maximum.** – An interstate passenger air carrier is allowed a refund of the net amount of sales and use tax paid by it in this State on fuel during a calendar year in excess of two million five hundred thousand dollars (\$2,500,000). The "net amount of sales and use tax paid" is the amount paid less the refund allowed under subsection (a) of this section. A request for a refund must be in writing and must include any information and documentation the Secretary requires. A request for a refund is due within six months after the end of the calendar year for which the refund is claimed. The refund allowed by this subsection is in addition to the refund allowed in subsection (a) of this section. This subsection is repealed for purchases made on or after ~~January 1, 2011~~, January 1, 2013."

SECTION 31.5.(d) G.S. 105-164.14(l) reads as rewritten:

"(l) **Aviation Fuel for Motorsports Events.** – A professional motorsports racing team or a motorsports sanctioning body is allowed a refund of the sales and use tax paid by it in this State on aviation fuel that is used to travel to or from a motorsports event in this State, to travel to a motorsports event in another state from a location in this State, or to travel to this State from a motorsports event in another state. For the purposes of this subsection, a "motorsports event" includes a motorsports race, a motorsports sponsor event, and motor sports testing. A request for a refund must be in writing and must include any information and documentation the Secretary requires. A request for a refund is due within six months after the end of the State's fiscal year. Refunds applied for after the due date are barred. This subsection is repealed for purchases made on or after ~~January 1, 2011~~, January 1, 2013."

SECTION 31.5.(e) This section is effective when it becomes law.

MODERNIZE SALES TAX ON ACCOMMODATIONS

SECTION 31.6.(a) G.S. 105-164.4(a)(3) reads as rewritten:

"§ 105-164.4. **Tax imposed on retailers.**

(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is five and three-quarters percent (5.75%).

...

- (3) ~~Operators of hotels, motels, tourist homes, tourist camps, and similar type businesses and persons who rent private residences and cottages to transients are considered retailers under this Article. A tax at the general rate of tax is levied on the gross receipts derived by these retailers from the rental of any rooms, lodgings, or accommodations furnished to transients for a consideration. This tax does not apply to any private residence or cottage that is rented for less than 15 days in a calendar year or to any room, lodging, or accommodation supplied to the same person for a period of 90 or more continuous days.~~

~~As used in this subdivision, the term "persons who rent to transients" means (i) owners of private residences and cottages who rent to transients and (ii) rental agents, including "real estate brokers" as defined in G.S. 93A-2, who rent private residences and cottages to transients on behalf of the owners. If a rental agent is liable for the tax imposed by this subdivision, the owner is not liable. A tax at the general rate applies to the gross receipts derived from the rental of an accommodation. The tax does not apply to a private residence or cottage that is rented for fewer than 15 days in a calendar year or to an accommodation rented to the same person for a period of 90 or more continuous days.~~

~~Gross receipts derived from the rental of an accommodation include the sales price of the rental of the accommodation. The sales price of the rental of an accommodation is determined as if the rental were a rental of tangible personal property. The sales price of the rental of an accommodation marketed by a facilitator includes charges designated as facilitation fees and any other charges necessary to complete the rental.~~

~~A person who provides an accommodation that is offered for rent is considered a retailer under this Article. A facilitator must report to the retailer with whom it has a contract the sales price a consumer pays to the facilitator for an accommodation rental marketed by the facilitator. A retailer must notify a facilitator when an accommodation rental marketed by the facilitator is completed and, within three business days of receiving the notice, the facilitator must send the retailer the portion of the sales price the facilitator owes the retailer and the tax due on the sales price. A facilitator that does not send the retailer the tax due on the sales price is liable for the amount of tax the facilitator fails to send. A facilitator is not liable for tax sent to a retailer but not remitted by the retailer to the Secretary. Tax payments received by a retailer from a facilitator are held in trust by the retailer for remittance to the Secretary. A retailer that receives a tax payment from a facilitator must remit the amount received to the Secretary. A retailer is not liable for tax due but not received from a facilitator. The requirements imposed by this subdivision on a retailer and a facilitator are considered terms of the contract between the retailer and the facilitator.~~

~~A person who, by written contract, agrees to be the rental agent for the provider of an accommodation is considered a retailer under this Article and is liable for the tax imposed by this subdivision. The liability of a rental agent for the tax imposed by this subdivision relieves the provider of the accommodation from liability. A rental agent includes a real estate broker, as defined in G.S. 93A-2.~~

~~The following definitions apply in this subdivision:~~

- ~~a. Accommodation. – A hotel room, a motel room, a residence, a cottage, or a similar lodging facility for occupancy by an individual.~~

- b. Facilitator. – A person who is not a rental agent and who contracts with a provider of an accommodation to market the accommodation and to accept payment from the consumer for the accommodation."

SECTION 31.6.(b) G.S. 105-164.4B is amended by adding a new subsection to read:

"(e) Accommodations. – The rental of an accommodation, as defined in G.S. 105-164.4(a)(3), is sourced to the location of the accommodation."

SECTION 31.6.(c) G.S. 153A-155(c) reads as rewritten:

"(c) Collection. – ~~Every operator of a business subject to a room occupancy tax shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall be collected as part of the charge for furnishing a taxable accommodation.~~ A retailer who is required to remit to the Department of Revenue the State sales tax imposed by G.S. 105-164.4(a)(3) on accommodations is required to remit a room occupancy tax to the taxing county on and after the effective date of the levy of the room occupancy tax. The room occupancy tax applies to the same gross receipts as the State sales tax on accommodations and is calculated in the same manner as that tax. A rental agent or a facilitator, as defined in G.S. 105-164.4(a)(3), has the same responsibility and liability under the room occupancy tax as the rental agent or facilitator has under the State sales tax on accommodations.

If a taxable accommodation is furnished as part of a package, the bundled transaction provisions in G.S. 105-164.4D apply in determining the sales price of the taxable accommodation. If those provisions do not address the type of package offered, the ~~operator~~ person offering the package may determine an allocated price for each item in the package based on a reasonable allocation of revenue that is supported by the ~~operator's~~ person's business records kept in the ordinary course of business and ~~collect~~ calculate tax on the allocated price of the taxable accommodation.

~~The tax shall be stated and charged separately from the sales records and shall be paid by the purchaser to the operator of the business.~~ A retailer must separately state the room occupancy tax. Room occupancy taxes paid to a retailer are held in trust as trustee for and on account of the taxing county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business.

The taxing county shall ~~design, print, design~~ and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax. ~~An operator of a business.~~ A retailer who collects a room occupancy tax may deduct from the amount remitted to the taxing county a discount equal to the discount the State allows the ~~operator-retailer~~ for State sales and use tax."

SECTION 31.6.(d) G.S. 153A-155(g) reads as rewritten:

"(g) Applicability. – Subsection (c) of this section applies to all counties and county districts that levy an occupancy tax. To the extent subsection (c) conflicts with any provision of a local act, subsection (c) supersedes that provision. The remainder of this This section applies only to Alleghany, Anson, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret, Caswell, Chatham, Cherokee, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie, Duplin, Durham, Forsyth, Franklin, Granville, Halifax, Haywood, Madison, Martin, McDowell, Montgomery, Nash, New Hanover, New Hanover County District U, Northampton, Pasquotank, Pender, Perquimans, Person, Randolph, Richmond, Rockingham, Rowan, Sampson, Scotland, Stanly, Swain, Transylvania, Tyrrell, Vance, Washington, and Wilson Counties, to Surry County District S, to Watauga County District U, to Yadkin County District Y, and to the Township of Averasboro in Harnett County and the Ocracoke Township Taxing District."

SECTION 31.6.(e) G.S. 160A-215(c) reads as rewritten:

"(c) Collection. – ~~Every operator of a business subject to a room occupancy tax shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall be collected as part of the charge for furnishing a taxable accommodation.~~ A retailer who is required to remit

to the Department of Revenue the State sales tax imposed by G.S. 105-164.4(a)(3) on accommodations is required to remit a room occupancy tax to the taxing city on and after the effective date of the levy of the room occupancy tax. The room occupancy tax applies to the same gross receipts as the State sales tax on accommodations and is calculated in the same manner as that tax. A rental agent or a facilitator, as defined in G.S. 105-164.4(a)(3), has the same responsibility and liability under the room occupancy tax as the rental agent or facilitator has under the State sales tax on accommodations.

If a taxable accommodation is furnished as part of a package, the bundled transaction provisions in G.S. 105-164.4D apply in determining the sales price of the taxable accommodation. If those provisions do not address the type of package offered, the ~~operator~~ person offering the package may determine an allocated price for each item in the package based on a reasonable allocation of revenue that is supported by the operator's person's business records kept in the ordinary course of business and collect-calculate tax on the allocated price of the taxable accommodation.

~~The tax shall be stated and charged separately from the sales records and shall be paid by the purchaser to the operator of the business. A retailer must separately state the room occupancy tax. Room occupancy taxes paid to a retailer are held in trust as trustee for and on account of the taxing city. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business.~~

The taxing city shall ~~design, print, design~~ and furnish to all appropriate businesses and persons in the city the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects a room occupancy tax may deduct from the amount remitted to the taxing city a discount equal to the discount the State allows the ~~operator-retailer~~ for State sales and use tax."

SECTION 31.6.(f) G.S. 160A-215(g) reads as rewritten:

"(g) Applicability. – Subsection (c) of this section applies to all cities that levy an occupancy tax. To the extent subsection (c) conflicts with any provision of a local act, subsection (c) supersedes that provision. The remainder of this ~~This~~ section applies only to Beech Mountain District W, to the Cities of Belmont, Conover, Eden, Elizabeth City, Gastonia, Goldsboro, Greensboro, Hickory, High Point, Jacksonville, Kings Mountain, Lenoir, Lexington, Lincolnton, Lowell, Lumberton, Monroe, Mount Airy, Mount Holly, Reidsville, Roanoke Rapids, Salisbury, Shelby, Statesville, Washington, and Wilmington, to the Towns of Ahoskie, Beech Mountain, Benson, Blowing Rock, Boiling Springs, Boone, Burgaw, Carolina Beach, Carrboro, Cramerton, Dallas, Dobson, Elkin, Franklin, Jonesville, Kenly, Kure Beach, Leland, McAdenville, Mooresville, Murfreesboro, North Topsail Beach, Pilot Mountain, Ranlo, Selma, Smithfield, St. Pauls, Troutman, Tryon, West Jefferson, Wilkesboro, Wrightsville Beach, Yadkinville, and Yanceyville, and to the municipalities in Avery and Brunswick Counties."

SECTION 31.6.(g) This act becomes effective January 1, 2011, and applies to gross receipts derived from the rental of an accommodation that a consumer occupies or has the right to occupy on or after that date.

MODERNIZE ADMISSIONS TAX AND RESTORE AMENITIES EXCLUSION

SECTION 31.7.(a) G.S. 105-37.1 reads as rewritten:

"§ 105-37.1. ~~Dances, athletic events, shows, exhibitions, and other entertainments.~~ Live entertainment and ticket resales.

(a) Scope. – A privilege tax is imposed on the ~~gross receipts of a person who is engaged in any of the~~ following:

- (1) ~~Giving, offering, or managing a dance or an athletic contest for which an admission fee in excess of fifty cents (50¢) is charged.~~ The gross admissions receipts of a person who is engaged in providing admission to live entertainment of any kind. Gross admissions receipts under this subdivision do not include charges for amenities. If charges for amenities are not

separately stated on the face of an admission ticket, then the charge for admission is considered to be equal to the admission charge for a ticket to the same event that does not include amenities and is for a seat located directly in front of or closest to a seat that includes amenities.

- (2) ~~Giving, offering, or managing a form of amusement or entertainment that is not taxed by another provision of this Article and for which an admission fee is charged.~~The gross admissions receipts of a person who is engaged in the business of reselling on the Internet under G.S. 14-344.1 an admission ticket that is taxable under subdivision (1) of this subsection. If the price of an admission ticket is printed on the face of the ticket, gross receipts under this subdivision exclude the face price. If the price of an admission ticket is not printed on the face of the ticket, the tax under this subdivision applies to the difference between the amount the reseller paid for the ticket and the amount the reseller charges for the ticket.

- (3) ~~Exhibiting a performance, show, or exhibition, such as a circus or dog show, that is not taxed by another provision of this Article.~~

(b) Rate and Payment. – The rate of the privilege tax imposed by this section is three percent ~~(3%) of the gross receipts from the activities described in subsection (a) of this section.~~(3%). The tax is due when a return is due. A return is due by the 10th day after the end of each month and covers the gross receipts received during the previous month.

(c) Advance Report. – A person who owns or controls a ~~performance, show, or exhibition~~live entertainment performance subject to the tax imposed by this section and who plans to bring the performance to this State from outside the State must file a statement with the Secretary that lists the dates, times, and places of the ~~performance, show, or exhibition.~~performance. The statement must be filed no less than five days before the first ~~performance, show, or exhibition~~performance in this State.

(d) Local Taxes. – Cities may levy a license tax on a person taxed under subdivision (a)(1) ~~or (a)(2)~~ of this section; however, the tax may not exceed twenty-five dollars (\$25.00). ~~Cities may levy a license tax on a person taxed under subdivision (a)(3) of this section; however, the tax may not exceed twenty-five dollars (\$25.00) for each day or part of a day the performance, show, or exhibition is given at each location. Cities may not levy a license tax on a person taxed under subdivision (a)(2) of this section. Counties~~Counties may not levy a license tax on a person taxed under subdivision (a)(1) or (a)(2) of this section. Counties may levy a license tax on a person taxed under subdivision (a)(3) to the same extent as a city."

SECTION 31.7.(b) G.S. 14-344.1(a) reads as rewritten:

"(a) Internet Resale. – A person may resell an admission ticket under this section on the Internet at a price greater than the price on the face of the ticket only if all of the following conditions are met:

- (1) ~~unless the~~The venue where the event will occur ~~prohibits~~has not prohibited the Internet ticket resale as provided under subsection (b) of this section.
- (2) ~~To resell an admission ticket under this section, the~~The person reselling the ticket ~~must offer~~offers the ticket for resale on a Web site with a ticket guarantee that meets the requirements of subsection (c) of this section. A prospective purchaser must be directed to the guarantee before completion of the resale transaction. ~~A person who resells an admission ticket under this section acknowledges liability for the informational report required under subsection (e) of this section.~~
- (3) The person reselling the ticket collects and remits to the State the privilege tax in accordance with G.S. 105-37.1."

SECTION 31.7.(c) G.S. 14-344.1(e) is repealed.

SECTION 31.7.(d) If any provision of this section is declared by a court to violate the Internet Tax Freedom Act, Pub. L. 105-277, §§ 1100-1104, as amended, or is otherwise found to be invalid, then G.S. 14-344.1 is repealed.

SECTION 31.7.(e) G.S. 105-37.1(a)(1), as amended by subsection (a) of this section, becomes effective August 1, 2010, and applies to charges for admission received on or after that date. G.S. 105-37.1(a)(2), as amended by subsection (a) of this section, becomes effective January 1, 2011, and applies to admission tickets sold on or after that date. The remainder of this section is effective when it becomes law.

GIVE TAXPAYERS NOTICE OF REVISED TAX INTERPRETATIONS

SECTION 31.7A.(a) G.S. 105-264(c) reads as rewritten:

"(c) Revised Interpretations. – This section does not prevent the Secretary from changing an ~~interpretation~~interpretation, and it does not prevent a change in an interpretation from applying on and after the effective date of the change. An interpretation that revises a prior interpretation by expanding the scope of a tax or otherwise increasing the amount of tax due may not become effective sooner than the following:

- (1) For a tax that is payable on a monthly or quarterly basis, the first day of a month that is at least 90 days after the date the revised interpretation is issued.
- (2) For a tax that is payable on an annual basis, the first day of a tax year that begins after the date the revised interpretation is issued."

SECTION 31.7A.(b) This section is effective when it becomes law.

IMPROVE TAX AND DEBT COLLECTION PROCESS

SECTION 31.8.(a) G.S. 147-86.20(1) reads as rewritten:

"§ 147-86.20. Definitions.

The following definitions apply in this Article:

- (1) ~~Account Receivable~~receivable. – An asset of the State reflecting a debt that is owed to the State and has not been received by the State agency servicing the debt. The term includes claims, damages, fees, fines, forfeitures, loans, overpayments, taxes, and tuition as well as penalties, interest, and other costs authorized by law. The term does not include court costs or fees assessed in actions before the General Court of Justice or counsel fees and other expenses of representing indigents under Article 36 of Chapter 7A of the General Statutes.

...."

SECTION 31.8.(b) G.S. 147-86.22 reads as rewritten:

"§ 147-86.22. Statewide accounts receivable program.

(a) Program. – The State Controller shall implement a statewide accounts receivable program. As part of this program, the State Controller shall do all of the following:

- (1) Monitor the State's accounts receivable collection efforts.
- (2) Coordinate information, systems, and procedures between State agencies to maximize the collection of past-due accounts receivable.
- (3) Adopt policies and procedures for the management and collection of accounts receivable by State agencies.
- (4) Establish procedures for writing off accounts ~~receivable and for determining when to end efforts to collect accounts receivable after they have been written off~~receivable.

(b) Electronic Payment. – Notwithstanding the provisions of G.S. 147-86.20 and G.S. 147-86.21, this subsection applies to debts owed a community college, a local school administrative unit, an area mental health, developmental disabilities, and substance abuse authority, and the Administrative Office of the Courts, and to debts payable to or through the office of a clerk of superior court or a magistrate, as well as to debts owed to other State agencies as defined in G.S. 147-86.20.

The State Controller shall establish policies that allow accounts receivable to be payable under certain conditions by electronic payment. These policies shall be established with the

concurrence of the State Treasurer. In addition, any policies that apply to debts payable to or through the office of a clerk of superior court or a magistrate shall be established with the concurrence of the Administrative Officer of the Courts. The Administrative Officer of the Courts may also establish policies otherwise authorized by law that apply to these debts as long as those policies are not inconsistent with the Controller's policies.

A condition of payment by electronic payment is receipt by the appropriate State agency of the full amount of the account receivable owed to the State agency. A debtor who pays by electronic payment may be required to pay any fee or charge associated with the use of electronic payment. Fees associated with processing electronic payments may be paid out of the General Fund and Highway Fund if the payment of the fee by the State is economically beneficial to the State and the payment of the fee by the State has been approved by the State Controller and State Treasurer.

The State Controller and State Treasurer shall consult with the Joint Legislative Commission on Governmental Operations before establishing policies that allow accounts receivable to be payable by electronic payment and before authorizing fees associated with electronic payment to be paid out of the General Fund and Highway Fund. A State agency must also consult with the Joint Legislative Commission on Governmental Operations before implementing any program to accept payment under the policies established pursuant to this subsection.

A payment of an account receivable that is made by electronic payment and is not honored by the issuer of the card or the financial institution offering electronic funds transfer does not relieve the debtor of the obligation to pay the account receivable.

(c) Collection Techniques. – The State Controller, in conjunction with the Office of the Attorney General, shall establish policies and procedures to govern techniques for collection of accounts receivable. These techniques may include use of credit reporting bureaus, judicial remedies authorized by law, and administrative setoff by a reduction of ~~an individual's~~ tax refund pursuant to the Setoff Debt Collection Act, Chapter 105A of the General Statutes, or a reduction of another payment, other than payroll, due from the State to a person to reduce or eliminate an account receivable that the person owes the State.

~~No later than January 1, 1999, the~~The State Controller shall negotiate a contract with a third party to perform an audit and collection process of inadvertent overpayments by State agencies to vendors as a result of pricing errors, neglected rebates and discounts, miscalculated freight charges, unclaimed refunds, erroneously paid excise taxes, and related errors. The third party shall be compensated only from funds recovered as a result of the audit. Savings realized in excess of costs shall be transferred from the agency to the Office of State Budget and Management and placed in a special reserve account for future direction by the General Assembly. Any disputed savings shall be settled by the State Controller. This paragraph does not apply to the purchase of medical services by State agencies or payments used to reimburse or otherwise pay for health care services."

SECTION 31.8.(c) G.S. 147-86.25 reads as rewritten:

"§ 147-86.25. **Setoff debt collection.**

The State Controller shall implement a statewide setoff debt collection program to provide for collection of ~~accounts receivable that have been written off. The statewide program shall supplement the Setoff Debt Collection Act, Chapter 105A of the General Statutes, and shall provide for written off~~the following accounts receivable to be set off by setoff against payments the State owes to debtors, other than payments of ~~individual income~~ tax refunds and ~~payroll~~ payroll:

- (1) Accounts receivable submitted to the Department of Revenue by a claimant agency under the Setoff Debt Collection Act, Chapter 105A of the General Statutes.
- (2) An overdue tax debt, as defined in G.S. 105-243.1.

~~A program shall provide that, before final setoff can occur, the State agency servicing the debt must notify the debtor of the proposed setoff and of the debtor's right to contest the setoff~~

~~through an administrative hearing and judicial review. A proposed setoff by a State agency that is a "claimant agency" under Chapter 105A of the General Statutes shall be conducted in accordance with the procedures the State agency must follow under that Chapter. A proposed setoff by a State agency that is not a "claimant agency" under Chapter 105A of the General Statutes shall be conducted under Articles 3 and 4 of Chapter 150B of the General Statutes."~~

SECTION 31.8.(d) G.S. 105A-2 reads as rewritten:

"§ 105A-2. Definitions.

The following definitions apply in this Chapter:

- ...
- (3) Debtor. – ~~An individual~~ A person who owes a debt.
- ...
- (8) Refund. – ~~An individual's North Carolina income~~ A debtor's North Carolina tax refund.
- (9) State agency. – Any of the following:
- a. A unit of the executive, legislative, or judicial branch of State government.
 - b. A local agency, to the extent it administers a program supervised by the Department of Health and Human Services or it operates a Child Support Enforcement Program, enabled by Chapter 110, Article 9, and Title IV, Part D of the Social Security Act.
 - c. A community college."

SECTION 31.8.(e) G.S. 105A-3(c) reads as rewritten:

"(c) Identifying Information. – All claimant agencies shall whenever possible obtain the full name, social security ~~number, number or federal identification number,~~ address, and any other identifying information required by the Department from any person for whom the agencies provide any service or transact any business and who the claimant agencies can foresee may become a debtor under this Chapter."

SECTION 31.8.(f) G.S. 105A-14(a) reads as rewritten:

"(a) Simultaneously with the transmittal of the net proceeds collected to a claimant agency, the Department must provide the agency with an accounting of the setoffs for which payment is being made. The accounting must whenever ~~possible,~~ possible include the full names of the debtors, the debtors' social security ~~numbers, numbers or federal identification numbers,~~ the gross proceeds collected per setoff, the net proceeds collected per setoff, and the collection assistance fee added to the debt and collected per setoff."

SECTION 31.8.(g) G.S. 105-259(b)(18) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person except as provided in this subsection. Standards used or to be used for the selection of returns for examination and data used or to be used for determining the standards may not be disclosed for any purpose. All other tax information may be disclosed only if the disclosure is made for one of the following purposes:

- ...
- (18) To furnish to the Office of the State Controller ~~the name, address, and account and identification numbers of a taxpayer upon request to~~ enable information needed by the State Controller to implement the setoff debt collection program established under G.S. 147-86.25, verify statewide vendor ~~files~~ files, or track debtors of the State.
-"

SECTION 31.8.(h) G.S. 105-242(b) reads as rewritten:

"(b) ~~Garnishment and Attachment.~~ Attachment and Garnishment. – Intangible property that belongs to a taxpayer, is owed to a taxpayer, or has been transferred by a taxpayer under circumstances that would permit it to be levied upon if it were tangible property is subject to attachment and garnishment in payment of a tax that is due from the taxpayer and is collectible

under G.S. 105-241.22. Intangible personal property includes bank deposits, rent, salaries, wages, property held in the Escheat Fund, and any other property incapable of manual levy or delivery. AG.S. 105-242.1 sets out the procedure for attachment and garnishment of intangible property.

A person who is in possession of intangible property that is subject to attachment and garnishment is the garnishee and is liable for the amount the taxpayer owes. The liability applies only to the amount of the taxpayer's property in the garnishee's possession, reduced by any amount the taxpayer owes the garnishee. ~~G.S. 105-242.1 sets out the procedure for attachment and garnishment of intangible property.~~

The Secretary may submit to a financial institution, as defined in G.S. 53B-2, information that identifies a taxpayer who owes a tax debt that is collectible under G.S. 105-241.22 and the amount of the debt. The Secretary may submit the information on a quarterly basis or, with the agreement of the financial institution, on a more frequent basis. A financial institution that receives the information must determine the amount, if any, of intangible property it holds that belongs to the taxpayer and must inform the Secretary of its determination. The Secretary must reimburse a financial institution for its costs in providing the information, not to exceed the amount payable to the financial institution under G.S. 110-139 for providing information for use in locating a noncustodial parent.

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

SECTION 31.8.(i) G.S. 105-242.1 reads as rewritten:

"§ **105-242.1. Procedure for attachment and garnishment.**

(a) Notice. – G.S. 105-242 specifies when intangible property is subject to attachment and garnishment. Before the Department attaches and garnishes intangible property in payment of a tax, the Department must send the garnishee a notice of garnishment. The notice must be sent in accordance with the methods authorized in G.S. 105-241.20 ~~or by registered or certified mail or, with the agreement of the garnishee, by electronic means.~~ The notice must contain all of the following information: information, unless the notice is an electronic notice subject to subsection (a1) of this section:

- (1) ~~The taxpayer's name, address, and social security number or federal identification number.~~ name.
- (2) ~~The type of tax the taxpayer owes and the tax periods for which the tax is owed.~~ taxpayer's social security number or federal identification number.
- (3) The amount of tax, interest, and penalties the taxpayer owes.
- (4) An explanation of the liability of a garnishee for tax owed by a taxpayer.
- (5) An explanation of the garnishee's responsibility concerning the notice.

(a1) Electronic Notice. – Before the Department sends an electronic notice of garnishment to a garnishee, the Department and the garnishee must have an agreement that establishes the protocol for transmitting the notice and provides the information required under subdivisions (4) and (5) of subsection (a) of this section. An electronic notice must contain the information required under subdivisions (1), (2), and (3) of subsection (a) of this section.

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

Upon receipt of the a written response, the Department must contact the garnishee and schedule a conference to discuss the response or inform the garnishee of the Department's position concerning the response. If the Department does not agree with the garnishee on the garnishee's liability, the Department may proceed to enforce the garnishee's liability for the tax by sending the garnishee a notice of proposed assessment in accordance with G.S. 105-241.9.

(c) Release. – ~~When the Department releases a garnishee from liability, the Department must send the garnishee a letter of release. The letter must identify the taxpayer to whom the release applies and contain the identifying information about the taxpayer that is required under subsection (a) on a notice of garnishment. A notice of garnishment sent to a financial institution is released when the financial institution complies with the notice. A notice of garnishment sent to all other garnishees is released when the Department sends the garnishee a notice of release. A notice of release must state the name and social security number or federal identification number of the taxpayer to whom the release applies.~~

(d) Financial Institution. – As used in this section, the term 'financial institution' has the same meaning as in G.S. 53B-2."

SECTION 31.8.(j) G.S. 53B-4(2) reads as rewritten:

"§ 53B-4. Access to financial records.

Notwithstanding any other provision of law, no government authority may have access to a customer's financial record held by a financial institution unless the financial record is described with reasonable specificity and access is sought pursuant to any of the following:

...
(2) Authorization under ~~G.S. 105-254~~G.S. 105-242 or G.S. 105-258."

SECTION 31.8.(k) Subsection (h) of this section becomes effective January 1, 2011. The remainder of this section is effective when it becomes law.

REDUCE FRANCHISE TAX BURDEN ON CONSTRUCTION COMPANIES

SECTION 31.9.(a) Section 2 of S.L. 2009-422 reads as rewritten:

"**SECTION 2.** This act is effective retroactively for taxable years beginning on or after ~~January 1, 2010~~ January 1, 2007."

SECTION 31.9.(b) A taxpayer that paid franchise tax in taxable years 2007, 2008, or 2009 and that included billings in excess of costs in its capital base may apply to the Department of Revenue for a refund of any excess tax paid to the extent the refund is the result of the change in the law enacted by this section. A request for a refund must be made on or before January 1, 2011. A request for refund received after that date is barred.

SECTION 31.9.(c) This section is effective when it becomes law.

FAIR TAX PENALTIES

SECTION 31.10.(a) G.S. 105-236(a)(4) reads as rewritten:

- "(4) Failure to Pay Tax When Due. – In the case of failure to pay any tax when due, without intent to evade the tax, the Secretary shall assess a penalty equal to ten percent (10%) of the tax, subject to a minimum of five dollars (\$5.00). This penalty does not apply in any of the following circumstances:
- a. When the amount of tax shown as due on an amended return is paid when the return is filed.
 - b. When the Secretary proposes an assessment for tax due but not shown on a return and the tax due is paid within 45 days after the later of the following:
 1. The date of the notice of proposed assessment of the ~~tax~~ tax, if the taxpayer does not file a timely request for a Departmental review of the proposed assessment.
 2. The date the proposed assessment becomes collectible under one of the circumstances listed in G.S. 105-241.22(3) through (6), if the taxpayer files a timely request for a Departmental review of the proposed assessment.
 - c. When a taxpayer timely files a consolidated or combined return at the request of the Secretary under Part 1 of Article 4 of this Chapter and the tax due is paid within 45 days after the latest of the following:

1. The date the return is filed.
2. The date of a notice of proposed assessment based on the return, if the taxpayer does not file a timely request for a Departmental review of the proposed assessment.
3. The date the Departmental review of the proposed assessment ends as a result of the occurrence of one of the actions listed in G.S. 105-241.22(3) through (6), if the taxpayer files a timely request for a Departmental review."

SECTION 31.10.(b) G.S. 105-236(a)(5) is amended by adding a new sub-subdivision to read:

"(5) Negligence. –

...

f. Consolidated or combined return. – The amount of tax shown as due on a consolidated or combined return filed at the request of the Secretary under Part 1 of Article 4 of this Chapter is not considered a deficiency and is not subject to this subdivision unless one or more of the following applies:

1. The return is an amended consolidated or combined return that includes the same corporations as the initial consolidated or combined return filed at the request of the Secretary. In this case the deficiency is the extent to which the amount shown as due on the amended return exceeds the amount shown as due on the initial return.
2. The Secretary has adopted permanent rules in accordance with G.S. 105-262 that describe the facts and circumstances under which the Secretary will require a consolidated or combined return under G.S. 105-130.6, and the Secretary requires the taxpayer to file a consolidated or combined return under that statute because the taxpayer's facts and circumstances meet those described in the rules.
3. Pursuant to a written request from a taxpayer, the Secretary has provided written advice to that taxpayer stating that the Secretary will require a consolidated or combined return under the facts and circumstances set out in the request, and the Secretary requires a taxpayer to file a consolidated or combined return under G.S. 105-130.6 because the taxpayer's facts and circumstances meet those described in the written advice."

SECTION 31.10.(c) G.S. 105-241.22 reads as rewritten:

"§ 105-241.22. **Collection of tax.**

The Department may collect a tax in the following circumstances:

- (1) When a taxpayer files a return showing an amount due with the return and does not pay the amount shown due. This subdivision does not apply to a consolidated or combined return filed at the request of the Secretary under Part 1 of Article 4 of this Chapter.
- (2) When the Department sends a notice of collection after a taxpayer does not file a timely request for a Departmental review of a proposed assessment of tax.
- (3) When a taxpayer and the Department agree on a settlement concerning the amount of tax due.
- (4) When the Department sends a notice of final determination concerning an assessment of tax and the taxpayer does not file a timely petition for a contested case hearing on the assessment.

- (5) When a final decision is issued on a proposed assessment of tax after a contested case hearing.
- (6) When the Office of Administrative Hearings dismisses a petition for a contested case for lack of jurisdiction because the sole issue is the constitutionality of a statute and not the application of a statute."

SECTION 31.10.(d) G.S. 105-130.6 reads as rewritten:

"§ 105-130.6. Subsidiary and affiliated corporations.

The net income of a corporation doing business in this State that is a parent, subsidiary, or affiliate of another corporation shall be determined by eliminating all payments to or charges by the parent, subsidiary, or affiliated corporation in excess of fair compensation in all intercompany transactions of any kind whatsoever. If the Secretary finds as a fact that a report by a corporation does not disclose the true earnings of the corporation on its business carried on in this State, the Secretary may require the corporation to file a consolidated return of the entire operations of the parent corporation and of its subsidiaries and affiliates, including its own operations and income. The Secretary shall determine the true amount of net income earned by such corporation in this State. The combined net income of the corporation and of its parent, subsidiaries, and affiliates shall be apportioned to this State by use of the applicable apportionment formula required to be used by the corporation under G.S. 105-130.4. The return shall include in the apportionment formula the property, payrolls, and sales of all corporations for which the return is made. For the purposes of this section, a corporation is considered a subsidiary of another corporation when, directly or indirectly, it is subject to control by the other corporation by stock ownership, interlocking directors, or by any other means whatsoever exercised by the same or associated financial interests, whether the control is direct or through one or more subsidiary, affiliated, or controlled corporations. A corporation is considered an affiliate of another corporation when both are directly or indirectly controlled by the same parent corporation or by the same or associated financial interests by stock ownership, interlocking directors, or by any other means whatsoever, whether the control is direct or through one or more subsidiary, affiliated, or controlled corporations. The secretary may require a consolidated return under this section regardless of whether the parent or controlling corporation or interests or its subsidiaries or affiliates, other than the taxpayer, are or are not doing business in this State.

If a consolidated return required by this section is not filed within 60 days after it is demanded, then the corporation is subject to the penalties provided in G.S. 105-230 and G.S. 105-236.

The parent, subsidiary, or affiliated corporation must incorporate in its return required under this section information needed to determine the net income taxable under this Part, and must furnish any additional information the Secretary requires. If the return does not contain the information required or the additional information requested is not furnished within 30 days after it is demanded, the corporation is subject to the penalties provided in G.S. 105-230 and G.S. 105-236.

If the Secretary finds that the determination of the income of a parent, subsidiary, or affiliated corporation under a consolidated return will produce a greater or lesser figure than the amount of income earned in this State, the Secretary may readjust the determination by reasonable methods of computation to make it conform to the amount of income earned in this State. If the corporation contends the figure produced is greater than the earnings in this State, it must file with the Secretary within 30 days after notice of the determination a statement of its objections and of an alternative method of determination. The Secretary must consider the statement in determining the income earned in this State. The findings and conclusions of the Secretary shall be presumed to be correct and shall not be set aside unless shown to be plainly wrong.

In order to provide clarity for taxpayers, the Secretary may adopt rules in accordance with G.S. 105-262 that describe facts and circumstances under which the Secretary will require a corporation to file a consolidated or combined return. The adoption of these rules does not limit

the Secretary's authority to require a consolidated or combined return under sets of facts and circumstances not described in the rules when the Secretary finds as a fact that a report by a corporation does not disclose the true earnings of the corporation on its business carried on in this State."

SECTION 31.10.(e) G.S. 105-130.14 reads as rewritten:

"§ 105-130.14. Corporations filing consolidated returns for federal income tax purposes.

Any corporation electing or required to file a consolidated income tax return with the Internal Revenue Service must determine its State net income as if the corporation had filed a separate federal return and shall not file a consolidated or combined return with the Secretary of Revenue, unless one of the following applies:

- (1) The corporation is specifically directed to do so in writing by the Secretary, and shall determine its State net income as if a separate return had been filed for federal purposes. Secretary under G.S. 105-130.6 to file a consolidated or combined return.
- (2) The corporation's facts and circumstances meet the facts and circumstances described in a permanent rule adopted under G.S. 105-130.6 and the corporation files a consolidated or combined return in accordance with that rule.
- (3) Pursuant to a written request from the corporation, the Secretary has provided written advice to the corporation stating that the Secretary will require a consolidated or combined return under the facts and circumstances set out in the request and the corporation files a consolidated or combined return in accordance with that written advice."

SECTION 31.10.(f) G.S. 105-262 reads as rewritten:

"§ 105-262. Rules.

(a) Authority. – The Secretary of Revenue may adopt rules needed to administer a tax collected by the Secretary or to fulfill another duty delegated to the Secretary. G.S. 150B-1 and Article 2A of Chapter 150B of the General Statutes set out the procedure for the adoption of rules by the Secretary.

(b) Notice and Hearing Exceptions. – At least 30 business days prior to proposing a rule under G.S. 105-130.6, the Secretary must comply with the following notice and hearing requirements:

- (1) Publish the proposed rule in the North Carolina Register.
- (2) Submit the rule and a notice of public hearing to the Codifier of Rules, who must post the proposed rule and the notice of public hearing on the Internet within five business days.
- (3) Notify those on the Department's mailing list maintained in accordance with G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a rule and of the public hearing.
- (4) Accept written comments on the proposed rule for at least 15 business days prior to adoption of the rule.
- (5) Hold at least one public hearing on the proposed rule no less than five days after the rule and notice have been published.

(c) Fiscal Note. – The Secretary must ask the Office of State Budget and Management to prepare a fiscal note for a proposed new rule or a proposed change to a rule that has a substantial economic impact, as defined in G.S. 150B-21.4(b1). The Secretary shall not take final action on a proposed rule change that has a substantial economic impact until at least 60 days after the fiscal note has been prepared."

SECTION 31.10.(g) This section is effective when it becomes law. This section shall not be construed to affect the interpretation of any statute that is the subject of litigation pending as of the effective date of this act in the General Court of Justice or to affect any other aspect of such pending litigation. Subsections (a) and (b) of this section apply to penalties and taxes that are assessed but unpaid as of the effective date, except penalties and taxes that are the

subject of pending litigation in a General Court of Justice as of the effective date, and to penalties and taxes assessed on or after the effective date.

PART XXXII. MISCELLANEOUS PROVISIONS

STATE BUDGET ACT APPLIES

SECTION 32.1. The provisions of the State Budget Act, Chapter 143C of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

COMMITTEE REPORT

SECTION 32.2.(a) The Joint Conference Committee Report on the Continuation, Expansion, and Capital Budgets dated June 28, 2010, which was distributed in the Senate and the House of Representatives and used to explain this act, shall indicate action by the General Assembly on this act and shall therefore be used to construe this act, as provided in the State Budget Act, Chapter 143C of the General Statutes, as appropriate, and for these purposes shall be considered a part of this act and as such shall be printed as a part of the Session Laws.

SECTION 32.2.(b) The budget enacted by the General Assembly is for the maintenance of the various departments, institutions, and other spending agencies of the State for the 2010-2011 budget as provided in G.S. 143C-3-5. This budget includes the appropriations of State funds as defined in G.S. 143C-1-1(d)(25).

The Director of the Budget submitted recommended adjustments to the budget to the General Assembly in April 2010 in the documents "The North Carolina State Budget, Recommended Operating Budget with Performance Management Information 2010-2011" for the 2010-2011 fiscal year for the various departments, institutions, and other spending agencies of the State. The adjustments to these documents made by the General Assembly are set out in the Committee Report.

SECTION 32.2.(c) The budget enacted by the General Assembly shall also be interpreted in accordance with G.S. 143C-5-5, the special provisions in this act, and other appropriate legislation.

In the event that there is a conflict between the line-item budget certified by the Director of the Budget and the budget enacted by the General Assembly, the budget enacted by the General Assembly shall prevail.

REPORT OF THE FISCAL RESEARCH DIVISION ON CHANGES TO THE 2010-2011 BUDGET

SECTION 32.2A. The Fiscal Research Division of the Legislative Services Commission may issue a report on budget actions taken by the 2010 Regular Session of the 2009 General Assembly. If a report is issued, it shall be in the form of a revision of the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets for Senate Bill 897, dated June 28, 2010, and shall include all modifications made to the 2010-2011 budget prior to sine die adjournment of the 2009 Regular Session. The Director of the Fiscal Research Division of the Legislative Services Commission shall send a copy of any such report it issues to the Director of the Budget, and the report shall be published on the General Assembly Web site for public review.

MOST TEXT APPLIES ONLY TO THE 2010-2011 FISCAL YEAR

SECTION 32.3. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2010-2011 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2010-2011 fiscal year.

EFFECT OF HEADINGS

SECTION 32.4. The headings to the parts and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act, except for effective dates referring to a part.

APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY

SECTION 32.5.(a) Except where expressly repealed or amended by this act, the provisions of S.L. 2009-451 and S.L. 2009-575 remain in effect.

SECTION 32.5.(b) Notwithstanding any modifications by this act in the amounts appropriated, except where expressly repealed or amended, the limitations and directions for the 2010-2011 fiscal year in S.L. 2009-451 and S.L. 2009-575 that applied to appropriations to particular agencies or for particular purposes apply to the newly enacted appropriations and budget reductions of this act for those same particular purposes.

SEVERABILITY CLAUSE

SECTION 32.6. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

EFFECTIVE DATE

SECTION 32.7. Except as otherwise provided, this act becomes effective July 1, 2010.

In the General Assembly read three times and ratified this the 30th day of June, 2010.

Became law upon approval of the Governor at 5:55 p.m. on the 30th day of June, 2010.

Session Law 2010-32

S.B. 35

AN ACT TO PROVIDE THAT TRANSFER FEE COVENANTS DO NOT RUN WITH THE TITLE TO REAL PROPERTY AND ARE NOT BINDING ON OR ENFORCEABLE AGAINST ANY SUBSEQUENT OWNER, PURCHASER, OR MORTGAGEE.

The General Assembly of North Carolina enacts:

SECTION 1. The General Statutes are amended by adding a new Chapter to read:

"Chapter 39A.**"Transfer Fee Covenants Prohibited.****"§ 39A-1. Public policy.**

(a) The public policy of this State favors the marketability of real property and the transferability of interests in real property free from title defects, unreasonable restraints on alienation, and covenants or servitudes that do not touch and concern the property.

(b) A transfer fee covenant violates this public policy by impairing the marketability of title to the affected real property and constitutes an unreasonable restraint on alienation and transferability of property, regardless of the duration of the covenant or the amount of the transfer fee set forth in the covenant.

"§ 39A-2. Definitions.

As used in this Chapter:

- (1) "Transfer" means the sale, gift, conveyance, assignment, inheritance, or other transfer of an ownership interest in real property located in this State.
- (2) "Transfer fee" means a fee or charge payable upon the transfer of an interest in real property or payable for the right to make or accept such transfer, regardless of whether the fee or charge is a fixed amount or is determined as a percentage of the value of the property, the purchase price, or other

consideration given for the transfer. The following shall not be considered a "transfer fee" for the purposes of this Chapter:

- a. Any consideration payable by the grantee to the grantor for the interest in real property being transferred, including any subsequent additional consideration for the property payable by the grantee based upon any subsequent appreciation, development, or sale of the property that, once paid, shall not bind successors in title to the property.
 - b. Any commission payable to a licensed real estate broker for the transfer of real property pursuant to an agreement between the broker and the transferor or transferee, including any subsequent additional commission for the transfer payable by the transferor or the transferee based upon any subsequent additional commission payable by the transferor based upon any subsequent appreciation, development, or sale of the property.
 - c. Any interest, charges, fees, or other amounts payable by a borrower to a lender pursuant to a loan secured by a mortgage against real property, including any fee payable to the lender for consenting to an assumption of the loan or a transfer of the real property subject to the mortgage, any fees or charges payable to the lender for estoppel letters or certificates, and any other consideration allowed by law and payable to the lender in connection with the loan.
 - d. Any rent, reimbursement, charge, fee, or other amount payable by a lessee to a lessor under a lease, including any fee payable to the lessor for consenting to an assignment, subletting, encumbrance, or transfer of the lease.
 - e. Any consideration payable to the holder of an option to purchase an interest in real property or the holder of a right of first refusal or first offer to purchase an interest in real property for waiving, releasing, or not exercising the option or right upon the transfer of the property to another person.
 - f. Any tax, fee, charge, assessment, fine, or other amount payable to or imposed by a governmental authority.
 - g. Any fee charged that is a typical real estate closing cost, including closing or escrow fees, settlement fees, attorney fees, or title insurance premiums and fees.
 - h. Any reasonable fee charged for the preparation of statements of unpaid assessments pursuant to G.S. 47F-3-102(13) or resale certificates or statements of unpaid assessments pursuant to G.S. 47C-3-102(12).
 - i. Any reasonable fee payable by the original transferee to a unit owners' association as defined in G.S. 47C-1-103(3), or owners' association as defined in G.S. 47F-1-103(3), as long as no portion of the fee is required to be passed through to a third party designated or identifiable by description in the document or another document referenced therein.
 - j. Any fee payable as part of a conservation or preservation agreement as provided in G.S. 121-38(e).
- (3) "Transfer fee covenant" means a declaration or covenant purporting to affect real property that requires or purports to require the payment of a transfer fee to the declarant or other person specified in the declaration or covenant or to their successors or assigns, upon a subsequent transfer of an interest in the real property.

"§ 39A-3. Transfer fee covenants prohibited.

(a) Any transfer fee covenant or any lien that is filed to enforce a transfer fee covenant or purports to secure payment of a transfer fee, shall not run with the title to real property and is not binding on or enforceable at law or in equity against any subsequent owner, purchaser, or mortgagee of any interest in real property as an equitable servitude or otherwise.

(b) A person who records a transfer fee covenant, files a lien that purports to secure payment of a transfer fee, or enters into an agreement imposing a private transfer fee obligation shall be liable for:

- (1) Any and all damages resulting from the imposition of the transfer fee obligation on the transfer of an interest in the real property, including the amount of any transfer fee paid by a party to the transfer.
- (2) All attorney fees, expenses, and costs incurred by a party to the transfer or mortgagee of the real property to recover the transfer fee paid or in connection with an action to quiet title or register the title or a proceeding subsequent to initial registration. If an agent acts on behalf of a principal to file or secure a private transfer fee obligation, liability shall be assessed to the principal, but not to the agent."

SECTION 2. Nothing in this act shall be interpreted to mean that a transfer fee covenant recorded prior to the effective date of this act is valid or enforceable.

SECTION 3. This act is effective when it becomes law and applies to: (i) any transfer fee covenant that is recorded after the effective date of this act; (ii) any lien that is filed to enforce a transfer fee covenant that is recorded after the effective date of this act or purports to secure payment of a transfer fee that is recorded after the effective date of this act; and (iii) any agreement imposing a private transfer fee obligation entered into after the effective date of this act.

In the General Assembly read three times and ratified this the 24th day of June, 2010.

Became law upon approval of the Governor at 9:00 a.m. on the 1st day of July, 2010.

Session Law 2010-33

H.B. 1864

AN ACT REMOVING THE HIGH SCHOOL GRADUATION PROJECT AS A REQUIREMENT FOR GRADUATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-81(b) reads as rewritten:

"(b) The Basic Education Program shall include course requirements and descriptions similar in format to materials previously contained in the standard course of study and it shall provide:

- (1) A core curriculum for all students that takes into account the special needs of children;
- (2) A set of competencies, by grade level, for each curriculum area;
- (3) A list of textbooks for use in providing the curriculum;
- (4) Standards for student performance and promotion based on the mastery of competencies, including standards for graduation, that take into account children with disabilities and, in particular, include appropriate modifications;
- (5) A program of remedial education;
- (6) Required support programs;
- (7) A definition of the instructional day;
- (8) Class size recommendations and requirements;
- (9) Prescribed staffing allotment ratios;
- (10) Material and equipment allotment ratios;

- (11) Facilities guidelines that reflect educational program appropriateness, long-term cost efficiency, and safety considerations; and
- (12) Any other information the Board considers appropriate and necessary.

The State Board shall not adopt or enforce any rule that requires Algebra I as a graduation standard or as a requirement for a high school diploma for any student whose individualized education program (i) identifies the student as learning disabled in the area of mathematics and (ii) states that this learning disability will prevent the student from mastering Algebra I.

The State Board shall not require any student to prepare a high school graduation project as a condition of graduation from high school ~~prior to July 1, 2011; school;~~ local boards of education may, however, require their students to complete a high school graduation project."

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

In the General Assembly read three times and ratified this the 21st day of June, 2010.

Became law upon approval of the Governor at 9:05 a.m. on the 1st day of July, 2010.

Session Law 2010-34

S.B. 66

AN ACT TO PROVIDE A COMPREHENSIVE ARTS EDUCATION PLAN.

Whereas, North Carolina's economy needs a workforce that is not only educated but able to excel in 21st century skills, including innovation and creativity; and

Whereas, arts education has been demonstrated to increase the motivation and engagement required to obtain the skills and knowledge necessary for high school graduation; and

Whereas, arts education can close achievement gaps and improve academic skills in math and science, reading and language development, and other areas of the curriculum; and

Whereas, arts education accelerates student performance, teaches discipline and teamwork, improves self-esteem, and gives students a reason to stay in school; and

Whereas, arts education is an essential component of a comprehensive, rigorous, and balanced education for all children in North Carolina's schools; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The State Board of Education shall appoint a task force of members from the Department of Public Instruction and the Department of Cultural Resources to create a Comprehensive Arts Education Development plan for the public schools in North Carolina. In addition to members appointed by the State Board of Education, the task force shall include at least one member of the House of Representatives appointed by the Speaker and at least one member of the Senate appointed by the President Pro Tempore.

SECTION 2. The task force shall specifically consider policies to implement arts education in the public schools as defined in the existing Basic Education Program under G.S. 115C-81, to include (i) an arts requirement in grades K-5, (ii) availability of all four arts disciplines in grades 6-8, with students required to take at least one arts discipline each school year, and (iii) availability of electives in the arts at the high school level. The task force shall further consider a high school graduation requirement in the arts and the further development of the A+ Schools Program. The task force shall submit its recommendations, including any proposed legislation, to the Joint Legislative Education Oversight Committee no later than December 1, 2010.

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

In the General Assembly read three times and ratified this the 24th day of June, 2010.

Became law upon approval of the Governor at 9:08 a.m. on the 1st day of July, 2010.

Session Law 2010-35**H.B. 901**

AN ACT DIRECTING THE STATE BOARD OF EDUCATION TO DEVELOP OR IDENTIFY ACADEMICALLY RIGOROUS HONORS-LEVEL COURSES IN HEALTHFUL LIVING EDUCATION THAT CAN BE OFFERED AT THE HIGH SCHOOL LEVEL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-81 is amended by adding a new subsection to read:

"(e2) Honors-Level Courses in Healthful Living Education to be Developed and Administered. – The State Board of Education shall develop or identify academically rigorous honors-level courses in healthful living education that can be offered at the high school level. These honors-level courses shall be more rigorous than standard-level courses, include advanced content, provide multiple opportunities for students to take greater responsibility for their learning, and require higher quality work from the students than standard courses."

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

In the General Assembly read three times and ratified this the 28th day of June, 2010.

Became law upon approval of the Governor at 9:10 a.m. on the 1st day of July, 2010.

Session Law 2010-36**H.B. 1683**

AN ACT TO DELAY THE SUNSET OF AN ACT PERTAINING TO THE DISCIPLINE AND HOMEBOUND INSTRUCTION OF STUDENTS WITH DISABILITIES AS RECOMMENDED BY THE JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 5 of S.L. 2008-90 reads as rewritten:

"SECTION 5. Section 3 of this act becomes effective January 1, 2009, and expires ~~March 1, 2011.~~ June 1, 2013. The remainder of this act is effective when it becomes law."

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

In the General Assembly read three times and ratified this the 28th day of June, 2010.

Became law upon approval of the Governor at 9:14 a.m. on the 1st day of July, 2010.

Session Law 2010-37**S.B. 595**

AN ACT TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO ACCEPT AND USE MUNICIPAL FUNDING FOR PEDESTRIAN SAFETY IMPROVEMENTS ON STATE ROADS WITHIN MUNICIPAL LIMITS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-66.3 is amended by adding a new subsection to read:

"(c4) Pedestrian Safety Improvements. – The Department of Transportation shall accept and use any funding provided by a municipal government for a pedestrian safety improvement project on a State road within the municipality's limits, provided the municipality funds one hundred percent (100%) of the project and the Department of Transportation retains the right to approve the design and oversee the construction, erection, or installation of the pedestrian safety improvement."

SECTION 2. This act becomes effective July 1, 2010.

In the General Assembly read three times and ratified this the 28th day of June, 2010.

Became law upon approval of the Governor at 9:16 a.m. on the 1st day of July, 2010.

Session Law 2010-38

H.B. 1998

AN ACT TO AUTHORIZE RECIPROCITY FOR SERVICE IN THE OPTIONAL RETIREMENT PROGRAM FOR MEMBERS OF THE TEACHERS AND STATE EMPLOYEES RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-4.1(a) reads as rewritten:

"(a) Only for the purpose of determining eligibility for benefits accruing under this Article, creditable service standing to the credit of a member of the Legislative Retirement System, Consolidated Judicial Retirement System, or the Local Governmental Employees' Retirement System or service standing to the credit of a member of the Optional Retirement Program shall be added to the creditable service standing to the credit of a member of this System; provided, that in the event a person is a retired member of any of the foregoing retirement systems, systems or the Optional Retirement Program, such creditable service standing or service standing to the credit of the retired member prior to retirement shall be likewise counted. In no instance shall service credits maintained in the aforementioned retirement systems or the Optional Retirement Program be added to the creditable service in this System for application of this System's benefit accrual rate in computing a service retirement benefit unless specifically authorized by this Article."

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

In the General Assembly read three times and ratified this the 28th day of June, 2010.

Became law upon approval of the Governor at 9:22 a.m. on the 1st day of July, 2010.

Session Law 2010-39

H.B. 1143

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO PRODUCE ALL MILITARY WARTIME VETERAN SPECIAL PLATES BASED ON DEFINED PERIODS OF WAR.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-79.4(b)(76) reads as rewritten:

"(76) Military Wartime Veteran. – Issuable to either a member or veteran of the armed services of the United States who served during a period of ~~war-war~~ who received a campaign or expeditionary ribbon or medal for their service. If the person is a veteran of the armed services, then the veteran must be separated from the armed services under honorable conditions. The plate shall bear a word or phrase identifying the period of war and a replica of the campaign badge or medal awarded for that war. ~~Except for World War II and Korean Conflict plates, the~~ The Division may not issue ~~a-the~~ the plate authorized by this subdivision unless it receives ~~at least a total of~~ at least a total of 300 applications for ~~that all~~ all periods of war, combined, to be represented on this plate. A "period of war" is any of the following:

- a. World War I, meaning the period beginning April 16, 1917, and ending November 11, 1918.
- b. World War II, meaning the period beginning December 7, 1941, and ending December 31, 1946.

- c. The Korean Conflict, meaning the period beginning June 27, 1950, and ending January 31, 1955.
- d. The Vietnam Era, meaning the period beginning August 5, 1964, and ending May 7, 1975.
- e. Desert Storm, meaning the period beginning August 2, 1990, and ending April 11, 1991.
- f. Operation Enduring Freedom, meaning the period beginning October 24, 2001, and ending at a date to be determined.
- g. Operation Iraqi Freedom, meaning the period beginning March 19, 2003, and ending at a date to be determined.
- h. Any other campaign, expedition, or engagement for which the United States Department of Defense authorizes a campaign badge or medal."

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

In the General Assembly read three times and ratified this the 28th day of June, 2010.

Became law upon approval of the Governor at 9:23 a.m. on the 1st day of July, 2010.

Session Law 2010-40

H.B. 1429

AN ACT TO EXTEND THE EFFECTIVE DATE FOR COMMISSIONER OF INSURANCE DISCRETION TO WAIVE THE MINIMUM POLICYHOLDERS POSITION REQUIREMENT UNDER CERTAIN CIRCUMSTANCES FOR MORTGAGE GUARANTY INSURERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-10-125(l) reads as rewritten:

"(l) Any waiver shall be (i) for a specified period of time not to exceed two years and (ii) subject to any terms and conditions that the Commissioner shall deem best suited to restoring the mortgage guaranty insurer's minimum policyholders position required by subsection (a) of this section. Notwithstanding any other provision in this section, the Commissioner shall not grant a waiver that would extend beyond ~~July 1, 2011~~ July 1, 2015."

SECTION 2. Section 2 of S.L. 2009-254 reads as rewritten:

"**SECTION 2.** This act becomes effective July 1, 2009, and expires ~~July 1, 2011~~ July 1, 2015."

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

In the General Assembly read three times and ratified this the 21st day of June, 2010.

Became law upon approval of the Governor at 9:26 a.m. on the 1st day of July, 2010.

Session Law 2010-41

S.B. 1198

AN ACT TO DIRECT THE EDUCATION CABINET TO SET AS A PRIORITY AN INCREASE IN THE NUMBER OF POSTSECONDARY CREDENTIALS IN THE FIELDS OF SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS AND TO SUPPORT EFFORTS TO ACHIEVE THAT PRIORITY, AS RECOMMENDED BY THE JOINT LEGISLATIVE JOINING OUR BUSINESSES AND SCHOOLS (JOBS) STUDY COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 116C of the General Statutes is amended by adding a new section to read:

"§ 116C-5. STEM education priorities.

(a) The Education Cabinet shall set as a priority an increase in the number of students earning postsecondary credentials in the fields of science, technology, engineering, and mathematics to reduce the gap between needed credentialed workers and available jobs in those fields by 2015.

(b) The Education Cabinet shall encourage cooperative efforts between secondary schools and institutions of higher education to prepare students for postsecondary study in science, technology, engineering, and mathematics, and shall identify and support efforts at institutions of higher education to increase the number of students seeking and successfully completing postsecondary certificates or degrees in those fields. The Education Cabinet shall monitor progress of those efforts.

(c) The Education Cabinet shall determine measurements for assessing the number of available jobs in the fields of science, technology, engineering, and mathematics in the State, and the number of students earning postsecondary credentials in the fields of science, technology, engineering, and mathematics at all institutions of higher education in the State, including community colleges and both public and private colleges and universities.

(d) The Education Cabinet shall identify federal, State, and local funds that may be used to support this priority. In addition, the Education Cabinet is strongly encouraged to pursue private funds that could be used to support this priority.

(e) The Education Cabinet shall report by November 1, 2011, and annually thereafter, on its activities under this section to the Joint Legislative Education Oversight Committee."

SECTION 2. The Education Cabinet shall report to the Joint Legislative Joining Our Business and Schools (JOBS) Study Commission by November 1, 2011, on measurements established under this section, efforts to reduce the identified gap, and sources of funding to support these efforts.

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

In the General Assembly read three times and ratified this the 24th day of June, 2010.

Became law upon approval of the Governor at 9:30 a.m. on the 1st day of July, 2010.

Session Law 2010-42**H.B. 1666**

AN ACT TO CHANGE THE NUMBER OF MEMBERS OF THE DAVIE COUNTY BOARD OF EDUCATION FROM SIX TO SEVEN AND CHANGE THE TERMS OF OFFICE FROM SIX YEARS TO FOUR YEARS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of Chapter 1242 of the 1967 Session Laws reads as rewritten:

"Section 1. The Board of Education of Davie County shall, on and after the first Monday in ~~April, 1969,~~ July 2012, consist of ~~six~~ seven members who shall be elected in the manner hereinafter provided."

SECTION 2. Section 2 of Chapter 1242 of the 1967 Session Laws reads as rewritten:

"Sec. 2. (a) At the same time the primary election for county officers is held in Davie County ~~in 1968, and biennially thereafter,~~ there shall be held a nonpartisan election to elect ~~two~~ members of the Board of Education of Davie ~~County, to serve for six-year terms.~~ County.

(b) In 2012, three members of the Davie County Board of Education shall be elected. The person receiving the highest numbers of votes is elected to a six-year term. The two persons receiving the next highest numbers of votes are elected to four-year terms.

(c) In 2014, two members of the Davie County Board of Education are elected to four-year terms.

(d) In 2016 and quadrennially thereafter, four members of the Davie County Board of Education are elected to four-year terms.

(e) In 2018 and quadrennially thereafter, three members of the Davie County Board of Education are elected to four-year terms."

SECTION 3. Section 3 of Chapter 1242 of the 1967 Session Laws reads as rewritten:

"Sec. 3. Each candidate shall file his candidacy, without reference to any political party affiliation, with the Chairman of the County Board of Elections within the time now provided for the filing of candidates for any other county office. A filing fee of five dollars (\$5.00) shall be paid by each candidate. There shall be a separate ballot provided by the County Board of Elections with the names of the candidates printed thereon with appropriate instructions for use in the election of members of the Board of Education, and no political party affiliation shall be shown on said ballot. ~~The two candidates receiving the highest number of votes in the election of 1968, and biennially thereafter, shall be certified as the duly elected members of the Board of Education."~~

SECTION 4. Section 4 of Chapter 1242 of the 1967 Session Laws, as amended by Chapter 5 of the 1979 Session Laws and Chapter 307 of the 1995 Session Laws, reads as rewritten:

"Sec. 4. ~~The two members of the Board of Education of Davie County elected in 1968 and biennially thereafter~~ shall be inducted into and take the oath of office on the first Monday in July following their election, and shall serve ~~for terms of six years and~~ until their successors are elected and qualified. ~~All members of the Board of Education of Davie County who are in office and acting as such members prior to the first Monday in April, 1969, shall complete their respective terms of office. The said Board of Education shall consist of six members serving six-year terms with two vacancies occurring every two years."~~

SECTION 5. This act is effective upon ratification. It does not affect the terms of office of persons elected, or appointed to fill terms elected, in 2006, 2008, or 2010.

In the General Assembly read three times and ratified this the 1st day of July, 2010.

Became law on the date it was ratified.

Session Law 2010-43

H.B. 1695

AN ACT TO REPEAL THE PROVISIONS ESTABLISHING THE WAYNESVILLE FIREMEN'S SUPPLEMENTAL RETIREMENT FUND.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 288 of the 1981 Session Laws is repealed.

SECTION 2. All funds remaining in the Waynesville Firemen's Supplemental Retirement Fund are transferred to the Board of Trustees of the Local Firemen's Relief Fund of the Town of Waynesville, to be held and administered as provided in Article 84 of Chapter 58 of the General Statutes.

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

In the General Assembly read three times and ratified this the 1st day of July, 2010.

Became law on the date it was ratified.

Session Law 2010-44

H.B. 1754

AN ACT TO AUTHORIZE DARE AND MCDOWELL COUNTIES TO REQUIRE THE PAYMENT OF DELINQUENT PROPERTY TAXES BEFORE RECORDING DEEDS CONVEYING PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 161-31(b) reads as rewritten:

"(b) Applicability. – This section applies only to Alexander, Anson, Beaufort, Bertie, Burke, Cabarrus, Camden, Carteret, Caswell, Catawba, Cherokee, Chowan, Clay, Cleveland, Currituck, Dare, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Gaston, Gates, Graham, Granville, Greene, Halifax, Harnett, Haywood, Henderson, Hertford, Hyde, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, Macon, Madison, Martin, McDowell, Montgomery, Nash, Northampton, Onslow, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Robeson, Rockingham, Rowan, Rutherford, Stanly, Surry, Swain, Transylvania, Tyrrell, Vance, Warren, Washington, Wayne, Wilson, and Yadkin Counties."

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

In the General Assembly read three times and ratified this the 1st day of July, 2010.
Became law on the date it was ratified.

Session Law 2010-45

H.B. 1772

AN ACT TO CHANGE THE TERM OF OFFICE FOR MEMBERS OF THE CHEROKEE COUNTY BOARD OF EDUCATION ELECTED IN 2010 AND THEREAFTER FROM SIX YEARS TO FOUR YEARS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 7 of Chapter 502 of the 1975 Session Laws reads as rewritten:

"**Sec. 7.** All members of the Cherokee County Board of Education elected under the provisions of this act shall serve for terms of ~~six~~four years each and until their successors are elected and qualified. As the term of each member expires, ~~his~~the member's successor shall be elected for a term of ~~six~~four years."

SECTION 2. Sections 4 through 6 of Chapter 502 of the 1975 Session Laws read as rewritten:

"**Sec. 4.** In the year of ~~1976, there shall be elected, 2012 and quadrennially thereafter,~~ as hereinafter provided, two members of the county board of education from District No. 1 and one member from District No. 2, all of whom shall be residents of the district which they are elected to represent.

"**Sec. 5.** In the year of ~~1978, 2014 and quadrennially thereafter,~~ there shall be elected, as hereinafter provided, one member of the county board of education from District No. 2, and one member from the county at large. The member from District No. 2 shall be a resident of the district which ~~he~~the member is elected to represent. The member at large shall not be required to reside in or represent any one particular district.

"**Sec. 6.** In the year of ~~1980, 2010 and quadrennially thereafter,~~ there shall be elected, as hereinafter provided, two members of the county board of education from District No. 3, which members shall be residents of the district which they are elected to represent."

SECTION 3. This act is effective upon certification of election of the Cherokee County Board of Education elected in 2010 and does not affect the term of office of members elected in 2004, 2006, or 2008.

In the General Assembly read three times and ratified this the 1st day of July, 2010.
Became law on the date it was ratified.

Session Law 2010-46

H.B. 1821

AN ACT TO ALLOW THE TOWN OF WILLIAMSTON TO USE MOTORIZED ALL-TERRAIN VEHICLES ON CERTAIN HIGHWAYS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-171.24(f) reads as rewritten:

"(f) This section applies to the Towns of Ansonville, Atlantic Beach, Burgaw, Carolina Beach, Cramerton, Dallas, Davidson, Duck, Emerald Isle, Franklin, Indian Beach, Kill Devil Hills, Kitty Hawk, Kure Beach, Lowell, Manteo, Murphy, Nags Head, North Topsail Beach, Oakboro, Ocean Isle Beach, Pine Knoll Shores, Stanley, Surf City, Sylva, Topsail Beach, Williamston, and Wrightsville Beach, the Cities of Albemarle, Belmont, Cherryville, Gastonia, Kings Mountain, Mount Holly, and Rockingham and the Counties of Cleveland, Currituck, Gaston, Surry, and Wilkes only."

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

In the General Assembly read three times and ratified this the 1st day of July, 2010.

Became law on the date it was ratified.

Session Law 2010-47

H.B. 1910

AN ACT TO ALLOW THE CITY OF SHELBY TO INSPECT CLEVELAND COUNTY VEHICLES REQUIRING EMISSIONS AND SAFETY INSPECTIONS UNDER THE CITY'S SELF-INSPECTOR LICENSE.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the provisions G.S. 20-183.4(d) and G.S. 20-183.4A(d), the City of Shelby is authorized to conduct emissions and safety inspections of vehicles owned and operated by Cleveland County, at its self-inspection station. All other provisions of Chapter 20 regulating emissions and safety inspections still apply to the City of Shelby and its inspectors.

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

In the General Assembly read three times and ratified this the 1st day of July, 2010.

Became law on the date it was ratified.

Session Law 2010-48

H.B. 2056

AN ACT TO HAVE THE OFFICE OF CORONER IN RUTHERFORD COUNTY VACATED AT THE END OF THE CURRENT TERM.

The General Assembly of North Carolina enacts:

SECTION 1. The office of coroner in Rutherford County is vacated.

SECTION 2. Chapter 152 of the General Statutes is not applicable to Rutherford County.

SECTION 3. This act becomes effective December 6, 2010, and the current election for coroner now proceeding shall be null and void.

In the General Assembly read three times and ratified this the 1st day of July, 2010.

Became law on the date it was ratified.

Session Law 2010-49

H.B. 1307

AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO PROVIDE THAT NO PERSON CONVICTED OF A FELONY IS ELIGIBLE TO BE ELECTED SHERIFF.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of Article VII of the Constitution of North Carolina reads as rewritten:

"Sec. 2. Sheriffs.

In each county a Sheriff shall be elected by the qualified voters thereof at the same time and places as members of the General Assembly are elected and shall hold his office for a period of

four years, subject to removal for cause as provided by law. No person is eligible to serve as Sheriff if that person has been convicted of a felony against this State, the United States, or another state, whether or not that person has been restored to the rights of citizenship in the manner prescribed by law. Convicted of a felony includes the entry of a plea of guilty; a verdict or finding of guilt by a jury, judge, magistrate, or other adjudicating body, tribunal, or official, either civilian or military; or a plea of no contest, nolo contendere, or the equivalent."

SECTION 2. The amendment set out in this act shall be submitted to the qualified voters of the State at the statewide general election on November 2, 2010, which election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The question to be used in the voting systems and ballots shall be:

"[] FOR [] AGAINST

Constitutional amendment providing that no person convicted of a felony may serve as Sheriff."

SECTION 3. If a majority of votes cast on the question are in favor of the constitutional amendment set out in this act, the State Board of Elections shall certify the amendment to the Secretary of State. The constitutional amendment is effective upon certification. The Secretary of State shall enroll the amendments so certified among the permanent records of that office.

In the General Assembly read three times and ratified this the 1st day of July, 2010.
Became law on the date it was ratified.

Session Law 2010-50

S.B. 1331

AN ACT TO ALLOW THE CITY OF FAYETTEVILLE TO USE WHEEL LOCKS TO ENFORCE PARKING REGULATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3 of S.L. 2003-240, as amended by S.L. 2007-330, reads as rewritten:

"**SECTION 3.** Section 1 of this act applies to the City of Fayetteville and the Towns of Boiling Springs, Carolina Beach, and Wrightsville Beach only.

SECTION 2. Section 1 of S.L. 2003-240 reads as rewritten:

"**SECTION 1.** The council of a city may provide, by ordinance, for the use of wheel locks on illegally parked vehicles within the designated area, for which there are three or more outstanding, unpaid, and overdue parking tickets issued on at least three separate days. The ordinance shall provide for notice or warning to be affixed to the vehicle, notice to be sent to the registered owner of the vehicle by mail, immobilization, towing, impoundment, appeal hearing, an immobilization fee not to exceed fifty dollars (\$50.00), and charges for towing and storage. The city shall not be responsible for any damage to an immobilized illegally parked vehicle resulting from unauthorized attempts to free or move that vehicle."

SECTION 3. Section 2 of this act applies to the City of Fayetteville only.

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

In the General Assembly read three times and ratified this the 1st day of July, 2010.
Became law on the date it was ratified.

Session Law 2010-51

H.B. 664

AN ACT TO REQUIRE THE REGISTER OF DEEDS OF AVERY COUNTY TO REFUSE RECORDATION OF A DEED FOR PROPERTY SUBJECT TO DELINQUENT MUNICIPAL PROPERTY TAXES FOR THE VILLAGE OF SUGAR MOUNTAIN.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of Chapter 305 of the 1963 Session Laws, as rewritten by Section 7 of S.L. 1997-410 and Section 1 of S.L. 1998-73, reads as rewritten:

"Section 1. The Register of Deeds of Avery County shall not receive for recordation any deed unless the following conditions are met:

- (1) The deed is accompanied by a certificate from the Avery County Tax Collector to the effect that all delinquent county taxes and all delinquent taxes for municipalities for which the county collects taxes have been paid with respect to the property described in the deed.
- (2) If the property described in the deed is located in whole or in part in the Town of Newland, the deed is accompanied by a certificate from the tax collector for the town to the effect that all delinquent municipal taxes have been paid with respect to the property.
- (3) If the property described in the deed is located in whole or in part in the Town of Banner Elk, the deed is accompanied by a certificate from the tax collector for the town to the effect that all delinquent municipal taxes have been paid with respect to the property.
- (4) If the property described in the deed is located in whole or in part in the Village of Sugar Mountain, the deed is accompanied by a certificate from the tax collector for the village to the effect that all delinquent municipal taxes have been paid with respect to the property."

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

In the General Assembly read three times and ratified this the 1st day of July, 2010.

Became law on the date it was ratified.

Session Law 2010-52

H.B. 1919

AN ACT AUTHORIZING THE TOWN OF MATTHEWS TO PARTICIPATE IN A PUBLIC-PRIVATE DEVELOPMENT PROJECT OUTSIDE THE DOWNTOWN AREA.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Definition. – For purposes of this act, a "public-private development project" is defined as a capital project that is: (i) located in either the Town's central business district, as defined by the Town's Board of Commissioners, located in or along a major transportation corridor, or located in a development zone designated pursuant to G.S. 105-129.3A; (ii) comprised of one or more buildings or other improvements; and (iii) includes both public and private facilities. By way of illustration but not limitation, such a project might include a single building comprising a publicly owned parking structure and publicly owned convention center and a privately owned hotel or office building or publicly or privately owned sports complex facility.

SECTION 1.(b) Authorization. – If the Town Board of Commissioners finds that it is likely to be of significant economic benefit to the area of the Town where the project is to be located, the Town may acquire, construct, own, and operate or participate in the acquisition, construction, ownership, and operation of a public-private development project or of specific facilities within the project. The Town may enter into binding contracts with one or more private developers with respect to acquiring, constructing, owning, or operating the project. The contract may, among other provisions, specify the following:

- (1) The property interests of both the Town and the developer or developers in the project.
- (2) The responsibilities of the Town and the developer or developers for construction of the project.
- (3) The responsibilities of the Town and the developer or developers with respect to financing the project.

- (4) The responsibilities of the Town and the developer or developers with respect to the operation of the project.

The contract may be entered into before the acquisition of any real property necessary to the project.

SECTION 1.(c) Project Acquisition. – A public-private development project may be constructed on property acquired by the developer or developers or on property directly acquired by the Town by purchase.

SECTION 1.(d) Property Disposition. – In connection with a public-private development project, the Town may lease or convey interests in property owned by it, including air rights over public facilities, by private negotiation or sale, and Article 12 of Chapter 160A of the General Statutes shall not apply to the dispositions.

SECTION 1.(e) Construction of the Project. – The contract between the Town and the developer or developers may provide that the developer or developers shall be responsible for construction of the entire public-private development project. If so, the contract shall include such provisions as the Town Board of Commissioners deems sufficient to assure that the public facility or facilities included in the project meet the needs of the Town and are constructed at a reasonable price. A project constructed pursuant to this subsection is not subject to Article 8 of Chapter 143 of the General Statutes, provided that Town funds constitute no more than fifty percent (50%) of the total costs of the project. Notwithstanding the foregoing, payment bonds pursuant to G.S. 143-129 and Article 3 of Chapter 44A shall be provided for the contract or contracts for the construction of the entire public-private development project, regardless of whether the property upon which the project is developed is public or private lands or whether the funds used to construct the project are public or private funds.

SECTION 1.(f) Operation. – The Town may contract for the operation of any public facility or facilities included in a public-private development project by a person, partnership, firm, or corporation, public or private. The contract shall include provisions sufficient to assure that any such facility or facilities are operated for the benefit of the citizens of the Town.

SECTION 1.(g) Grant Funds. – To assist in the financing of its share of a public-private development project, the Town may apply for, accept, and expend grant funds from the federal or State government.

SECTION 2. This act only applies to one project within the corporate limits of the Town of Matthews that includes a sports facility and a family entertainment complex and the extension of Greylock Ridge Road.

SECTION 3. This act applies to the Town of Matthews only.

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

In the General Assembly read three times and ratified this the 1st day of July, 2010.

Became law on the date it was ratified.

Session Law 2010-53

S.B. 1121

AN ACT AMENDING THE CHARTER OF THE CITY OF BURLINGTON TO AUTHORIZE THE CITY COUNCIL TO LEASE CITY-OWNED REAL PROPERTY IN ITS MUNICIPAL SERVICE DISTRICTS, FOR SUCH CONSIDERATION, UPON SUCH TERMS, AND UNDER SUCH CONDITIONS AS DETERMINED BY THE CITY COUNCIL.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2 of Subchapter E of Chapter IV of the Charter of the City of Burlington, being Chapter 119 of the 1961 Session Laws, is amended by adding a new section to read:

"Section 4.161.1. Lease of real property in municipal service districts.

(a) Notwithstanding the provisions of G.S. 160A-272, the city council may, in its discretion, lease city-owned property in its municipal service districts established pursuant to Article 23 of Chapter 160A of the General Statutes for such consideration and upon such terms and conditions as the city council may determine, including terms of more than 10 years in accordance with the procedures of this subsection. Before leasing its interest in property owned in its municipal service districts, the city shall hold a public hearing. The city shall publish notice of the public hearing at least 10 days before the hearing is held; the notice shall describe the property being leased, the terms and conditions of the lease, the proposed consideration and the city council's intention to approve the lease.

(b) The provisions of this Section shall be construed in addition to all other provisions of law authorizing or prescribing the method of leasing property owned by the city."

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

In the General Assembly read three times and ratified this the 6th day of July, 2010.

Became law on the date it was ratified.

Session Law 2010-54

S.B. 1421

AN ACT AUTHORIZING THE TOWN OF FOREST CITY TO CONVEY CERTAIN DESCRIBED PROPERTY BY PRIVATE SALE OR LONG-TERM LEASE.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the provisions of Article 12 of Chapter 160A of the General Statutes, the Town of Forest City may convey by private negotiation and sale or by lease for a term of more than 10 years, with or without monetary consideration, under the terms and conditions it deems proper, any or all of its right, title, and interest in the following described property to The Challenge Foundation Properties of North Carolina, LLC or Thomas Jefferson Classical Academy for the purpose of operating a public school, including a public charter school:

Lying and being in the Town of Forest City, Rutherford County, North Carolina, and being more particularly described as follows:

BEGINNING at a four inch pipe found, a corner of the property of Quality Oil Co Inc. (now or formerly) as described in Deed Book 773, Page 769 in the Rutherford County Public Registry (hereinafter the "Registry"), having Grid Coordinates of N=578282.32' E=1147512.98', said pipe found being located S. 66-24-38 W. 9,420.34 feet from N.C.G.S. Monument "Burl" having Grid Coordinates of N=582052.14' E=1156146.13'; thence, from the point of Beginning, N. 82-34-47 E. 2.69 feet to a point in the assumed western margin of the right-of-way of S. Broadway Street (U.S. Highway 221-A); thence, with and along the assumed western margin of the right-of-way of S. Broadway Street, the following four (4) courses and distances: (1) N. 30-17-18 W. 100.40 feet to a point; (2) with the arc of a circular curve to the right having a radius of 1,506.11 feet, an arc length of 484.23 feet and a chord bearing and distance N. 21-04-40 W. 482.14 feet to a point; (3) S. 88-09-32 W. 5.83 feet to a bent rebar found in concrete; and (4) N. 09-29-05 W. 226.66 feet to a 3 inch pipe found at the intersection of the assumed western margin of the right-of-way of S. Broadway Street and the assumed southern margin of the right-of-way of Pointer Drive (S.R. 2160); thence, with and along the assumed southern margin of the right-of-way of Pointer Drive, N. 85-43-43 W. 323.13 feet to a bent rebar found, a corner of the property of Heritage Village Ltd (now or formerly) as described in Book 437, Page 347 in the Registry; thence, with and along the boundary line of the property of Heritage Village Ltd., the following five (5) courses and distances: (1) S. 04-23-11 W. 218.32 feet to a #5 rebar set; (2) N. 82-21-00 W. 125.05 feet to a flat iron found; (3) S. 07-13-25 W. 139.85 feet to a flat iron found; (4) N. 82-51-58 W. 169.83 feet to a flat iron found; and (5) N. 05-30-32 E. 363.27 feet to a bent pipe found in the assumed southern margin of the right-of-way of Pointer Drive; thence, with and along the assumed southern margin of the right-of-way of Pointer Drive, N. 83-49-28 W. 367.86 feet to a 3 inch pipe found, a corner of

the property of Charles R. Summey and Peggy P. Summey (now or formerly) as described in Book 224, Page 591 in the Registry; thence, with and along the boundary line of the property of Charles R. Summey and Peggy P. Summey, S. 03-51-02 W. 939.90 feet to a tall pipe found, a corner of the property of Robert L. Hensley, Jr. and Linda J. Smith (now or formerly) as described in Book 719, Page 447 in the Registry; thence, with and along the boundary line of the property of Robert L. Hensley, Jr. and Linda J. Smith, N. 78-59-22 E. 470.19 feet to a bent pipe found, a corner of the property of Billie Forehand Beavers (now or formerly) as described in Book 835, Page 557 in the Registry; thence, with and along the boundary line of the property of Billie Forehand Beavers, N. 79-05-42 E. 104.99 feet to a bent pipe found, a corner of the property of Helen S. Price (now or formerly) as described in Book 817, Page 711 in the Registry; thence, with and along the boundary line of the property of Helen S. Price, the following two (2) courses and distances: (1) N. 31-37-10 W. 83.79 feet to a #4 rebar found; and (2) N. 78-03-56 E. 94.89 feet to a #4 rebar found, a corner of the property of Hazel W. Shires (now or formerly) as described in Book 817, Page 07 in the Registry; thence, with and along the boundary line of the property of Hazel W. Shires, N. 78-01-14 E. 92.02 feet to a rebar w/cap found, a corner of the property of Iva I. Williams (now or formerly) as described in Book 817, Page 703 in the Registry; thence, with and along the boundary line of the property of Iva I. Williams, the following three (3) courses and distances: (1) S. 85-07-58 E. 134.90 feet to a rebar w/cap found; (2) S. 26-41-12 E. 103.00 feet to point (passing a rebar w/cap found at 94.26 feet); and (3) S. 52-39-19 W. 71.50 feet to a big pipe found, a corner of the property of Rutherford County Arts Council Inc. (now or formerly) described in Book 779, Page 85 in the Registry; thence, with and along the boundary line of the property of Rutherford County Arts Council Inc., S. 26-10-41 E. 66.37 to a big pipe found, a corner of the property of Rutherford County Arts Council Inc. (now or formerly) as described in Book 715, Page 463 in the Registry; thence, with and along the boundary line of the property of Rutherford County Arts Council Inc. (Book 715, Page 463), N. 82-47-30 E. 298.73 feet to a #4 rebar found, a corner of the property of Quality Oil Co Inc. (now or formerly) as described in Book 773, Page 769 in the Registry; thence, with and along the boundary line of the property of Quality Oil Co Inc., N. 82-34-47 E. 155.75 to a 4 inch pipe found, the point and place of BEGINNING, containing 18.07 acres, more or less, as shown on an ALTA/ACSM Land Title Survey dated October 8, 2008, and last revised November 4, 2008, prepared by Lattimore & Peeler Surveying, Dobbin Lattimore, NCPLS, License Number L-3336.

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

In the General Assembly read three times and ratified this the 6th day of July, 2010.

Became law on the date it was ratified.

Session Law 2010-55

H.B. 2042

AN ACT TO AUTHORIZE THE CITY OF SANFORD TO CONVEY BY PRIVATE SALE ITS REMAINING INTEREST IN A PARCEL OF LAND; AND TO PROVIDE THAT THE CITY OF KING MAY PROHIBIT THE ISSUANCE OF A BUILDING PERMIT TO A DELINQUENT TAXPAYER.

The General Assembly of North Carolina enacts:

SECTION 1. The City of Sanford may convey by private sale all remaining interest it may have in the property described in a deed found at Deed Book 549, page 415, in the Lee County Register of Deeds Office, to the Grantee described in that deed.

SECTION 2. Section 1 of Session Law 2009-68 reads as rewritten:

"**SECTION 1.** This act applies only to the City of King and to the Towns of Columbia and Edenton."

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

In the General Assembly read three times and ratified this the 6th day of July, 2010.

Became law on the date it was ratified.

Session Law 2010-56**S.B. 650**

AN ACT TO ALLOW A MEMBER OF THE CHATHAM COUNTY SCHOOL BOARD TO COMPLETE THE CURRENT TERM OF OFFICE DESPITE A MAPPING ERROR WHICH CAUSED HER TO BE ELECTED IN A DISTRICT WHERE SHE DID NOT RESIDE, AND TO VALIDATE ACTIONS OF THAT BOARD.

Whereas, Chapter 80 of the Session Laws of 1995 sets out the boundaries of the four districts for the Chatham County Board of Education; and

Whereas, when Abeyance Road, Ruby Red Road, and Altadore Crescent were laid out in the 1990s, Chatham County geocoded the addresses to be in District 3 when in fact those addresses are in District 2; and when Kathie Russell and 46 other current voters on those streets registered to vote, they were automatically placed in District 3 when their addresses were entered into the voter registration database; and

Whereas, in 2006 Kathie Russell ran for and was elected to the Chatham County Board of Education District 3 for a four-year term ending in December of 2010; and

Whereas, in late 2009, Chatham County examined its mapping database and discovered the error, and the 47 voters were moved by administrative action from District 3 to District 2; and

Whereas, this error is manifestly unfair to the residents of those three roads and calls into question actions of the Chatham County Board of Education the last three years and the continued eligibility of Kathie Russell to serve the remainder of her term, and the General Assembly desires to let her complete her term and validate actions of the board; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. All actions of the Chatham County Board of Education from the beginning of the terms of office in 2006 to the date this act becomes law are not affected by the place of residence of Kathie Russell, who may serve the remainder of her term as long as she continues as a resident at her current address.

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

In the General Assembly read three times and ratified this the 7th day of July, 2010.
Became law on the date it was ratified.

Session Law 2010-57**S.B. 1114**

AN ACT EXEMPTING THE TOWNS OF CHAPEL HILL AND CARRBORO AND THE CITY OF ASHEVILLE FROM COMPETITIVE BIDDING REQUIREMENTS WHEN LETTING CONTRACTS FOR USE AS PART OF LOCAL PILOT PROGRAMS AIMED AT INCREASING ENERGY EFFICIENCY, AND TO AUTHORIZE THE TOWNS OF CHAPEL HILL AND CARRBORO AND THE CITY OF ASHEVILLE TO ENTER INTO LEASES FOR THE SITING AND OPERATION OF A RENEWABLE ENERGY FACILITY FOR UP TO TWENTY YEARS WITHOUT TREATING IT AS A SALE AND WITHOUT GIVING NOTICE BY PUBLICATION.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 2007-333, as rewritten by Section 1 of S.L. 2009-149, reads as rewritten:

"**SECTION 1.(a)** ~~The City of Raleigh~~ A municipality or county may contract for apparatus, supplies, materials, or equipment that will be used as part of any pilot program authorized by ~~the City Council~~ its governing board aimed at increasing energy efficiency without being subject to the requirements of G.S. 143-129, 143-131, and 143-132.

Notwithstanding any provision of law, ~~the City~~ a municipality or county may award a contract under this section in its sole discretion.

"SECTION 1.(b) This section applies to the Cities of Asheville and Raleigh and the Towns of Chapel Hill and Carrboro only."

SECTION 2. Section 3 of S.L. 2009-149 reads as rewritten:

"SECTION 3. Section 2 of this act applies to the ~~City~~Cities of Asheville, Raleigh and the City of Winston-Salem ~~Winston-Salem and the Towns of Chapel Hill and Carrboro only.~~"

SECTION 3. This act is effective when it becomes law and expires June 30, 2015.

In the General Assembly read three times and ratified this the 7th day of July, 2010.

Became law on the date it was ratified.

Session Law 2010-58

S.B. 1437

AN ACT TO PROVIDE FOR ANNUAL ELECTION OF A MAYOR PRO TEMPORE BY THE HIGHLANDS TOWN BOARD.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2.4 of the Charter of the Town of Highlands, being Chapter 519 of the Session Laws of 1991, reads as rewritten:

"Sec. 2.4. **Mayor Pro Tempore.** The Board shall elect one of its members as Mayor Pro Tempore to perform the duties of the Mayor during the Mayor's absence or disability, in accordance with general law. The Mayor Pro Tempore shall be elected by the board: (i) in the odd-numbered year at the organizational meeting following the regular municipal election, to serve until the first regular meeting in December of the next year, and (ii) in the even-numbered year at the first regular meeting in December of that year, to serve until the organizational meeting following the regular municipal election. In case of a vacancy, the board shall elect a Mayor Pro Tempore to serve the remainder of the unexpired term of that office. shall serve in such capacity until the organizational meeting following the next regular municipal election, despite the contrary provisions of G.S. 160A-70."

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

In the General Assembly read three times and ratified this the 7th day of July, 2010.

Became law on the date it was ratified.

Session Law 2010-59

H.B. 1736

AN ACT TO AUTHORIZE THE CITY OF LOCUST AND THE TOWNS OF NEW LONDON AND STANFIELD TO ATTACH PERSONAL PROPERTY, GARNISH WAGES, AND PLACE LIENS ON CERTAIN REAL PROPERTY TO COLLECT UNPAID FEES FOR SEWER SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. A city may adopt an ordinance providing that a fee charged by the city for sewer services and remaining unpaid for a period of 90 days may be collected in any manner by which delinquent personal or real property taxes can be collected. If the ordinance states that delinquent fees may be collected in the same manner as delinquent real property taxes, the delinquent fees are a lien on the real property owned by the person contracting with the city for the service, and the ordinance shall provide for an appeals process. If a lien is placed on real property, the lien shall be valid from the time of filing in the office of the clerk of superior court of the county in which the service was provided and shall include a statement containing the name and address of the person against whom the lien is claimed, the name of the city claiming the lien, the specific service that was provided, the amount of the unpaid charge for that service, and the date and place of furnishing that service. A lien on real property is not effective against an interest in real property conveyed after the fees become delinquent if

the interest is recorded in the office of the register of deeds prior to the filing of the lien for delinquent water or sewer services. No lien under this act shall be valid unless filed in accordance with this section after 90 days of the date of the failure to pay for the service or availability fees and within 180 days of the date of the failure to pay for the service or fees. The lien may be discharged as provided in G.S. 44-48.

The city shall adopt an appeals process providing notice and an opportunity to be heard in protest of the imposition of such liens. The county tax office, once notified of the city's lien, shall include the lien amount on any tax bills printed subsequent to the notification. The county tax office shall add or remove liens from the tax bill at the request of the city (such as in the case of an appeal where the city decides to cancel the lien).

SECTION 2. This act applies to the City of Locust and to the Towns of New London and Stanfield.

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

In the General Assembly read three times and ratified this the 7th day of July, 2010.

Became law on the date it was ratified.

Session Law 2010-60

H.B. 2052

AN ACT AUTHORIZING THE CITY COUNCIL OF THE CITY OF WINSTON-SALEM TO ESTABLISH AN EXEMPTION FROM ASSESSMENTS FOR LOTS OR PARCELS OF LAND ENCUMBERED BY A CITY OR COUNTY GREENWAY EASEMENT.

The General Assembly of North Carolina enacts:

SECTION 1. Section 14(c) of Chapter 224 of the Private Laws of 1927, as amended by Chapter 144 of the 1965 Session Laws, reads as rewritten:

~~"(e)-(c1)~~ *Water mains and sewers.* In the case of water mains and storm and sanitary sewers, the cost of not exceeding an eight-inch water or sanitary sewer main and of not exceeding a thirty inch storm sewer main and of such portion of said mains as lie within the limits of the street or streets, or part thereof, to be improved as provided in the petition or resolution ordering the same, shall be assessed against the abutting property. Such costs shall be assessed against the lots and parcels of land abutting on said street or streets, or parts thereof, according to their respective frontages thereon (i.e. the entire frontage benefited by the water or sanitary sewer project) by an equal rate per foot of such frontage: *Provided*, that in case of a corner lot, used as a single lot, where there is a water main or sewer already laid on the intersecting street on which such lot abuts and by which such lot is or can be served, no assessment shall be made against said lot for the second water main or sewer for any part of the frontage of said lot except that portion in excess of one hundred and fifty feet if said lot is in a residential section of the municipality, or in excess of one hundred feet if said lot is in a business section of the municipality, and in such case such portion of said cost as would otherwise be assessed against said lot shall be borne by the municipality: *Provided further*, that if a water or sanitary sewer main in excess of eight inches in size or a storm sewer main in excess of thirty inches in size is laid in said portion of said street or streets, then the cost of such water or sanitary sewer main in excess of the cost of an eight-inch main and the cost of such storm sewer main in excess of a thirty-inch main shall be borne by the municipality: *Provided further*, that if the resolution ordered by the construction of any pumping station, outfall, septic tank or disposal plant, no part of the cost of the same shall be specially assessed. Nothing contained herein shall be construed to limit the right of any municipality to contract with any property owner or owners for the construction of any pumping station, outfall, septic tank or disposal plant or for the construction of water mains or storm or sanitary sewers and for the assessment of the cost thereof according to the terms of such contract.

(c2) Notwithstanding the provisions of subsection (c1) of this section, in the case of water mains and storm and sanitary sewers, the city council or a board or commission designated by the city council shall have the authority to establish an exemption from

assessments for a lot or parcel of land that is encumbered by a city or county greenway easement or easements, according to the length of frontage so encumbered, provided that the exemption shall not exceed seventy-five percent (75%) of the total frontage of the lot or parcel of land."

SECTION 2. This act applies to the City of Winston-Salem only.

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

In the General Assembly read three times and ratified this the 7th day of July, 2010.

Became law on the date it was ratified.

Session Law 2010-61

S.B. 1362

AN ACT TO ENABLE THE TRANSITION OF PROPERTIES OF THE AREA ALONG THEIR COMMON BOUNDARY BETWEEN ALAMANCE COUNTY AND ORANGE COUNTY DUE TO THE 2008 NORTH CAROLINA GEODETIC SURVEY WORK THAT DEPICTED AND MONUMENTED THE HISTORIC ORANGE COUNTY/ALAMANCE COUNTY BOUNDARY LINE AS DESCRIBED IN THE 1849 SURVEY ESTABLISHING ALAMANCE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. The historic boundary line forming Alamance County from Orange County was described and surveyed in 1849. Over the years this line became uncertain, and so pursuant to G.S. 153A-18(c) entitled 'Uncertain or Disputed Boundary,' both county boards of commissioners passed resolutions (Alamance County, December 17, 2007, and Orange County, January 18, 2008) to request that the North Carolina Geodetic Survey (hereinafter "NCGS") perform a preliminary resurvey and present a proposed map for consideration by both counties. During the 160 years since the 1849 survey, the exact location of the surveyed line has become uncertain, resulting in unintentional modifications to the boundary line affecting taxation, school attendance, zoning maps, and elections within and among Alamance County, Orange County, and the Town of Mebane.

SECTION 2. The Alamance County Board of Commissioners agreed by vote on April 21, 2008, and Orange County on May 20, 2008, to approve authorizing NCGS to conduct the preliminary survey and the placing of monuments by the NCGS consistent with their research to form a boundary baseline.

SECTION 3. In the 160 years since the initial survey of the Alamance County/Orange County boundary line, Alamance and Orange Counties have entered into multiple taxing agreements that have resulted in properties being taxed in one county by the adjoining county. Other situations have arisen in which children of one county attend school in the adjoining county and voters in one county have voted in the adjoining county. The General Assembly recognizes the difficulties in addressing these issues and authorizes Alamance County and Orange County to maintain the current taxing, elections, education, and any other recognized government functions in place until July 1, 2011.

SECTION 4.(a) On and after July 1, 2011, all papers, documents, and instruments required or permitted to be filed or registered that involve residents and property located in areas affected by the resurvey of the boundary line that previously may have been recorded in the adjoining counties shall be recorded in the county to which the property has been annexed.

SECTION 4.(b) All public records related to residents and property located in areas affected by the resurvey of the boundary line that were filed or recorded prior to July 1, 2011, in the adjoining counties shall remain in those respective adjoining counties where filed or recorded, and such records shall be valid public records as to the property and persons involved, even though they are recorded in an adjoining county which is a county where the property is no longer located as evidenced by the 2008 North Carolina Geodetic Survey and the subsequent partial resurvey pursuant to Section 7 of this act.

SECTION 4.(c) On and after July 1, 2011, all real and personal property located in areas affected by the resurvey of the boundary line that was subject to ad valorem taxation on January 1, 2011, shall be subject to ad valorem taxes in the county to which the property is annexed for the fiscal year beginning July 1, 2011, to the same extent as it would have been had it been correctly recognized by the tax departments of each county on January 1, 2011, except as hereinafter provided with respect to classified registered motor vehicles. On July 1, 2011, the tax administrators of the adjoining counties shall transfer to the respective county tax assessors the ad valorem tax listings and valuations for all real and personal property subject to ad valorem taxation in areas affected by the resurvey of the boundary line, except classified motor vehicles that were registered in the adjoining counties prior to July 1, 2011. For the fiscal year that begins July 1, 2011, all real and personal property located in areas affected by the resurvey of the boundary line that was subject to ad valorem taxation in that area on January 1, 2011, shall be assessed and taxed as follows:

- (1) The ad valorem property taxes assessed on all classified registered motor vehicles registered or listed in adjoining counties between January 1, 2011, and June 30, 2011, shall be collected by the appropriate adjoining county tax collector, and all such taxes shall be retained by that adjoining county. The taxes on all classified registered motor vehicles registered after June 30, 2011, shall be assessed and collected by the county tax department in the county to which the real property wherein the classified registered motor vehicles are situated has been annexed.
- (2) The values established by the particular adjoining county tax administrator on all personal property other than classified registered motor vehicles shall be used by the county tax assessor without adjustment in computing taxes due for the fiscal year beginning July 1, 2011. All such taxes shall be assessed and collected by the appropriate county tax department.
- (3) For the interim time period between the annexation of properties into their respective counties and until such time as the next regularly scheduled revaluation period, Alamance County and Orange County may select either of two methods of valuating the property annexed into their respective county by this act. The selection of either method by a county shall not give any individual or entity grounds for challenging such temporary valuation. Such methods are delineated as follows:
 - a. The values established by the adjoining counties' tax administrators on all real property formerly taxed in their respective county shall be adjusted by the appropriate county tax assessor by applying the difference between one hundred percent (100%) of such values and the appropriate county median ratio, as established by the Sales Assessment Ratio Study compiled by the North Carolina Department of Revenue as of January 1, 2012. The taxes determined by applying this method will be collected and retained by the appropriate county tax collector. The value of such property shall then be revalued according to the regularly scheduled revaluation period for each county.
 - b. The values established by the adjoining counties' tax administrators on all real property formerly taxed in their respective county shall be adopted by the appropriate county tax assessor upon the transition of property to the adjoining county. The valuation of such property shall then be revalued according to the regularly scheduled revaluation period for each county.
- (4) Beginning January 1, 2012, all property in areas affected by the resurvey of the boundary line that is subject to ad valorem taxation shall be listed, assessed, and taxed by the appropriate county tax administrator in the same

manner as is prescribed by law for all other property located within each county.

- (5) The final tax values of property subject to ad valorem taxation in areas affected by the resurvey of the boundary line as of January 1, 2011, shall be determined by the adjoining county tax administrator. Appeals to the North Carolina Property Tax Commission or to the courts by property owners of properties affected by the boundary line change shall be defended by both counties, and both counties shall be responsible for their costs and expenses, including attorneys' fees, incurred in connection with such appeals.
- (6) Any unpaid taxes or tax liens for the fiscal year ending June 30, 2011, or for prior years on property subject to taxation in areas affected by the resurvey of the boundary line shall continue to be valid and enforceable by the respective adjoining county, including (i) the foreclosure remedies provided for in G.S. 105-374 and G.S. 105-375 and (ii) the remedies of attachment and garnishment provided for in G.S. 105-366 through G.S. 105-368. The Alamance County and Orange County tax administrators shall supply one another with a list of unpaid taxes as of July 1, 2011. Any such taxes collected by either county shall be promptly paid to the appropriate adjoining county, including accrued interest. The provisions of G.S. 105-352(d) shall not apply to: those areas in an adjoining county previously taxed by either county outside the areas affected by the resurvey of the boundary line that shall forthwith be properly listed and taxed in the county to which they have been annexed; and those areas within each county that were in the past improperly listed and taxed by the adjoining county due to uncertainty as to the exact location of the true historic Alamance County/Orange County boundary line. Under the discovery process, each county may waive any interest and penalties accrued for tax years 2006-2011 in its sole discretion.

SECTION 4.(d) No cause of action, including criminal actions, involving persons or property located in areas affected by the resurvey of the boundary line that is pending on July 1, 2011, shall be abated, and such actions shall continue in the appropriate adjoining county.

SECTION 4.(e) The board of elections of each adjoining county shall, effective July 1, 2011, transfer the voter registration records pertaining to persons residing in areas affected by the resurvey of the boundary line and located in either county to the adjoining county's board of elections, and thereafter the registered voters so transferred shall be validly registered to vote in that adjoining county.

SECTION 4.(f) The Jury Commission of each adjoining county shall revise its jury lists to add to or eliminate therefrom those persons subject to jury duty who reside in areas affected by the resurvey of the boundary line, said revised jury lists to be effective July 1, 2011.

SECTION 4.(g) The areas affected by the resurvey of the boundary line and located in each county shall be transferred into the appropriate superior court district, district court district, and prosecutorial district. The areas affected by the resurvey of the boundary line shall remain in the same congressional district, the same State House of Representatives district, and the same State Senate district.

SECTION 4.(h) Any cause of action relating to taxation as it is currently exercised by the counties along or near the Alamance County/Orange County boundary, or any other cause of action related in any way to the Alamance County/Orange County boundary or properties affected by changes in the boundary, is stayed, and no new cause of action relating to these matters shall be commenced until ratification of the official line by the North Carolina General Assembly. Thereafter, causes of action related to the taxation of property shall be defended as described in subdivision (5) of Section 4(c) of this act.

SECTION 5. The Alamance County Board of Education shall cooperate with the Orange County Board of Education on behalf of residents that have students affected by this act to ensure that a transition is made that provides students and their siblings with a choice to remain in their current school system until graduation from high school for so long as they reside in the residence affected by this act.

SECTION 6. Any child who was a resident of any area annexed by this act on its date of ratification and who was a student in the Orange County or Alamance County school system during the 2009-2010 or 2010-2011 school year, and the siblings of any such person, may attend school in the same school system previously attended without necessity of a release or payment of tuition. Any such student, while attending the Orange County school system, shall be considered a resident of Orange County for all public school purposes, including transportation, athletics, and funding formulas. Any such student, while attending the Alamance County school system, shall be considered a resident of Alamance County for all public school purposes, including transportation, athletics, and funding formulas. Notice must be given to all affected school systems by the parent or guardian in order to exercise the privilege granted by this section.

SECTION 7. Alamance County and Orange County shall establish an administrative method by which owners of property that is annexed or bisected by the North Carolina Geodetic Survey line shall have the opportunity to petition Alamance County and Orange County either to remain in the county to which their property was previously assigned or, in the case of a bisection, to be assigned to one county or the other, save and except that small lot subdivisions shall not be divided on a lot by lot basis. Notice of such opportunity to petition shall be delivered by United States mail to the affected property owners no later than 30 days after the effective date of this act. All administrative reviews on such petitions shall be concluded and final no later than December 15, 2010.

SECTION 8. Alamance County and Orange County shall cause areas of the boundary line to be resurveyed in areas where property owners have met the established administrative criteria to be assigned to a specific county and in areas where for practical or other reasons the North Carolina Geodetic Survey line is not reasonable or is unduly burdensome.

SECTION 9. Upon the conclusion of the survey and petition process established in Section 7 of this act, and no later than May 15, 2011, Alamance County and Orange County shall submit to the North Carolina General Assembly for ratification a completed survey that includes both the North Carolina Geodetic Survey line and all mutually agreed upon modifications thereto.

SECTION 10. The elected and appointed officials and employees of Alamance County and Orange County shall incur no liability under any local or North Carolina statute, law, ordinance, rule, or regulation for any act or failure to act relating to taxation, school attendance, land-use controls, elections, or any other governmental function as it relates to the currently utilized boundary line of Alamance County and Orange County.

SECTION 11. Owners and future owners of properties affected by this act shall be put on notice of the terms and conditions of this act by a written instrument filed in the office of the register of deeds of the county to which the property has been annexed.

SECTION 12. This act becomes effective July 1, 2010.

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Became law on the date it was ratified.

Session Law 2010-62

S.B. 1435

AN ACT RELATING TO CITY-COUNTY PLANNING AND ZONING IN FORSYTH COUNTY AND THE CITY OF WINSTON-SALEM.

The General Assembly of North Carolina enacts:

SECTION 1. Section 24 of Chapter 677 of the 1947 Session Laws, as amended by S.L. 2008-41, reads as rewritten:

"SEC. 24. ~~Violations—Penalty.~~ ~~Violations, Penalty, Abatement, and Notice of Lis Pendens.~~ — Any person, firm or corporation who may violate any of the provisions of the zoning ordinance of the City of Winston-Salem, North Carolina, within the one mile area surrounding the corporate limits of the City of Winston-Salem, or within the three mile area surrounding such city limits if the board of county commissioners shall have approved such zoning provisions, shall, upon conviction, be fined not more than five hundred dollars_(\$500) or imprisoned not more than thirty (30) days; any person, firm or corporation who shall continue to violate or shall permit any land, structure or building to continue to exist or to be used in violation of the zoning ordinance of the City of Winston-Salem, pursuant to the authority given by this Act, or who shall cause, permit or continue to exist any occupancy or use of any land, structure or building in violation of any of said ordinances, resolutions, regulations or restrictions for as long as five days after notice of such violation, issued by the Building Inspector or Administrative Officer of the City of Winston-Salem, or his designee, and served upon him by any police officer of the City of Winston-Salem or by any police officer of Forsyth County, or by personal service, by registered or certified mail in conjunction with regular mail and posting, shall be guilty of a separate offense for each day he permits such violation to continue after the expiration of five days from such notice, and shall be punished as above set forth. If the regular mail is not returned within 10 days of its mailing, and the certified or registered mail is returned refused or unclaimed, service by regular mail shall be deemed sufficient. If regular mail is used, a notice of the violation shall be posted in a conspicuous place on the premises in violation.

Pursuant to this section, the Building Inspector or Administrative Officer or that person's designee is authorized to summarily abate any violation that continues to exist after the expiration of the notice period provided by this section. The expense of the action shall be paid by the person in default. If the expense is not paid, it is a lien on the land or premises where the abatement action occurred. A lien established pursuant to this section shall have the same priority and be collected as unpaid ad valorem taxes. The expense of the action is also a lien on any other real property owned by the person in default within the city limits or within one mile of the city limits, except for the person's primary residence. This secondary lien established pursuant to this section is inferior to all prior liens and shall be collected as a money judgment. This section does not apply if the person in default can show that the violation was created solely by the actions of another.

Furthermore, the Building Inspector or Administrative Officer or that person's designee is authorized to provide, upon the issuance of a notice of violation, for the filing of a notice of lis pendens in the office of the Clerk of Superior Court of Forsyth County. When a notice of lis pendens and a copy of the notice of violation are filed with the Clerk of Superior Court, it shall be indexed and cross-indexed in accordance with the indexing procedures of G.S. 1-117. From the date and time of indexing, the notice of violation shall be binding upon the successors and assigns of the owner or owners of the premises in violation. A copy of the notice of lis pendens shall be served upon the owner or owners of the premises in violation at the time of filing in accordance with the procedure for serving the notice of violation set forth herein. The notice of lis pendens shall remain in full force and effect until cancelled. The Building Inspector or Administrative Officer or that person's designee may authorize the cancellation of the notice of lis pendens upon compliance with the notice of violation, and receipt of such cancellation, the Clerk of Superior Court shall cancel the notice of lis pendens."

SECTION 2. This act applies to the City of Winston-Salem only.

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

In the General Assembly read three times and ratified this the 8th day of July, 2010.
Became law on the date it was ratified.

Session Law 2010-63**H.B. 1814**

AN ACT EXEMPTING CATAWBA COUNTY FROM COMPETITIVE BIDDING REQUIREMENTS WHEN LETTING CONTRACTS AUTHORIZED BY ITS BOARD OF COMMISSIONERS TO INCREASE ENERGY EFFICIENCY, AND TO AUTHORIZE THAT COUNTY TO ENTER INTO LEASES FOR THE SITING AND OPERATION OF RENEWABLE ENERGY FACILITIES FOR TWENTY YEARS WITHOUT TREATING IT AS A SALE AND WITHOUT GIVING NOTICE BY PUBLICATION.

The General Assembly of North Carolina enacts:

SECTION 1. Catawba County may contract for apparatus, supplies, materials, or equipment that will be used as part of any program authorized by its Board of Commissioners aimed at increasing energy efficiency without being subject to the requirements of G.S. 143-129, 143-131, and 143-132. Notwithstanding any provision of law, the county may award a contract under this section in its sole discretion.

SECTION 2.(a) If Senate Bill 1114, 2009 Regular Session does not become law, then Section 3 of S.L. 2009-149 reads as rewritten:

"**SECTION 3.** Section 2 of this act applies to the ~~City~~Cities of Raleigh and ~~the City of~~ Winston-Salem and Catawba County only."

SECTION 2.(b) If Senate Bill 1114, 2009 Regular Session becomes law, then Section 3 of S.L. 2009-149 as rewritten by that act reads as rewritten:

"**SECTION 3.** Section 2 of this act applies to the Cities of Asheville, Raleigh and Winston-Salem and the Towns of Chapel Hill and Carrboro. This act also applies to Catawba County."

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

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Became law on the date it was ratified.

Session Law 2010-64**H.B. 1841**

AN ACT TO ALLOW THE MOORE COUNTY BOARD OF EDUCATION TO MAINTAIN A CAMPUS POLICE AGENCY.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-47.2. Campus law enforcement agencies.**

A local board of education may establish a campus law enforcement agency and employ campus police officers. These officers shall meet the requirements of Chapter 17C of the General Statutes, shall take the oath of office prescribed by Article VI, Section 7 of the Constitution, and shall have all the powers of law enforcement officers generally. The territorial jurisdiction of a campus police officer shall include all property owned or leased to the local board of education employing the officer and that portion of any public road or highway passing through the property or immediately adjoining it, wherever located."

SECTION 2. This act shall apply to the Moore County Board of Education only.

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

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Became law on the date it was ratified.

Session Law 2010-65

H.B. 1920

AN ACT TO EXPAND THE MEMBERSHIP OF THE RESOURCES DEVELOPMENT COMMISSION OF BRUNSWICK COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. The membership of the Resources Development Commission of Brunswick County, also known as the Economic Development Commission of Brunswick County, established by Section 10 of S.L. 1961-268, as amended by S.L. 1985-904, is expanded by the appointment of two additional at-large members from Brunswick County. Each of these additional members shall qualify for service in the same manner as all other appointments to the Commission.

SECTION 2. This act applies to Brunswick County only.

SECTION 3. This act becomes effective January 1, 2011.

In the General Assembly read three times and ratified this the 8th day of July, 2010.
Became law on the date it was ratified.

Session Law 2010-66

H.B. 1698

AN ACT TO UPDATE AND CLARIFY NORTH CAROLINA'S GENERAL STATUTES ON OLDER ADULTS AND LONG-TERM SERVICES AND SUPPORTS, AS RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON AGING.

Whereas, the North Carolina General Assembly is committed to having North Carolina recognized as a leader in supporting long-term services and supports; and

Whereas, the State is building on the following federal and State supported person-centered initiatives: aging and disability resource centers or Community Resource Connections for Aging and Disabilities, evidence-based health promotion, caregiver supports for persons with Alzheimer's disease, lifespan respite programs, consumer-directed care, transitional care, and promotion of community living for persons who might otherwise become Medicaid eligible if placed in a skilled nursing facility; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Part 14A, Article 3, Chapter 143B of the General Statutes reads as rewritten:

~~"Part 14A. Policy Act for the Aging. Older Adults.~~

"§ 143B-181.3. Statement of principles. Older adults – findings; policy.

~~To utilize effectively the resources of our State, to provide a better quality of life for our senior citizens, and to assure older adults the right of choosing where and how they want to live, the following principles are hereby endorsed:~~

(a) The North Carolina General Assembly finds the following:

- (1) ~~Older people-adults should be able to live as normal a life independently as possible.~~ Older adults should be able to live as normal a life independently as possible, and to live free from abuse, neglect, and exploitation.
- (2) ~~Older adults should have opportunities to be involved in their communities in ways they desire.~~ Older adults should have opportunities to be involved in their communities in ways they desire, a choice of life styles which will allow them to remain contributing members of society for as long as possible.
- (3) ~~Preventive and primary health care are necessary to keep older adults active and contributing members of society.~~ Preventive and primary health care are necessary to assure optimal health and to enable active social and civic engagement by older adults.
- (4) ~~Sufficient opportunities for appropriate training in gerontology and geriatrics should be developed and readily available for individuals serving older adults.~~ Sufficient opportunities for appropriate training in gerontology and geriatrics should be developed and readily available for individuals serving older adults.

- (5) ~~Transportation to meet daily needs and to make accessible a broad range of services should be provided so that older persons may realize their full potential.~~ Older adults should have access to a broad range of services, supports, and opportunities, and they should have transportation options available to allow access to these services and to meet their daily needs and interests.
- (6) Services for older adults should be person-centered and coordinated so that all their an individual's needs can be served efficiently and effectively. ~~met efficiently, effectively, and in the least restrictive environment.~~
- (7) Information should be readily available in each county on all programs and services for older adults. ~~citizens and advocacy for these services should be available in each county.~~
- (8) ~~Increased employment opportunities for older adults should be made available.~~ Older adults should have adequate opportunities for employment.
- (9) Each county should have available a variety of housing options, including retirement housing, accessible affordable rental housing, and opportunities for residential home modifications, in order to allow older adults to remain in their communities. ~~Options in housing should be made available.~~
- (10) Older adults and their caregivers should have input in the planning and evaluation of programs and services for older adults, and they should have opportunities to advocate for these programs and services. ~~Planning for programs for older citizens should always be done in consultation with them.~~
- (11) The State should ~~aid~~ assist older people adults who desire to remain as independent as possible to help themselves and should encourage and support families in caring for their older members.

(b) It is the policy of the State to effectively utilize its resources to support and enhance the quality of life for older adults in North Carolina."

SECTION 2. Part 14B, Article 3, Chapter 143B of the General Statutes reads as rewritten:

~~"Part 14B. Long-Term Care.~~ Services and Supports.

"§ 143B-181.5. Long-term ~~care~~ services and supports – ~~findings.~~ policy.

The North Carolina General Assembly finds that the aging of the population and advanced medical technology have resulted in a growing number of persons who require ~~assistance.~~ long-term services and supports. The primary ~~resource~~ resources for long-term ~~care~~ provision ~~assistance~~ continues to be ~~the~~ family and friends. However, these traditional caregivers are increasingly employed outside the home. There is growing demand for improvement and expansion of home and community-based long-term ~~care services to support and~~ services and supports to complement the services care provided by these informal caregivers.

The North Carolina General Assembly further finds that the public interest would best be served by a broad array of long-term ~~care services~~ and supports that ~~support~~ enable persons who need such services to remain in the home or in the community whenever practicable and that promote individual ~~autonomy, dignity, and choice.~~ autonomy and dignity as these individuals exercise choice and control over their lives.

The North Carolina General Assembly finds that as other long-term ~~care~~ service and support options become more readily available, the ~~relative~~ need for institutional care will stabilize or decline relative to the growing ~~aging population.~~ population of older adults and people living with disabilities. The General Assembly recognizes, however, that institutional care will continue to be a critical part of the State's long-term ~~care~~ service and support options and that such ~~services care~~ should promote individual dignity, autonomy, and a home like environment.

"§ 143B-181.6. Purpose and intent.

~~It is the North Carolina General Assembly's intent in the State's development and implementation of long-term care policies that:~~ The development and implementation of

policies for long-term services and supports should reflect the intent of the North Carolina General Assembly as follows:

- (1) Long-term ~~care~~ services and supports administered by the Department of Health and Human Services and other State and local agencies shall include a balanced array of health, social, and supportive services that are well coordinated to promote individual choice, dignity, and the highest practicable level of independence; independence.
- (2) Home and community-based services shall be developed, expanded, or maintained in order to meet the needs of consumers in the least confusing and least restrictive manner. manner and ~~Services should be based on the desires of the elderly~~ older adults, persons with disabilities, and their families; families, and others that support them.
- (3) All services shall be responsive and appropriate to individual need and shall be delivered through a uniform and seamless system that is flexible and responsive regardless of funding source; source. Information and services shall be available through the effective use of Community Resource Connections for Aging and Disabilities as they are developed throughout the State.
- (4) Services shall be available to all ~~elderly persons who need them~~ them, but shall be targeted primarily to the those citizens who are the most frail, frail and those with the greatest need. needy elderly;
- (5) State and local agencies shall maximize the use of limited resources by establishing a fee system for persons who have the ability to ~~pay; pay.~~
- (6) ~~Institutional care~~ Care provided in facilities shall be provided-offered in such a manner and in such an environment as to promote for each resident, maintenance of health, or enhancement of the quality of life of each resident life, and timely discharge to a less restrictive care setting when appropriate; and appropriate.
- (7) State health planning for institutional bed supply shall take into account increased availability of ~~other~~ home and community-based services options.
- (8) In an effort to maximize the use of limited resources, State and local agencies shall invest in supports for families and other informal caregivers of persons requiring assistance.
- (9) Emphasis shall be placed on offering evidence-based activities to promote healthy aging, prevent injuries, and manage chronic diseases and conditions.
- (10) Individuals and families shall be encouraged and supported in planning for and financing their own future needs for long-term services and supports."

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

In the General Assembly read three times and ratified this the 28th day of June, 2010.

Became law upon approval of the Governor at 10:30 a.m. on the 8th day of July, 2010.

Session Law 2010-67

S.B. 887

AN ACT TO: (1) MODIFY THE COMPUTER EQUIPMENT RECYCLING PLAN REQUIREMENTS AND ASSOCIATED FEE IMPOSED ON MANUFACTURERS; AND (2) MAKE FURTHER SUBSTANTIVE, CLARIFYING, TECHNICAL, AND CONFORMING AMENDMENTS TO THE LAWS GOVERNING THE MANAGEMENT OF DISCARDED COMPUTER EQUIPMENT AND DISCARDED TELEVISIONS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Sections 16.1 through 16.6 of S.L. 2007-550 are repealed.

SECTION 1.(b) S.L. 2008-208 is repealed.

SECTION 1.(c) Section 16 of S.L. 2009-484 is repealed.

SECTION 1.(d) Subsections (a) and (b) of Section 10 of S.L. 2009-550 are repealed.

SECTION 1.(e) This section becomes effective July 1, 2010.

SECTION 2.(a) Article 9 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 2H. Discarded Computer Equipment and Television Management.

"§ 130A-309.130. Findings.

The General Assembly makes the following findings:

- (1) The computer equipment and television waste stream is growing rapidly in volume and complexity and can introduce toxic materials into solid waste landfills.
- (2) It is in the best interest of the citizens of this State to have convenient, simple, and free access to recycling services for discarded computer equipment and televisions.
- (3) Collection programs operated by manufacturers and local government and nonprofit agencies are an efficient way to divert discarded computer equipment and televisions from disposal and to provide recycling services to all citizens of this State.
- (4) The development of local and nonprofit collection programs is hindered by the high costs of recycling and transporting discarded computer equipment and televisions.
- (5) No comprehensive system currently exists, provided either by electronics manufacturers, retailers, or others, to adequately serve all citizens of the State and to divert large quantities of discarded computer equipment and televisions from disposal.
- (6) Manufacturer responsibility is an effective way to ensure that manufacturers of computer equipment and televisions take part in a solution to the electronic waste problem.
- (7) The recycling of certain discarded computer equipment and televisions recovers valuable materials for reuse and will create jobs and expand the tax base of the State.
- (8) While some computers and computer monitors can be refurbished and reused and other consumer electronics products contain valuable materials, some older and bulkier consumer electronic products, including some televisions, may not contain any valuable products but should nevertheless be recycled to prevent the release of toxic substances to the environment.
- (9) For the products covered by this Part, differences in product life expectancy, market economics, residual value, and product portability necessitate different approaches to recycling.
- (10) In order to ensure that end-of-life computer equipment and televisions are responsibly recycled, to promote conservation, and to protect public health and the environment, a comprehensive and convenient system for recycling and reuse of certain electronic equipment should be established on the basis of shared responsibility among manufacturers, retailers, consumers, and the State.

"§ 130A-309.131. Definitions.

As used in this Part, the following definitions apply:

- (1) Business entity. – Defined in G.S. 55-1-40(2a).

- (2) Computer equipment. – Any desktop computer, notebook computer, monitor or video display unit for a computer system, and the keyboard, mice, other peripheral equipment, and a printing device such as a printer, a scanner, a combination print-scanner-fax machine, or other device designed to produce hard paper copies from a computer. Computer equipment does not include an automated typewriter, professional workstation, server, ICI device, ICI system, mobile telephone, portable handheld calculator, portable digital assistant (PDA), MP3 player, or other similar device; an automobile; a television; a household appliance; a large piece of commercial or industrial equipment, such as commercial medical equipment, that contains a cathode ray tube, a cathode ray tube device, a flat panel display, or similar video display device that is contained within, and is not separate from, the larger piece of equipment, or other medical devices as that term is defined under the federal Food, Drug, and Cosmetic Act.
- (3) Computer equipment manufacturer. – A person that manufactures or has manufactured computer equipment sold under its own brand or label; sells or has sold under its own brand or label computer equipment produced by other suppliers; imports or has imported into the United States computer equipment that was manufactured outside of the United States; or owns or has owned a brand that it licenses or has licensed to another person for use on computer equipment. Computer equipment manufacturer includes a business entity that acquires another business entity that manufactures or has manufactured computer equipment. Computer equipment manufacturer does not include any existing person that does not and has not manufactured computer equipment of the type that would be used by consumers.
- (4) Consumer. – Any of the following:
- a. An occupant of a single detached dwelling unit or a single unit contained within a multiple dwelling unit who used a covered device primarily for personal or home business use.
 - b. A nonprofit organization with fewer than 10 employees that used a covered device in its operations.
- (5) Covered device. – Computer equipment and televisions used by consumers primarily for personal or home business use. The term does not include a device that is any of the following:
- a. Part of a motor vehicle or any component of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle.
 - b. Physically a part of or integrated within a larger piece of equipment designed and intended for use in an industrial, governmental, commercial, research and development, or medical setting.
 - c. Equipment used for diagnostic, monitoring, or other medical products as that term is defined under the federal Food, Drug, and Cosmetic Act.
 - d. Equipment used for security, sensing, monitoring, antiterrorism purposes, or emergency services purposes.
 - e. Contained within a household appliance, including, but not limited to, a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, air purifier, or exercise equipment.
- (6) Desktop computer. – An electronic, magnetic, optical, electrochemical, or other high-speed data processing device that has all of the following features:

- a. Performs logical, arithmetic, and storage functions for general purpose needs that are met through interaction with a number of software programs contained in the computer.
 - b. Is not designed to exclusively perform a specific type of limited or specialized application.
 - c. Achieves human interface through a stand-alone keyboard, stand-alone monitor or other display unit, and a stand-alone mouse or other pointing device.
 - d. Is designed for a single user.
 - e. Has a main unit that is intended to be persistently located in a single location, often on a desk or on the floor.
- (7) Discarded computer equipment. – Computer equipment that is solid waste generated by a consumer.
- (8) Discarded computer equipment or television collector. – A municipal or county government, nonprofit agency, recycler, or retailer that knowingly accepts for recycling discarded computer equipment or a television from a consumer.
- (9) Discarded television. – A television that is solid waste generated by a consumer.
- (10) Market share. – A television manufacturer's obligation to recycle discarded televisions. A television manufacturer's market share is the television manufacturer's prior year's sales of televisions as calculated by the Department pursuant to G.S. 130A-309.138(4) divided by all manufacturers' prior year's sales for all televisions as calculated by the Department pursuant to G.S. 130A-309.138(4). Market share may be expressed as a percentage, a fraction, or a decimal fraction.
- (11) Notebook computer. – An electronic, magnetic, optical, electrochemical, or other high-speed data processing device that has all of the following features:
- a. Performs logical, arithmetic, or storage functions for general purpose needs that are met through interaction with a number of software programs contained in the computer.
 - b. Is not designed to exclusively perform a specific type of limited or specialized application.
 - c. Achieves human interface through a keyboard, video display greater than four inches in size, and mouse or other pointing device, all of which are contained within the construction of the unit that comprises the computer.
 - d. Is able to be carried as one unit by an individual.
 - e. Is able to use external, internal, or batteries for a power source.
- Notebook computer includes those that have a supplemental stand-alone interface device attached to the notebook computer. Notebook computer does not include a portable handheld calculator, a PDA, or similar specialized device. A notebook computer may also be referred to as a laptop computer.
- (12) Recover. – The process of reusing or recycling covered devices.
- (13) Recycle. – The processing, including disassembling, dismantling, and shredding, of covered devices or their components to recover a usable product. Recycle does not include any process that results in the incineration of a covered device.
- (14) Recycler. – A person that recycles covered devices.
- (15) Retailer. – A person that sells computer equipment or televisions in the State to a consumer. Retailer includes a computer equipment manufacturer or a

- television manufacturer that sells directly to a consumer through any means, including transactions conducted through sales outlets, catalogs, the Internet, or any similar electronic means, but does not include a person that sells computer equipment or televisions to a distributor or retailer through a wholesale transaction.
- (16) Television. – Any electronic device that contains a tuner that locks on to a selected carrier frequency and is capable of receiving and displaying of television or video programming via broadcast, cable, or satellite, including, without limitation, any direct view or projection television with a viewable screen of nine inches or larger whose display technology is based on cathode ray tube (CRT), plasma, liquid crystal display (LCD), digital light processing (DLP), liquid crystal on silicon (LCOS), silicon crystal reflective display (SXRD), light emitting diode (LED), or similar technology marketed and intended for use by a consumer primarily for personal purposes. The term does not include computer equipment.
- (17) Television manufacturer. – A person that: (i) manufactures for sale in this State a television under a brand that it licenses or owns; (ii) manufactures for sale in this State a television without affixing a brand; (iii) resells into this State a television under a brand it owns or licenses produced by other suppliers, including retail establishments that sell a television under a brand that the retailer owns or licenses; (iv) imports into the United States or exports from the United States a television for sale in this State; (v) sells at retail a television acquired from an importer that is the manufacturer as described in sub-subdivision (iv) of this subdivision, and the retailer elects to register in lieu of the importer as the manufacturer of those products; (vi) manufactures a television for or supplies a television to any person within a distribution network that includes wholesalers or retailers in this State and that benefits from the sale in this State of the television through the distribution network; or (vii) assumes the responsibilities and obligations of a television manufacturer under this Part. In the event the television manufacturer is one that manufactures, sells, or resells under a brand it licenses, the licensor or brand owner of the brand shall not be considered to be a television manufacturer under (i) or (iii) of this subdivision.

"§ 130A-309.132. Responsibility for recycling discarded computer equipment and televisions.

In addition to the specific requirements of this Part, discarded computer equipment and television collectors and computer equipment manufacturers and television manufacturers share responsibility for the recycling of discarded computer equipment and televisions and the education of citizens of the State as to recycling opportunities for discarded computer equipment and televisions.

"§ 130A-309.133. Data security.

Computer equipment manufacturers, television manufacturers, discarded computer equipment and television collectors, recyclers, and retailers shall not be liable in any way for data or other information left on a covered device that is collected or recovered pursuant to the provisions of this Part.

"§ 130A-309.134. Requirements for computer equipment manufacturers.

(a) Registration Required. – Each computer equipment manufacturer, before selling or offering for sale computer equipment in North Carolina, shall register with the Department.

(b) Manufacturer Label Required. – A computer equipment manufacturer shall not sell or offer to sell computer equipment in this State unless a visible, permanent label clearly identifying the manufacturer of that equipment is affixed to the equipment.

(c) Computer Equipment Recycling Plan Required. – Each computer equipment manufacturer shall develop, submit to the Department, and implement one of the following

plans to provide a free and reasonably convenient recycling program to take responsibility for computer equipment discarded by consumers:

- (1) Level I recycling plan. – A computer equipment manufacturer shall submit a recycling plan for reuse or recycling of computer equipment discarded by consumers in the State produced by the manufacturer. The manufacturer shall submit a proposed plan to the Department within 90 days of registration as required by subsection (a) of this section. The plan shall:
 - a. Provide that the manufacturer will take responsibility for computer equipment discarded by consumers that it manufactured.
 - b. Describe any direct take-back program to be implemented by the manufacturer. Collection methods that are deemed to meet the requirements of this subdivision include one or more of the following:
 1. A process offered by the computer equipment manufacturer or the manufacturer's designee for consumers to return discarded computer equipment by mail.
 2. A physical collection site operated and maintained by the computer equipment manufacturer or the manufacturer's designee to receive discarded computer equipment from consumers, which is available to consumers during normal business hours.
 3. A collection event hosted by the computer equipment manufacturer or the manufacturer's designee at which a consumer may return computer equipment.
 - c. Include a detailed description as to how the manufacturer will implement the plan.
 - d. Provide for environmentally sound management practices to transport and recycle discarded computer equipment.
 - e. Include a consumer recycling education program on the laws governing the recycling and reuse of discarded computer equipment under this Part and on the methods available to consumers to comply with those requirements. The manufacturer shall operate a toll-free telephone number to answer questions from consumers about computer recycling options.
- (2) Level II recycling plan. – A computer equipment manufacturer shall submit a recycling plan for reuse or recycling of computer equipment discarded by consumers in the State produced by the manufacturer and by other manufacturers. The manufacturer shall submit a proposed plan to the Department within 90 days of registration as required by subsection (a) of this section. The plan may offer additional options to collect other types of electronic equipment that do not constitute discarded computer equipment, as that term is defined under G.S. 130A-309.131, and may allow for assessment of a nominal fee for collection of these other types of electronic equipment that are not discarded computer equipment. The plan shall include all of the elements set forth in subdivision (1) of subsection (c) of this section. In addition the plan shall:
 - a. Provide that the manufacturer will take responsibility for computer equipment discarded by consumers that was manufactured by other manufacturers, as well as computer equipment that it manufactured.
 - b. Provide that the manufacturer shall: (i) maintain physical collection sites to receive discarded computer equipment from consumers in the 10 most populated municipalities in the State. The physical collection sites shall be available to consumers during normal business hours, at

a minimum; and (ii) host at least two collection events annually within the State.

(3) Level III recycling plan. – A computer equipment manufacturer shall submit a recycling plan for reuse or recycling of computer equipment discarded by consumers in the State produced by the manufacturer and by other manufacturers. The manufacturer shall submit a proposed plan to the Department within 90 days of registration as required by subsection (a) of this section. The plan may offer additional options to collect other types of electronic equipment that do not constitute discarded computer equipment, as that term is defined under G.S. 130A-309.131, and may allow for assessment of a nominal fee for collection of these other types of electronic equipment that are not discarded computer equipment. The plan shall include all of the elements set forth in subdivision (1) of subsection (c) of this section. In addition the plan shall:

a. Provide that the manufacturer will take responsibility for computer equipment discarded by consumers that was manufactured by other manufacturers, as well as computer equipment that it manufactured.

b. Provide that the manufacturer shall: (i) maintain physical collection sites to receive discarded computer equipment from consumers in 50 of the State's counties, of which 10 of those counties shall be the most populated counties in the State. The physical collection sites shall be available to consumers during normal business hours, at a minimum; and (ii) host at least two collection events annually within the State.

(d) Fee Required. – Within 90 days of registration as required in subsection (a) of this section, a computer equipment manufacturer shall pay an initial registration fee to the Department. A computer equipment manufacturer that has registered shall pay an annual renewal registration fee to the Department, which shall be paid each year no later than July 1. The proceeds of these fees shall be credited to the Electronics Management Fund established pursuant to G.S. 130A-309.137. A computer equipment manufacturer that sells 1,000 items of computer equipment or fewer per year is exempt from the requirement to pay the registration fee and the annual renewal fee imposed by this subsection. The amount of the fee a computer equipment manufacturer shall pay shall be determined on the basis of the plan the manufacturer develops, submits, and implements pursuant to subsection (c) of this section, as follows:

(1) A computer equipment manufacturer who develops, submits, and implements a Level I recycling plan pursuant to subdivision (1) of subsection (c) of this section shall pay an initial registration fee of fifteen thousand dollars (\$15,000) and an annual renewal fee of fifteen thousand dollars (\$15,000) to the Department.

(2) A computer equipment manufacturer who develops, submits, and implements a Level II recycling plan pursuant to subdivision (2) of subsection (c) of this section shall pay an initial registration fee of ten thousand dollars (\$10,000) and an annual renewal fee of seven thousand five hundred dollars (\$7,500) to the Department.

(3) A computer equipment manufacturer who develops, submits, and implements a Level III recycling plan pursuant to subdivision (3) of subsection (c) of this section shall pay an initial registration fee of ten thousand dollars (\$10,000) and an annual renewal fee of two thousand five hundred dollars (\$2,500) to the Department.

(e) Computer Equipment Recycling Plan Revision. – A computer equipment manufacturer may prepare a revised plan and submit it to the Department at any time as the manufacturer considers appropriate in response to changed circumstances or needs. The

Department may require a manufacturer to revise or update a plan if the Department finds that the plan is inadequate or out of date.

(f) Payment of Costs for Plan Implementation. – Each computer equipment manufacturer is responsible for all costs associated with the development and implementation of its plan. A computer equipment manufacturer shall not collect a fee from a consumer or a local government for the management of discarded computer equipment at the time the equipment is delivered for recycling.

(g) Joint Computer Equipment Recycling Plans. – A computer equipment manufacturer may fulfill the requirements of subsection (c) of this section by participation in a joint recycling plan with other manufacturers. A joint plan shall meet the requirements of subsection (c) of this section.

(h) Annual Report. – Each computer equipment manufacturer shall submit a report to the Department by October 1 of each year stating the total weight of all computer equipment collected for recycling or reuse in the previous fiscal year. The report shall also include a summary of actions taken to comply with the requirements of subsection (c) of this section.

"§ 130A-309.135. Requirements for television manufacturers.

(a) Registration and Fee Required. – Each television manufacturer, before selling or offering for sale televisions in the State, shall register with the Department and, at the time of registration, shall pay an initial registration fee of two thousand five hundred dollars (\$2,500) to the Department. An initial registration shall be valid from the day of registration through the last day of the fiscal year in which the registration fee was paid. A television manufacturer that has registered shall pay an annual renewal registration fee of two thousand five hundred dollars (\$2,500) to the Department. The annual renewal registration fee shall be paid to the Department each fiscal year no later than June 30 of the previous fiscal year. The proceeds of these fees shall be credited to the Electronics Management Fund. A television manufacturer that sells 1,000 televisions or fewer per year is exempt from the requirement to pay the registration fee and the annual renewal fee imposed by this subsection.

(b) Manufacturer Label Required. – A television manufacturer shall not sell or offer to sell any television in this State unless a visible, permanent label clearly identifying the manufacturer of that device is affixed to the equipment.

(c) Recycling of Market Share Required. – The obligation to recycle televisions shall be allocated to each television manufacturer based on the television manufacturer's market share. A television manufacturer must annually recycle or arrange for the recycling of its market share of televisions pursuant to this section.

(d) Due Diligence and Compliance Assessments. – A television manufacturer shall conduct and document due diligence assessments of the recyclers the manufacturer contracts with, including an assessment of compliance with environmentally sound recovery standards adopted by the Department.

(e) Contact Information Required. – A television manufacturer shall provide the Department with contact information for the manufacturer's designated agent or employee whom the Department may contact for information related to the manufacturer's compliance with the requirements of this section.

(f) Joint Television Recycling Plans. – A television manufacturer may fulfill the requirements of this section either individually or in participation with other television manufacturers.

(g) Annual Report. – A television manufacturer shall report to the Department by October 1 of each year the total weight of televisions the manufacturer collected and recycled in the State during the previous fiscal year.

"§ 130A-309.136. Requirements applicable to retailers.

(a) A manufacturer must not sell or offer for sale or deliver to retailers for subsequent sale new computer equipment or televisions unless: (i) the covered device is labeled with the manufacturer's brand, which label is permanently affixed and readily visible; and (ii) the manufacturer has filed a registration with the Department and is otherwise in compliance with

the requirements of this Part, as indicated on the list developed and maintained by the Department pursuant to G.S. 130A-309.138(1).

(b) A retailer that sells or offers for sale new computer equipment or televisions must: (i) determine that all new covered devices that the retailer is offering for sale are labeled with the manufacturer's brand, which label is permanently affixed and readily visible; and (ii) review the Department's Web site to confirm that the manufacturer of a new covered device is on the list developed and maintained by the Department pursuant to G.S. 130A-309.138(1).

(c) A retailer is not responsible for an unlawful sale under this section if the manufacturer's registration expired or was revoked and the retailer took possession of the covered device prior to the expiration or revocation of the manufacturer's registration and the unlawful sale occurred within six months after the expiration or revocation.

"§ 130A-309.137. Electronics Management Fund.

(a) Creation. – The Electronics Management Fund is created as a special fund within the Department. The Fund consists of revenue credited to the Fund from the proceeds of the fee imposed on computer equipment manufacturers under G.S. 130A-309.134 and television manufacturers under G.S. 130A-309.135.

(b) Use and Distribution. – Moneys in the Fund shall be used by the Department to implement the provisions of this Part concerning discarded computer equipment and televisions. The Department may use all of the proceeds of the fee imposed on television manufacturers pursuant to G.S. 130A-309.135 and may use up to ten percent (10%) of the proceeds of the fee imposed on computer equipment manufacturers under G.S. 130A-309.134 for administration of the requirements of this Part. Funds remaining shall be distributed annually by the Department to eligible local governments pursuant to this section. The Department shall distribute such funds on or before February 15 of each year. Funds shall be distributed on a pro rata basis.

(c) Eligibility. – Except as provided in subsection (d) of this section, no more than one unit of local government per county, including the county itself, may receive funding pursuant to this section for a program to manage discarded computer equipment, televisions, and other electronic devices. In order to be eligible for funding, a unit of local government shall:

- (1) Submit a comprehensive solid waste management plan required pursuant to G.S. 130A-309.09A, amended as necessary to include the following information:
 - a. Information on existing programs within the jurisdiction to recycle or reuse discarded computer equipment, televisions, and other electronic devices, or information on a plan to begin such a program on a date certain. This information shall include a description of the implemented or planned practices for collection of the equipment and a description of the types of equipment to be collected and how the equipment will be marketed for recycling.
 - b. Information on a public awareness and education program concerning the recycling and reuse of discarded computer equipment, televisions, and other electronic devices.
 - c. Information on methods to track and report total tonnage of computer equipment, televisions, and other electronic devices collected and recycled in the jurisdiction.
 - d. Information on interactions with other units of local government to provide or receive services concerning disposal of discarded computer equipment, televisions, and other electronic devices.
 - e. Information on how the unit of local government will account for the expenditure of funds received pursuant to this section.
- (2) Establish a separate local budget account for the receipt and expenditure of funds received pursuant to this section.

- (3) Contract with a recycler that is certified as adhering to Responsible Recycling ('R2') practices or that is certified as an e-Steward recycler adhering to the e-Stewards Standard for Responsible Recycling and Reuse of Electronic Equipment® to process the discarded computer equipment, televisions, and other electronic devices that the unit of local government collects.

(d) Local Government Designation. – If more than one unit of local government in a county, including the county itself, requests funding pursuant to this section, the units of local government in question may: (i) enter into interlocal agreements for provision of services concerning disposal of discarded computer equipment and televisions, and distribution of funds received pursuant to this section among the parties to the agreement; or (ii) submit separate and distinct comprehensive solid waste management plans pursuant to G.S. 130A-309.09A, with the information set forth in sub-subdivisions a. through e. of subdivision (1) of subsection (c) of this section. In the case of (ii), the Department shall distribute funds to the local governments determined to be eligible based on the percentage of the county's population to be served under each eligible local government's program.

(e) Report. – Information regarding permanent recycling programs for discarded computer equipment and televisions for which funds are received pursuant to this section, and information on operative interlocal agreements executed in conjunction with funds received, if any, shall be included in the annual report required under G.S. 130A-309.09A.

"§ 130A-309.138. Responsibilities of the Department.

In addition to its other responsibilities under this Part, the Department shall:

- (1) Develop and maintain a current list of manufacturers that are in compliance with the requirements of G.S. 130A-309.134 and G.S. 130A-309.135, post the list to the Department's Web site, and provide the current list to the Office of Information Technology Services each time that the list is updated.
- (2) Develop and implement a public education program on the laws governing the recycling and reuse of discarded computer equipment and televisions under this Part and on the methods available to consumers to comply with those requirements. The Department shall make this information available on the Internet and shall provide technical assistance to manufacturers to meet the requirements of G.S. 130A-309.134(c)(1)e. The Department shall also provide technical assistance to units of local government on the establishment and operation of discarded computer equipment and television collection centers and in the development and implementation of local public education programs.
- (3) Maintain the confidentiality of any information that is required to be submitted by a manufacturer under this Part that is designated as a trade secret, as defined in G.S. 66-152(3) and that is designated as confidential or as a trade secret under G.S. 132-1.2.
- (4) The Department shall use national televisions sales data available from commercially available analytical sources to calculate the generation of discarded televisions and to determine each television manufacturer's recovery responsibilities for televisions based on the manufacturer's market share. The Department shall extrapolate data for the State from national data on the basis of the State's share of the national population.

"§ 130A-309.139. Enforcement.

This Part may be enforced as provided by Part 2 of Article 1 of this Chapter.

"§ 130A-309.140. Annual report.

No later than January 15 of each year, the Department shall submit a report on the recycling of discarded computer equipment and televisions in the State under this Part to the Environmental Review Commission. The report must include an evaluation of the recycling rates in the State for discarded computer equipment and televisions, a discussion of compliance

and enforcement related to the requirements of this Part, and any recommendations for any changes to the system of collection and recycling of discarded computer equipment, televisions, or other electronic devices.

"§ 130A-309.141. Local government authority not preempted.

Nothing in this Part shall be construed as limiting the authority of any local government to manage computer equipment and televisions that are solid waste."

SECTION 2.(b) This section becomes effective August 1, 2010, except that: (i) the first annual report due under G.S. 130A-309.134(h) is due October 1, 2011; (ii) G.S. 130A-309.136 becomes effective July 1, 2011; (iii) changes required to comprehensive solid waste management plans in accordance with G.S. 130A-309.137 shall be submitted to the Department of Environment and Natural Resources on or before December 31, 2010; and (iv) G.S. 130A-309.137(c)(3) becomes effective January 1, 2013.

SECTION 3.(a) G.S. 130A-309.09A(b)(6) is amended by adding a new sub-subdivision to read:

"(6) Include an assessment of current programs and a description of intended actions with respect to:

...

e. For each county and each municipality with a population in excess of 25,000, collection of discarded computer equipment and televisions, as defined in G.S. 130A-309.131."

SECTION 3.(b) G.S. 130A-309.09A(d) is amended by adding a new subdivision to read:

"(d) In order to assess the progress in meeting the goal set out in G.S. 130A-309.04, each unit of local government shall report to the Department on the solid waste management programs and waste reduction activities within the unit of local government by 1 September of each year. At a minimum, the report shall include:

...

(8) Information regarding permanent recycling programs for discarded computer equipment and televisions for which funds are received pursuant to G.S. 130A-309.137, and information on operative interlocal agreements executed in conjunction with funds received, if any."

SECTION 3.(c) This section becomes effective August 1, 2010.

SECTION 4.(a) G.S. 130A-309.10(f) is amended by adding two new subdivisions to read:

"(f) No person shall knowingly dispose of the following solid wastes in landfills:

- (1) Repealed by Session Laws 1991, c. 375, s. 1.
- (2) Used oil.
- (3) Yard trash, except in landfills approved for the disposal of yard trash under rules adopted by the Commission. Yard trash that is source separated from solid waste may be accepted at a solid waste disposal area where the area provides and maintains separate yard trash composting facilities.
- (4) White goods.
- (5) Antifreeze (ethylene glycol).
- (6) Aluminum cans.
- (7) Whole scrap tires, as provided in G.S. 130A-309.58(b). The prohibition on disposal of whole scrap tires in landfills applies to all whole pneumatic rubber coverings, but does not apply to whole solid rubber coverings.
- (8) Lead-acid batteries, as provided in G.S. 130A-309.70.
- (9) Beverage containers that are required to be recycled under G.S. 18B-1006.1.
- (10) Motor vehicle oil filters.
- (11) Recyclable rigid plastic containers that are required to be labeled as provided in subsection (e) of this section, that have a neck smaller than the body of the container, and that accept a screw top, snap cap, or other closure. The

prohibition on disposal of recyclable rigid plastic containers in landfills does not apply to rigid plastic containers that are intended for use in the sale or distribution of motor oil or pesticides.

- (12) Wooden pallets, except that wooden pallets may be disposed of in a landfill that is permitted to only accept construction and demolition debris.
- (13) Oyster shells.
- (14) Discarded computer equipment, as defined in G.S. 130A-309.131.
- (15) Discarded televisions, as defined in G.S. 130A-309.131."

SECTION 4.(b) G.S. 130A-309.10(f1) is amended by adding two new subdivisions to read:

"(f1) No person shall knowingly dispose of the following solid wastes by incineration in an incinerator for which a permit is required under this Article:

- (1) Antifreeze (ethylene glycol) used solely in motor vehicles.
- (2) Aluminum cans.
- (3) Repealed by Session Laws 1995 (Regular Session, 1996), c. 594, s. 17.
- (4) White goods.
- (5) Lead-acid batteries, as provided in G.S. 130A-309.70.
- (6) Beverage containers that are required to be recycled under G.S. 18B-1006.1.
- (7) Discarded computer equipment, as defined in G.S. 130A-309.131.
- (8) Discarded televisions, as defined in G.S. 130A-309.131."

SECTION 4.(c) This section becomes effective July 1, 2011.

SECTION 5.(a) Part 4 of Article 3D of Chapter 147 of the General Statutes is amended by adding a new section to read:

§ 147-33.104A. Purchase by State agencies and governmental entities of certain computer equipment and televisions prohibited.

- (a) The exemptions set out in G.S. 147-33.80 do not apply to this section.
- (b) No State agency, political subdivision of the State, or other public body shall purchase computer equipment or televisions, as defined in G.S. 130A-309.131, or enter into a contract with any manufacturer that the Secretary determines is not in compliance with the requirements of G.S. 130A-309.134 or G.S. 130A-309.135 as determined from the list provided by the Department of Environment and Natural Resources pursuant to G.S. 130A-309.138. The Secretary shall issue written findings upon a determination of noncompliance. A determination of noncompliance by the Secretary is reviewable under Article 3 of Chapter 150B of the General Statutes.
- (c) The Office of Information Technology Services shall make the list available to political subdivisions of the State and other public bodies. A manufacturer that is not in compliance with the requirements of G.S. 130A-309.134 or G.S. 130A-309.135 shall not sell or offer for sale computer equipment or televisions to the State, a political subdivision of the State, or other public body."

SECTION 5.(b) This section becomes effective August 1, 2010.

SECTION 6. The Environmental Review Commission, with the assistance of the Department of Environment and Natural Resources, shall conduct a study to determine the feasibility of requiring recycling of: (i) computer equipment discarded by small businesses; and (ii) other electronic equipment, including, but not limited to: automated typewriters, professional workstations, servers, ICI devices, ICI systems, mobile telephones, portable handheld calculators, PDAs, MP3 players, copy machines, VCRs, stereos, radios, tape players, CD players, telephones, fax machines, electronic games, power and network cables, network hubs, switching boxes, controllers, modems, docking stations, CD-ROMs, hard drives, printed circuit boards, uninterruptible power supplies, routers, and rechargeable batteries. The Environmental Review Commission, with the assistance of the Department of Environment and Natural Resources, shall also study the fee structure for computer manufacturers imposed under this act. The Environmental Review Commission shall report its findings and

recommendations, including any legislative proposals, to the 2011 Regular Session of the General Assembly upon its convening.

SECTION 7. The Environmental Review Commission, with the assistance of the Department of Environment and Natural Resources, shall monitor and review electronic recycling programs in other states on an ongoing basis and shall report its findings and recommendations to the General Assembly periodically.

SECTION 8. Notwithstanding the provisions of G.S. 130A-309.136, as enacted by Section 2 of this act, during the first year after the effective date of this act, the Department shall not initiate an enforcement action against a retailer for a first violation of G.S. 130A-309.136. The Department shall, however, issue a notice of violation to the retailer in conjunction with the first violation.

SECTION 9. Sections 6, 7, 8, and 9 of this act are effective when they become law.

In the General Assembly read three times and ratified this the 1st day of July, 2010.

Became law upon approval of the Governor at 10:37 a.m. on the 8th day of July, 2010.

Session Law 2010-68

S.B. 1193

AN ACT TO IMPLEMENT THE LONG-TERM CARE PARTNERSHIP PROGRAM, TO ENSURE THAT NORTH CAROLINA'S LONG-TERM CARE INSURANCE LAWS COMPORT WITH THE LONG-TERM CARE PARTNERSHIP PROVISIONS IN THE FEDERAL DEFICIT REDUCTION ACT OF 2005, AND TO AUTHORIZE THE SHARING OF CONFIDENTIAL INFORMATION BETWEEN THE NORTH CAROLINA DEPARTMENT OF INSURANCE, ENTITIES THAT CONTRACT WITH THE FEDERAL GOVERNMENT, AND OTHER GOVERNMENTAL AGENCIES, AS RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

SECTION 1. Part 6, Article 2 of Chapter 108A of the General Statutes is amended by adding a new section to read:

"§ 108A-70.4. Long-Term Care Partnership Program.

- (a) The following definitions apply in this section:
- (1) Asset. – Resources and income.
 - (2) Department. – The Department of Health and Human Services.
 - (3) Division. – The Division of Medical Assistance.
 - (4) Estate recovery. – The placing of a statutory claim on the estate of a deceased Medicaid recipient, as provided by G.S. 108A-70.5.
 - (5) Medicaid. – The federal medical assistance program established under Title XIX of the Social Security Act.
 - (6) Qualified long-term care partnership policy or qualified policy. – A long-term care insurance policy approved for use in North Carolina and that meets all the requirements of the federal Deficit Reduction Act of 2005, P.L. 109-171.
 - (7) Resource. – Cash or its equivalent and real or personal property that is available to an applicant or recipient.
 - (8) Resource disregard. – The amount of resources of an applicant for long-term care Medicaid that is equal to the amount of benefits paid to the applicant under a qualified long-term care partnership policy.
 - (9) Resource protection. – An amount equal to the resource disregard given to a Medicaid recipient during the long-term care Medicaid eligibility determination process.

(b) There is established the North Carolina Long-Term Care Partnership Program (Partnership Program) to be administered by the Division with assistance from the Department of Insurance. The Partnership Program shall:

- (1) Provide a mechanism for individuals to qualify for coverage of the cost of their long-term care needs under Medicaid without first being required to substantially exhaust their resources.
- (2) Provide counseling services to individuals planning for their long-term care needs.
- (3) Reduce the financial burden on the State medical assistance program by encouraging individuals to obtain private long-term care insurance.

(c) Under the Partnership Program, the Department shall:

- (1) Provide resource disregard to an applicant for long-term care Medicaid who has received benefits under a qualified long-term care partnership policy. The amount of the resource disregard shall be equal to the total insurance benefits paid to the individual under a qualified policy after the implementation of the Partnership Program and prior to the individual's first application for long-term care Medicaid.
- (2) Provide resource protection by reducing any subsequent recovery by the State under G.S. 108A-70.5 from a deceased recipient's estate for payment of Medicaid paid services by the amount of resource disregard given under subdivision (1) of this subsection.

(d) The Department shall adopt rules and amendments to the State Plan to allow for resource disregard at long-term care Medicaid eligibility determination and resource protection at estate recovery. The Department and the Department of Insurance shall adopt rules to implement the provisions of the Partnership Program and to provide for its administration.

(e) Effective January 1, 2011, or 60 days after approval of the Medicaid State Plan amendment, whichever is later, a qualified long-term care partnership policy shall be accompanied by a Partnership Disclosure Notice detailing in plain language the current law pertaining to the Partnership Program, resource disregard, and resource protection.

(f) The Department may enter into a reciprocal agreement with other states that enter into a national reciprocity agreement to extend the resource disregard and resource protection to residents of the State who purchased, or purchased and used, a qualified long-term care policy in another state.

(g) G.S. 108A-70.5 applies to the estate of an individual who received benefits under a qualified long-term care partnership policy."

SECTION 2. G.S. 108A-70.5 reads as rewritten:

"§ 108A-70.5. Medicaid Estate Recovery Plan.

(a) There is established in the Department of Health and Human Services, the Medicaid Estate Recovery Plan, as required by the Omnibus Budget Reconciliation Act of 1993, to recover from the estates of recipients of medical assistance an equitable amount of the State and federal shares of the cost paid for the recipient. The Department shall administer the program in accordance with applicable federal law and regulations, including those under Title XIX of the Social Security Act, 42 U.S.C. § 1396(p).

(b) ~~As used in this section:~~ The following definitions apply in this section:

- (1) ~~"Medical assistance" means medical~~ Medical assistance. – Medical care services paid for by the North Carolina Medicaid Program on behalf of the recipient:
 - a. If the recipient of any age is receiving medical care services as an inpatient in a nursing facility, intermediate care facility for the mentally retarded, or other medical institution, and cannot reasonably be expected to be discharged to return home; or
 - b. If the recipient is 55 years of age or older and is receiving one or more of the following medical care services:

1. Nursing facility services.
 2. Home and community-based services.
 3. Hospital care.
 - 3a. Prescription drugs.
 4. Personal care services.
 - 5 through 9. Repealed by Session Laws 2007-442, s. 1, effective August 23, 2007.
- (2) ~~"Estate" means all~~ Estate. – All the real and personal property considered assets of the estate available for the discharge of debt pursuant to G.S. 28A-15-1. For individuals who have received benefits under a qualified long-term care partnership policy as described in G.S. 108A-70.4, "estate" also includes any other real and personal property and other assets in which the individual had any legal title or interest at the time of death (to the extent of such interest), including assets conveyed to a survivor, heir, or assign of the deceased individual through joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement.
- (3) Repealed by Session Laws 2007-442, s. 1, effective August 23, 2007.
- (c) The amount the Department recovers from the estate of any recipient shall not exceed the amount of medical assistance made on behalf of the recipient and shall be recoverable only for medical care services prescribed in subsection (b) of this section. The Department is a fifth-class creditor, as prescribed in G.S. 28A-19-6, for purposes of determining the order of claims against an estate; provided, however, that judgments in favor of other fifth-class creditors docketed and in force before the Department seeks recovery for medical assistance shall be paid prior to recovery by the Department.
- (d) The Department of Health and Human Services shall adopt rules pursuant to Chapter 150B of the General Statutes to implement the Plan, including rules to waive whole or partial recovery when this recovery would be inequitable because it would work an undue hardship or because it would not be administratively cost-effective and rules to ensure that all recipients are notified that their estates are subject to recovery at the time they become eligible to receive medical assistance.
- (e) Repealed by Session Laws 2007-442, s. 1, effective August 23, 2007."
- SECTION 3.** Article 55 of Chapter 58 of the General Statutes is amended by designating G.S. 58-55-1 through G.S. 58-55-50 as "Part 1. General Provisions."
- SECTION 4.** Article 55 of Chapter 58 of the General Statutes is amended by adding a new Part to read:

"Part 2. Long-Term Care Partnership.

"§ 58-55-55. Definitions.

The following definitions apply in this section:

- (1) Asset. – Resources and income.
- (2) Department. – The Department of Health and Human Services.
- (3) Division. – The Division of Medical Assistance.
- (4) Estate recovery. – The placing of a statutory claim on the estate of a deceased Medicaid recipient, as provided by G.S. 108A-70.5.
- (5) Medicaid. – The federal medical assistance program established under Title XIX of the Social Security Act.
- (6) Qualified long-term care partnership policy or qualified policy. – A long-term care insurance policy approved for use in North Carolina and that meets all the requirements of the federal Deficit Reduction Act of 2005, P.L. 109-171.
- (7) Resource. – Cash or its equivalent and real or personal property that is available to an applicant or recipient.

- (8) Resource disregard. – The amount of resources of an applicant for long-term care Medicaid that is equal to the amount of benefits paid to the applicant under a qualified long-term care partnership policy.
- (9) Resource protection. – An amount equal to the resource disregard given to a Medicaid recipient during the long-term care Medicaid eligibility determination process.

"§ 58-55-60. Qualified long-term care partnership policy.

A qualified long-term care partnership policy is a long-term care insurance policy or a certificate issued under a group long-term care insurance policy that satisfies all of the following requirements:

- (1) The policy meets the requirements for a qualified long-term care insurance contract, as defined in section 7702B of the Internal Revenue Code of 1986 (26 U.S.C. § 7702B(b)).
- (2) The effective date of the coverage is on or after January 1, 2011, or 60 days after approval of the Medicaid State Plan amendment, whichever is later.
- (3) The policy covers an insured who was a resident of North Carolina or another reciprocal partnership state when coverage first became effective under the policy.
- (4) The policy meets the federal consumer protection requirements of section 1917(b) of the Social Security Act as amended by section 6021(a) of the Deficit Reduction Act of 2005, P.L. 109-171 of the Social Security Act (42 U.S.C. § 1396p(b)(5)(A)).
- (5) The policy is issued with and retains inflation protection coverage which meets the inflation standards based on the insured's then attained age as defined in sub-subdivisions a., b., and c. below:
 - a. Policies or certificates issued to an individual who is under 61 years old must provide compound annual inflation protection.
 - b. Policies or certificates issued to an individual who is 61 to 76 years old must provide some level of inflation protection. This may include simple interest or compound inflation protection.
 - c. For purchasers 76 years old or older, inflation protection may be offered but is not required.

Notwithstanding the above, purchasers of qualified long-term care insurance policies may adjust their inflation protection as they age. However, their policies shall continue to be qualified long-term care insurance policies as long as the inflation protection in the qualified policies continues to meet the minimum requirements for the insured's attained age.

- (6) The policy states that it is intended to be a qualified long-term care insurance policy as defined in section 7702B(b) of the Internal Revenue Code of 1986.
- (7) A qualified policy issued, executed, and delivered in North Carolina shall be accompanied by a Partnership Disclosure Notice explaining the benefits associated with a qualified policy and indicating that at the time issued, the policy is a qualified long-term care insurance partnership policy in North Carolina. The Partnership Disclosure Notice shall also include a statement indicating that by purchasing this partnership policy, the insured does not automatically qualify for Medicaid. Notices providing additional information may be used in conjunction with the Partnership Disclosure Notice described in this section if filed and approved by the Commissioner. The Notice shall state the following in at least 12-point font:

"Partnership Policy Status: Your long-term care insurance policy is intended to qualify as a Partnership Policy under the North Carolina Long-Term Care Partnership Program as of your policy's effective date. For Medicaid

applicants applying for help with the cost of long-term care, this means that an amount of your resources equal to the dollar amount of long-term care insurance benefits paid to you or on your behalf under this policy may be disregarded for purposes of determining your eligibility for long-term care Medicaid and from any subsequent recovery by the State from your estate for payment of Medicaid paid services. The amount that may be disregarded at eligibility will be equal to the amount of the long-term care partnership benefits paid out prior to the time you apply for long-term care Medicaid. As a result, you may qualify for coverage of the cost of your long-term care needs under Medicaid without first being required to substantially exhaust your personal resources. The amount that may be protected from recovery by the State from your estate will be equal to the amount disregarded for purposes of eligibility for long-term care Medicaid. If you are already a recipient of long-term care Medicaid, this policy will not allow a resource disregard or estate recovery resource protection. The purchase of a Partnership Policy does not automatically qualify you for Medicaid.

Please note that this policy may lose long-term care partnership program status if you move to a different state that does not recognize North Carolina's Long-Term Care Partnership Program or you modify this policy after issuance. This policy may also lose long-term care partnership program status due to changes in federal or state laws.

If you have questions regarding long-term care insurance and the North Carolina Long-Term Care Partnership Program, you may contact the Seniors' Health Insurance Information Program of the Department of Insurance at 1-800-443-9354."

In the case of a group insurance contract, this Partnership Disclosure Notice shall be provided to the insured upon the issuance of the certificate. The insurer shall include in that Notice that the amount of the insured's resources that may be disregarded at eligibility will be equal to the amount of qualified long-term care partnership policy benefits paid prior to the time the insured applied for long-term care Medicaid. The insurer shall also include in the notice a warning to the insured that the policy may lose long-term care partnership program status if the insured moves to another state that does not recognize North Carolina's Long-Term Care Partnership Program, or if the policy is modified after issuance.

- (8) When the insured's remaining lifetime maximum benefit is equal to 90 times the current daily benefit, or three times the current monthly benefit, the insurer shall notify the insured in writing advising the insured to go to the local department of social services to apply for Medicaid if the insured had not already done so.

"§ 58-55-65. Compliance with federal regulations.

(a) The Commissioner may adopt rules to conform long-term care policies and certificates to the requirements of federal law and regulations, including any changes required by Congress or the U.S. Department of Health and Human Services, or any successor agencies.

(b) The tax-qualified long-term care provisions required of the Health Insurance Portability and Accountability Act of 1996, including subsequent amendments and editions, are hereby incorporated into Article 55 of Chapter 58 of the General Statutes.

(c) The long-term care partnership provisions required of the Deficit Reduction Act of 2005, including subsequent amendments and editions, are hereby incorporated into Article 55 of Chapter 58 of the General Statutes.

"§ 58-55-70. Disclosure notices.

(a) Prior to making a change requested by the policyholder to a qualified long-term care partnership policy that would result in the loss to the policy of qualified policy status, the insurer shall provide to the policyholder a written explanation within 30 calendar days of how this action would affect the insured and shall obtain the insured's signature indicating consent to the change.

(b) If a qualified long-term care partnership policy subsequently loses qualified policy status, the insurer shall explain in writing within 30 calendar days to the policyholders the reason for the loss of status.

(c) The disclosures required in this section shall be provided to any insured who exchanges a policy for a qualified long-term care partnership policy.

"§ 58-55-75. Exchange of long-term care policies for long-term care partnership policies.

An insurer shall offer, on a onetime basis, in writing, to all existing policyholders that were issued a long-term care policy on or after February 8, 2006, the option to exchange their existing long-term care coverage for coverage that is intended to qualify under North Carolina's Long-Term Care Partnership Program. The insurer shall provide notification of this onetime offer within 180 days from the date on which the company begins to offer partnership coverage in the State. The mandatory offer of an exchange shall only apply to products issued by the insurer that are comparable to the type of policy form, such as group policies and individual policies, and on the policy series that the company has certified as partnership qualified. This exchange may be subject to underwriting and premium adjustment. A policy received in an exchange after the effective date of North Carolina's Long-Term Care Partnership Program is treated as newly issued and is eligible for qualified policy status. For purposes of applying the Medicaid rules relating to qualified long-term care partnership policies, the addition of a rider, endorsement, or change in schedule page for a policy may be treated as giving rise to an exchange. The effective date of the long-term care partnership policy shall be the date the policy was exchanged."

"§ 58-55-80. Information sharing.

(a) In order to assist in the performance of the Commissioner's duties under the long-term care partnership program specified in the federal Deficit Reduction Act of 2005, the Commissioner may:

- (1) Share information, including identifying information, related to the long-term care partnership program with other state and federal agencies, the National Association of Insurance Commissioners, and any entity contracting with the federal government under the program.
- (2) Receive information, including identifying information, related to the long-term care partnership program from other state and federal agencies, the National Association of Insurance Commissioners, and any entity contracting with the federal government under the program, and shall maintain as confidential or privileged any identifying information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information. Information received under this subdivision of this subsection is not a "public record" as defined in G.S. 132-1.
- (3) Enter into agreements governing sharing and use of information consistent with this section.

(b) No waiver of an existing privilege or claim of confidentiality in the identifying information shall occur as a result of disclosure to the Commissioner under this section or as a result of sharing as authorized in subsection (a) of this section.

(c) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under this section shall be available and enforced in any proceeding in, and in any court of, this State.

(d) As used in this section, "identifying information" has the same meaning as in G.S. 14-113.20(b)."

SECTION 5. This act becomes effective January 1, 2011, or 60 days after approval of the Medicaid State Plan amendment, whichever is later.

In the General Assembly read three times and ratified this the 30th day of June, 2010.

Became law upon approval of the Governor at 10:40 a.m. on the 8th day of July, 2010.

Session Law 2010-69

S.B. 1191

AN ACT TO DIRECT THE DIVISION OF HEALTH SERVICE REGULATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES, TO COORDINATE A REVIEW OF THE EDUCATION AND TRAINING REQUIREMENTS FOR NURSE AIDES, AS RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Division of Health Service Regulation, Department of Health and Human Services, shall coordinate a review of the education and training requirements for nurse aides. In conducting the review, the Division shall include an equal number of representatives from the Division of Health Service Regulation; Division of Aging and Adult Services; the North Carolina Board of Nursing; the North Carolina Community College System; the Direct Care Workers Association of North Carolina; the North Carolina Medical Society; the North Carolina Health Care Facilities Association; the North Carolina Hospital Association; the Association for Home and Hospice Care of North Carolina; the North Carolina Assisted Living Association; the North Carolina Association of Long Term Care Facilities; the North Carolina Association of Non-Profit Homes for the Aging; and individuals representing residents in long-term care. The review shall include an evaluation of the current education and training requirements for nurse aides.

SECTION 1.(b) The Division of Health Service Regulation shall report findings and recommendations on the appropriate levels of education and training for nurse aides to the North Carolina Study Commission on Aging on or before November 1, 2010.

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

In the General Assembly read three times and ratified this the 30th day of June, 2010.

Became law upon approval of the Governor at 10:45 a.m. on the 8th day of July, 2010.

Session Law 2010-70

H.B. 382

AN ACT TO CREATE THE HEALTH CHOICE PROGRAM REVIEW PROCESS TO CONTINUE THE CURRENT REVIEW PROCESS FOR PROGRAM APPLICANTS AND RECIPIENTS APPEALING ENROLLMENT AND ELIGIBILITY DECISIONS, AND CREATE A REVIEW PROCESS FOR PROGRAM RECIPIENTS TO APPEAL HEALTH SERVICES DECISIONS, AND TO ADD THE HEALTH SERVICES REVIEW PROCESS TO THE AGENCIES AND PROCEEDINGS CURRENTLY EXEMPTED FROM THE CONTESTED CASE PROVISIONS OF THE ADMINISTRATIVE PROCEDURE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Part 8 of Article 2 of Chapter 108A of the General Statutes is amended by adding a new section to read:

"§ 108A-70.29. Program review process.

(a) Review of Eligibility and Enrollment Decisions. – Eligibility and enrollment decisions for Program applicants or recipients shall be reviewable pursuant to G.S. 108A-79. Program recipients shall remain enrolled during the review of a decision to terminate or suspend enrollment.

(b) Review of Health Services Decisions. – In accordance with 42 C.F.R. § 457.1130 and 42 C.F.R. § 457.1150, a Program recipient may seek review of any delay, denial, reduction, suspension, or termination of health services, in whole or in part, including a determination about the type or level of services, through a two-level review process.

- (1) Internal review. – Within 30 days from the date of the decision subject to review under this subsection, a recipient may request a first-level internal review, which shall be conducted by the Clinical Medical Director of the Division of Medical Assistance or the Director's clinical designee.
- (2) External review. – If the recipient is dissatisfied with the first-level review decision, then within 15 days after the internal review decision is rendered the recipient may request a second-level independent external review by the Department of Health and Human Services Hearing Office. The external review process shall comply with the provisions of 42 C.F.R. § 457.1140. The Department's Hearing Office shall assign the matter to a hearing officer who will preside over the review. The hearing may be in person at the Hearing Office in Raleigh or by telephone. Recipients may:

 - a. Represent themselves or have representatives of their choosing in the review process.
 - b. Timely review their files and other applicable information relevant to the review of the decision.
 - c. Fully participate in the review process, including the opportunity to present supplemental information during the review process.
- (3) Time frames. – The hearing officer shall render a written decision within 90 calendar days of the date the recipient requested first-level review, as specified at 42 C.F.R. § 457.1160. If the recipient's physician or health plan determines that operating under the standard 90-day time frame could seriously jeopardize the enrollee's life or health or ability to attain, maintain, or regain maximum function, then each level of review must be completed within 72 hours, except that this expedited time frame may be extended by up to 14 calendar days if the recipient requests an extension.
- (4) Coverage of services during review. – When the decision is a reduction, suspension, termination, or denied request for increase of existing services, notwithstanding the request for review, the services shall be covered in accordance with the decision under review, and services which are terminated or suspended services shall not be covered, unless and until the decision is overturned on review.

(c) Review of decisions pursuant to Programmatic changes. – The Program review process set forth in this section shall not apply to instances in which the sole basis for the decision is a provision in the State plan or in Federal or State law requiring an automatic change in eligibility, enrollment, or a change in coverage under the health benefits package that affects all applicants or enrollees or a group of applicants or enrollees without regard to their individual circumstances.

(d) Notice. – A recipient shall receive timely written notice of any decision subject to review under this section in accordance with the requirements of 42 C.F.R. § 457.1180. The notice shall include the reasons for the decision, an explanation of applicable rights to review of that decision, the standard and expedited time frames for review, the manner in which a review can be requested, and the circumstances under which enrollment may continue pending review.

(e) Rule-Making authority. – The Department shall have the authority to adopt rules for the implementation and operation of the Program review process."

SECTION 2. G.S. 150B-1(e) is amended by adding a new subdivision to read:

"(17) The Department of Health and Human Services with respect to the review of North Carolina Health Choice Program determinations regarding delay, denial, reduction, suspension, or termination of health services, in whole or in part, including a determination about the type or level of services."

SECTION 3. This act becomes effective July 1, 2010, and applies to reviews of Health Choice Program enrollment, eligibility, or health services decisions requested by Health Choice Program applicants or recipients on or after that date.

In the General Assembly read three times and ratified this the 6th day of July, 2010.

Became law upon approval of the Governor at 10:49 a.m. on the 8th day of July, 2010.

Session Law 2010-71

H.B. 1676

AN ACT TO RESTORE A BALANCE TO THE LAW ON UNEMPLOYMENT COMPENSATION FOR SUBSTITUTE TEACHERS AS RECOMMENDED BY THE JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 96-8(10) is amended by adding a new sub-subdivision to read:

"f. No substitute teacher or other substitute school personnel shall be considered unemployed for days or weeks when not called to work unless the individual is or was employed as a full-time substitute during the period of time for which the individual is requesting benefits. For the purposes of this subsection, full-time substitute is defined as a substitute employee who works more than 30 hours a week on a continual basis for a period of six months or more."

SECTION 2. G.S. 96-8(6)k.21. is repealed.

SECTION 3. G.S. 96-8(6)k.22. is repealed.

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

In the General Assembly read three times and ratified this the 28th day of June, 2010.

Became law upon approval of the Governor at 10:53 a.m. on the 8th day of July, 2010.

Session Law 2010-72

H.B. 2054

AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE STATUTES GOVERNING THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 135-5(g) reads as rewritten:

"(g) Election of Optional Allowance. – With the provision that until the first payment on account of any benefit becomes normally due, or his first retirement check has been cashed, any member may elect to receive his benefits in a retirement allowance payable throughout life, or he may elect to receive the actuarial equivalent of such retirement allowance, including any special retirement allowance, in a reduced allowance payable throughout life under the provisions of one of the options set forth below. The election of ~~Option 2 or Option 3~~ Option 2, 3, or 6 or nomination of the person thereunder shall be revoked if such person nominated dies prior to the date the first payment becomes normally due or until the first retirement check has

been cashed. Such election may be revoked by the member prior to the date the first payment becomes normally due or until his first retirement check has been cashed. Provided, however, in the event a member has elected ~~Option 2 or Option 3~~ Option 2, 3, or 5 and nominated his or her spouse to receive a retirement allowance upon the member's death, and the spouse predeceases the member after the first payment becomes normally due or the first retirement check has been cashed, if the member remarries he or she may request to nominate a new spouse to receive the retirement allowance under the previously elected option, within 90 days of the remarriage, and may nominate a new spouse to receive the retirement allowance under the previously elected option by written designation duly acknowledged and filed with the Board of Trustees within 120 days of the remarriage. The new nomination shall be effective on the first day of the month in which it is made and shall provide for a retirement allowance computed to be the actuarial equivalent of the retirement allowance in effect immediately prior to the effective date of the new nomination. Any member having elected ~~Options~~ Option 2, 3, 5, or 6 and nominated his or her spouse to receive a retirement allowance upon the member's death may, after divorce from his or her spouse, revoke the nomination and elect a new option, effective on the first day of the month in which the new option is elected, providing for a retirement allowance computed to be the actuarial equivalent of the retirement allowance in effect immediately prior to the effective date of the new option. Except as provided in this section, the member may not change the member's retirement benefit option or the member's designated beneficiary for survivor benefits, if any, after the member has cashed the first retirement check or after the 25th day of the month following the month in which the first check is mailed, whichever comes first.

Option 1.(a) In the Case of a Member Who Retires prior to July 1, 1963. – If he dies before he has received in annuity payments the present value of his annuity as it was at the time of his retirement, the balance shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees.

(b) In the Case of a Member Who Retires on or after July 1, 1963, but prior to July 1, 1993. – If he dies within 10 years from his retirement date, an amount equal to his accumulated contributions at retirement, less 1/120 thereof for each month for which he has received a retirement allowance payment, shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees; or

Option 2. Upon his death his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement, provided that if the person selected is other than his spouse the reduced retirement allowance payable to the member shall not be less than one half of the retirement allowance without optional modification which would otherwise be payable to him; or

Option 3. Upon his death, one half of his reduced retirement allowance shall be continued throughout the life of, and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement; or

Option 4. Adjustment of Retirement Allowance for Social Security Benefits. – Until the first payment on account of any benefit becomes normally due, any member may elect to convert his benefit otherwise payable on his account after retirement into a retirement allowance of equivalent actuarial value of such amount that with his benefit under Title II of the Federal Social Security Act, he will receive, so far as possible, approximately the same amount per year before and after the earliest age at which he becomes eligible, upon application therefor, to receive a social security benefit.

Option 5. For Members Retiring Prior to July 1, 1993. – The member may elect to receive a reduced retirement allowance under the conditions of Option 2 or Option 3, as provided for above, with the modification that if both he and the person nominated die within 10 years from

his retirement date, an amount equal to his accumulated contributions at retirement, less 1/120 thereof for each month for which a retirement allowance has been paid, shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees.

Option 6. A member may elect either Option 2 or Option 3 with the added provision that in the event the designated beneficiary predeceases the member, the retirement allowance payable to the member after the designated beneficiary's death shall be equal to the retirement allowance which would have been payable had the member not elected the option.

Upon the death of a member after the effective date of a retirement for which the member has been approved and following receipt by the Board of Trustees of an election of benefits (Form 6-E or Form 7-E) but prior to the cashing of the first benefit check, the retirement benefit shall be payable as provided by the member's election of benefits under this subsection.

Upon the death of a member after the effective date of a retirement for which the member has been approved but prior to the receipt by the Board of Trustees of an election of benefits (Form 6-E or Form 7-E), properly acknowledged and filed by the member, the member's designated beneficiary for a return of accumulated contributions may elect to receive the benefit, if only one beneficiary is ~~named for~~ eligible to receive the return of accumulated contributions. If more than one beneficiary is ~~named for~~ eligible to receive the return of accumulated contributions, the administrator or executor of the member's estate will select an option and name the beneficiary or beneficiaries."

SECTION 1.(b) G.S. 128-27(g) reads as rewritten:

"(g) Election of Optional Allowance. – With the provision that until the first payment on account of any benefit becomes normally due, or his first retirement check has been cashed, any member may elect to receive his benefits in a retirement allowance payable throughout life, or he may elect to receive the actuarial equivalent of such retirement allowance, including any special retirement allowance, in a reduced allowance payable throughout life under the provisions of one of the Options set forth below. The election of ~~Option two or Option three~~ Option 2, 3, or 6 or nomination of the person thereunder shall be revoked if such person nominated dies prior to the date the first payment becomes normally due or the first retirement check has been cashed. Such election may be revoked by the member prior to the date the first payment becomes normally due or his first retirement check has been cashed. Provided, however, in the event a member has elected ~~Option 2 or Option 3~~ Option 2, 3, or 5 and nominated his or her spouse to receive a retirement allowance upon the member's death, and the spouse predeceases the member after the first payment becomes normally due or the first retirement check has been cashed, if the member remarries he or she may request to nominate a new spouse to receive the retirement allowance under the previously elected option, within 90 days of the remarriage, and may nominate a new spouse to receive the retirement allowance under the previously elected option by written designation duly acknowledged and filed with the Board of Trustees within 120 days of the remarriage. The new nomination shall be effective on the first day of the month in which it is made and shall provide for a retirement allowance computed to be the actuarial equivalent of the retirement allowance in effect immediately prior to the effective date of the new nomination. Any member having elected ~~Options two, three, or six~~ Option 2, 3, 5, or 6 and nominated his or her spouse to receive a retirement allowance upon the member's death may, after divorce from his or her spouse, revoke the nomination and elect a new option, effective on the first day of the month in which the new option is elected, providing for a retirement allowance computed to be the actuarial equivalent of the retirement allowance in effect immediately prior to the effective date of the new option. Except as provided in this section, the member may not change the member's retirement benefit option or the member's designated beneficiary for survivor benefits, if any, after the member has cashed the first retirement check or after the 25th day of the month following the month in which the first check is mailed, whichever comes first.

Option one.

- (a) In the Case of a Member Who Retires prior to July 1, 1965. – If he dies before he has received in annuity payments the present value of his annuity as it was at the time of his retirement, the balance shall be paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees or, if none, to his legal representative.
- (b) In the Case of a Member Who Retires on or after July 1, 1965, but prior to July 1, 1993. – If he dies within 10 years from his retirement date, an amount equal to his accumulated contributions at retirement, less one one-hundred-twentieth thereof for each month for which he has received a retirement allowance payment, shall be paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees or, if none, to his legal representative; or

Option two. Upon his death his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement, provided that if the person selected is other than his spouse the reduced retirement allowance payable to the member shall not be less than one half of the retirement allowance without optional modification which would otherwise be payable to him; or

Option three. Upon his death, one half of his reduced retirement allowance shall be continued throughout the life of, and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement; or

Option four. Adjustment of Retirement Allowance for Social Security Benefits. – Until the first payment on account of any benefit becomes normally due, any member may elect to convert his benefit otherwise payable on his account after retirement into a retirement allowance of equivalent actuarial value of such amount that with his benefit under Title II of the Federal Social Security Act, he will receive, so far as possible, approximately the same amount per year before and after the earliest age at which he becomes eligible, upon application therefor, to receive a social security benefit.

Option five. For Members Retiring prior to July 1, 1993. – The member may elect to receive a reduced retirement allowance under the conditions of Option two or Option three, as provided for above, with the modification that if both he and the person nominated die within 10 years from his retirement date, an amount equal to his accumulated contributions at retirement, less 1/120th thereof for each month for which a retirement allowance has been paid, shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees.

Option six. A member may elect either Option two or Option three with the added provision that in the event the designated beneficiary predeceases the member, the retirement allowance payable to the member after the designated beneficiary's death shall be equal to the retirement allowance which would have been payable had the member not elected the option.

Upon the death of a member after the effective date of a retirement for which the member has been approved and following receipt by the Board of Trustees of an election of benefits (Form 6-E or Form 7-E) but prior to the cashing of the first benefit check, the retirement benefit shall be payable as provided by the member's election of benefits under this subsection.

Upon the death of a member after the effective date of a retirement for which the member has been approved but prior to the receipt by the Board of Trustees of an election of benefits (Form 6-E or Form 7-E), properly acknowledged and filed by the member, the member's designated beneficiary for a return of accumulated contributions may elect to receive the benefit, if only one beneficiary is ~~named for~~ eligible to receive the return of accumulated contributions. If more than one beneficiary is ~~named for~~ eligible to receive the return of accumulated contributions, the administrator or executor of the member's estate will select an option and name the beneficiary or beneficiaries."

SECTION 2.(a) G.S. 135-5(m) reads as rewritten:

"(m) Survivor's Alternate Benefit. – Upon the death of a member in service, the principal beneficiary designated to receive a return of accumulated contributions shall have the right to elect to receive in lieu thereof the reduced retirement allowance provided by Option 2 of subsection (g) above computed by assuming that the member had retired on the first day of the month following the date of his death, provided that all four of the following conditions apply:

- (1) a. The member had attained such age and/or creditable service to be eligible to commence retirement with an early or service retirement allowance, or
- b. The member had obtained 20 years of creditable service in which case the retirement allowance shall be computed in accordance with G.S. 135-5(b19)(1)b. or G.S. 135-5(b19)(2)c., notwithstanding the requirement of obtaining age 50, or
- b1. The member was a law enforcement officer who had obtained 15 years of service as a law enforcement officer and was killed in the line of duty, in which case the retirement allowance shall be computed in accordance with G.S. 135-5(b19)(1)b., notwithstanding the requirement of obtaining age ~~50~~, 50.
- e. ~~The member had not commenced to receive a retirement allowance as provided under this Chapter.~~
- (2) ~~The member had designated as the principal beneficiary. At the time of the member's death, one and only one beneficiary is eligible to receive a return of his accumulated contributions one and only one person who was living at the time of his death. contributions.~~
- (3) The member had not instructed the Board of Trustees in writing that he did not wish the provisions of this subsection to apply.
- (4) The member had not commenced to receive a retirement allowance as provided under this Chapter.

For the purpose of this benefit, a member is considered to be in service at the date of his death if his death occurs within 180 days from the last day of his actual service. The last day of actual service shall be determined as provided in subsection (l) of this section. Upon the death of a member in service, the surviving spouse may make all purchases for creditable service as provided for under this Chapter for which the member had made application in writing prior to the date of death, provided that the date of death occurred prior to or within 60 days after notification of the cost to make the purchase. The term "in service" as used in this subsection includes a member in receipt of a benefit under the Disability Income Plan as provided in Article 6 of this Chapter.

Notwithstanding the foregoing, a member who is in receipt of Workers' Compensation during the period for which the member would have otherwise been eligible to receive short-term benefits, as provided in G.S. 135-105, and who dies on or after 181 days from the last day of the member's actual service but on or before the date the benefits as provided in G.S. 135-105 would have ended, shall be considered in service at the time of the member's death for the purpose of this benefit.

For the purpose of calculating this benefit any terminal payouts made after the date of death that meet the definition of compensation shall be credited to the month prior to the month of death. These terminal payouts do not include salary or wages paid for work performed during the month of death."

SECTION 2.(b) G.S. 128-27(m) reads as rewritten:

"(m) Survivor's Alternate Benefit. – Upon the death of a member in service, the ~~principal~~ beneficiary designated to receive a return of accumulated contributions shall have the right to elect to receive in lieu thereof the reduced retirement allowance provided by Option two of subsection (g) above computed by assuming that the member had retired on the first day of the month following the date of his death, provided that all ~~three~~ four of the following conditions apply:

- (1) a. The member had attained such age and/or creditable service to be eligible to commence retirement with an early or service retirement allowance, or
 - b. The member had obtained 20 years of creditable service in which case the retirement allowance shall be computed in accordance with G.S. 128-27(b21)(1)b. or G.S. 128-27(b21)(2)c., notwithstanding the requirement of obtaining age 50, or
 - b1. The member was a law enforcement officer who had obtained 15 years of service as a law enforcement officer and was killed in the line of duty, in which case the retirement allowance shall be computed in accordance with G.S. 128-27(b21)(1)b., notwithstanding the requirement of obtaining age ~~50~~, or 50.
 - e. ~~The member had not commenced to receive a retirement allowance as provided under this Chapter.~~
- (2) ~~The member had designated as the principal beneficiary~~ At the time of the member's death, one and only one beneficiary is eligible to receive a return of his accumulated contributions one and only one person who is living at the time of his death. contributions.
- (3) The member had not instructed the Board of Trustees in writing that he did not wish the provisions of this subsection apply.
- (4) The member had not commenced to receive a retirement allowance as provided under this Chapter.

For the purpose of this benefit, a member is considered to be in service at the date of his death if his death occurs within 180 days from the last day of his actual service. The last day of actual service shall be determined as provided in subsection (l) of this section. Upon the death of a member in service, the surviving spouse may make all purchases for creditable service as provided for under this Chapter for which the member had made application in writing prior to the date of death, provided that the date of death occurred prior to or within 60 days after notification of the cost to make the purchase.

For the purpose of calculating this benefit, any terminal payouts made after the date of death that meet the definition of compensation shall be credited to the month prior to the month of death. These terminal payouts do not include salary or wages paid for work performed during the month of death."

SECTION 3.(a) G.S. 135-45.2(f) reads as rewritten:

"(f) Former employees who are receiving disability retirement benefits or disability income benefits pursuant to Article 6 of Chapter 135 of the General Statutes, Statutes or who are approved for those benefits but not in receipt of the benefits due to lump-sum payouts of vacation and bonus leave, provided the former employee has at least five years of ~~retirement membership service,~~ contributory retirement service with an employing unit of a State-supported retirement system, shall be eligible for the benefit provisions of this Plan, as set forth in this Part, on a noncontributory basis. Such coverage shall terminate as of the end of the month in which such former employee is no longer eligible for disability retirement benefits or disability income benefits pursuant to Article 6 of this Chapter."

SECTION 3.(b) G.S. 135-5(l) reads as rewritten:

"(l) Death Benefit Plan. – There is hereby created a Group Life Insurance Plan (hereinafter called the "Plan") which is established as an employee welfare benefit plan that is separate and apart from the Retirement System and under which the members of the Retirement

System shall participate and be eligible for group life insurance benefits. Upon receipt of proof, satisfactory to the Board of Trustees in their capacity as trustees under the Group Life Insurance Plan, of the death, in service, of a member who had completed at least one full calendar year of membership in the Retirement System, there shall be paid to such person as he shall have nominated by electronic submission prior to completing 10 years of service in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person is living at the time of the member's death, otherwise to the member's legal representatives, a death benefit. Such death benefit shall be equal to the greater of:

- (1) The compensation on which contributions were made by the member during the calendar year preceding the year in which his death occurs, or
- (2) The greatest compensation on which contributions were made by the member during a 12-month period of service within the 24-month period of service ending on the last day of the month preceding the month in which his last day of actual service occurs;
- (3), (4) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1049, s. 2.

subject to a minimum of twenty-five thousand dollars (\$25,000) and to a maximum of fifty thousand dollars (\$50,000). Such death benefit shall be payable apart and separate from the payment of the member's accumulated contributions under the System on his death pursuant to the provisions of subsection (f) of this section. For the purpose of the Plan, a member shall be deemed to be in service at the date of his death if his death occurs within 180 days from the last day of his actual service.

The death benefit provided in this subsection (l) shall not be payable, notwithstanding the member's compliance with all the conditions set forth in the preceding paragraph, if his death occurs

- (1) After December 31, 1968 and after he has attained age 70; or
- (2) After December 31, 1969 and after he has attained age 69; or
- (3) After December 31, 1970 and after he has attained age 68; or
- (4) After December 31, 1971 and after he has attained age 67; or
- (5) After December 31, 1972 and after he has attained age 66; or
- (6) After December 31, 1973 and after he has attained age 65; or
- (7) After December 31, 1978, but before January 1, 1987, and after he has attained age 70.

Notwithstanding the above provisions, the death benefit shall be payable on account of the death of any member who died or dies on or after January 1, 1974, but before January 1, 1979, after attaining age 65, if he or she had not yet attained age 65, if he or she had not yet attained age 66, was at the time of death completing the work year for those individuals under specific contract, or during the fiscal year for those individuals not under specific contract, in which he or she attained 65, and otherwise met all conditions for payment of the death benefit.

Notwithstanding the above provisions, the Board of Trustees may and is specifically authorized to provide the death benefit according to the terms and conditions otherwise appearing in this Plan in the form of group life insurance, either (i) by purchasing a contract or contracts of group life insurance with any life insurance company or companies licensed and authorized to transact business in this State for the purpose of insuring the lives of members in service, or (ii) by establishing a separate trust fund qualified under Section 501(c)(9) of the Internal Revenue Code of 1954, as amended, for such purpose. To that end the Board of Trustees is authorized, empowered and directed to investigate the desirability of utilizing group life insurance by either of the foregoing methods for the purpose of providing the death benefit. If a separate trust fund is established, it shall be operated in accordance with rules and regulations adopted by the Board of Trustees and all investment earnings on the trust fund shall be credited to such fund.

In administration of the death benefit the following shall apply:

- (1) For the purpose of determining eligibility only, in this subsection "calendar year" shall mean any period of 12 consecutive months or, if less, the period covered by an annual contract of employment. For all other purposes in this subsection "calendar year" shall mean the 12 months beginning January 1 and ending December 31.
- (2) Last day of actual service shall be:
 - a. When employment has been terminated, the last day the member actually worked.
 - b. When employment has not been terminated, the date on which an absent member's sick and annual leave expire, unless he is on approved leave of absence and is in service under the provisions of G.S. 135-4(h).
 - c. When a participant's employment is interrupted by reason of service in the Uniformed Services, as that term is defined in section 4303(16) of the Uniformed Services Employment and Reemployment Rights Act, Public Law 103-353, and the participant does not return immediately after that service to employment with a covered employer in this System, the date on which the participant was first eligible to be separated or released from his or her involuntary military service.
- (3) For a period when a member is on leave of absence, his status with respect to the death benefit will be determined by the provisions of G.S. 135-4(h).
- (4) A member on leave of absence from his position as a teacher or State employee for the purpose of serving as a member or officer of the General Assembly shall be deemed to be in service during sessions of the General Assembly and thereby covered by the provisions of the death benefit. The amount of the death benefit for such member shall be the equivalent of the salary to which the member would have been entitled as a teacher or State employee during the 12-month period immediately prior to the month in which death occurred, not to be less than twenty-five thousand dollars (\$25,000) nor to exceed fifty thousand dollars (\$50,000).

The provisions of the Retirement System pertaining to Administration, G.S. 135-6, and management of funds, G.S. 135-7, are hereby made applicable to the Plan.

A member who is a beneficiary of the Disability Income Plan provided for in Article 6 of this Chapter, or a member who is in receipt of Workers' Compensation during the period for which he or she would have otherwise been eligible to receive short-term benefits or extended short-term benefits as provided in G.S. 135-105 and dies on or after 181 days from the last day of his or her actual service but prior to the date the benefits as provided in G.S. 135-105 would have ended, shall be eligible for group life insurance benefits as provided in this subsection, notwithstanding that the member is no longer an employee or teacher or that the member's death occurs after the eligibility period after active service. The basis of the death benefit payable hereunder shall be the higher of the death benefit computed as above or a death benefit based on compensation used in computing the benefit payable under G.S. 135-105 and G.S. 135-106, as may be adjusted for percentage post-disability increases, all subject to the maximum dollar limitation as provided above. A member in receipt of benefits from the Disability Income Plan under the provisions of G.S. 135-112 whose right to a benefit accrued under the former Disability Salary Continuation Plan shall not be covered under the provisions of this paragraph.

Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this subsection, of the death of a retired member of the Retirement System on or after July 1, 1988, but before January 1, 1999, there shall be paid a death benefit to the surviving spouse of the deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and

has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of five thousand dollars (\$5,000) upon the completion of twenty-four months of contributions required under this subsection. Should death occur before the completion of twenty-four months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees.

Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this subsection, of the death of a retired member of the Retirement System on or after January 1, 1999, but before July 1, 2004, there shall be paid a death benefit to the surviving spouse of the deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of six thousand dollars (\$6,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees.

Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this subsection, of the death of a retired member of the Retirement System on or after July 1, 2004, but before July 1, 2007, there shall be paid a death benefit to the surviving spouse of the deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of nine thousand dollars (\$9,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees.

Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this subsection, of the death of a retired member of the Retirement System on or after July 1, 2007, there shall be paid a death benefit to the surviving spouse of the deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of ten thousand dollars (\$10,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of

contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees."

SECTION 4.(a) G.S. 135-3(8)d. reads as rewritten:

"d. Should a beneficiary who retired on an early or service retirement allowance under this Chapter be restored to service as an employee or teacher, then the retirement allowance shall cease as of the first of the month following the month in which the beneficiary is restored to service and the beneficiary shall become a member of the Retirement System and shall contribute thereafter as allowed by law at the uniform contribution payable by all members.

Upon his subsequent retirement, he shall be paid a retirement allowance determined as follows:

1. For a member who earns at least three years' membership service after restoration to service, the retirement allowance shall be computed on the basis of his compensation and service before and after the period of prior retirement without restrictions; provided, that if the prior allowance was based on a social security leveling payment option, the allowance shall be adjusted actuarially for the difference between the amount received under the optional payment and what would have been paid if the retirement allowance had been paid without optional modification. In the alternative, the member may receive a refund of the member's accumulated contributions for the period of service after restoration to service in accordance with G.S. 135-5(f).
2. For a member who does not earn three years' membership service after restoration to service, the retirement allowance shall be equal to the sum of the retirement allowance to which he would have been entitled had he not been restored to service, without modification of the election of an optional allowance previously made, and the retirement allowance that results from service earned since being restored to service; provided, that if the prior retirement allowance was based on a social security leveling payment option, the prior allowance shall be adjusted actuarially for the difference between the amount that would have been paid for each month had the payment not been suspended and what would have been paid if the retirement allowance had been paid without optional modification. In the alternative, the member may receive a refund of the member's accumulated contributions for the period of service after restoration to service in accordance with G.S. 135-5(f), or the member may allow this new account to remain inactive."

SECTION 4.(b) G.S. 128-24(5)d. reads as rewritten:

"d. Should a beneficiary who retired on an early or service retirement allowance be restored to service as an employee, then the retirement allowance shall cease as of the first day of the month following the month in which the beneficiary is restored to service and the beneficiary shall become a member of the Retirement System and shall contribute thereafter as allowed by law at the uniform contribution payable by all members.

Upon his subsequent retirement, he shall be paid a retirement allowance determined as follows:

1. For a member who earns at least three years' membership service after restoration to service, the retirement allowance shall be computed on the basis of his compensation and service before and after the period of prior retirement without restriction; provided, that if the prior allowance was based on a social security leveling payment option, the allowance shall be adjusted actuarially for the difference between the amount received under the optional payment and what would have been paid if the retirement allowance had been paid without optional modification. In the alternative, the member may receive a refund of the member's accumulated contributions for the period of service after restoration to service in accordance with G.S. 128-27(f).
2. For a member who does not earn three years' membership service after restoration to service, the retirement allowance shall be equal to the sum of the retirement allowance to which he would have been entitled had he not been restored to service, without modification of the election of an optional allowance previously made, and the retirement allowance that results from service earned since being restored to service; provided, that if the prior retirement allowance was based on a social security leveling payment option, the prior allowance shall be adjusted actuarially for the difference between the amount that would have been paid for each month had the payment not been suspended and what would have been paid if the retirement allowance had been paid without optional modification. In the alternative, the member may receive a refund of the member's accumulated contributions for the period of service after restoration to service in accordance with G.S. 128-27(f), or the member may allow this new account to remain inactive."

SECTION 5.(a) G.S. 135-4(gg) reads as rewritten:

"(gg) If a member who is an elected government official and has not vested in this System on July 1, 2007, is convicted of an offense listed in G.S. 135-18.10 for acts committed after July 1, 2007, then that member shall forfeit all benefits under this ~~System~~. System, except for a return of member contributions plus interest. If a member who is an elected government official and has vested in this System on July 1, 2007, is convicted of an offense listed in G.S. 135-18.10 for acts committed after July 1, 2007, then that member is not entitled to any creditable service that accrued after July 1, 2007. No member shall forfeit any benefit or creditable service earned from a position not as an elected government official."

SECTION 5.(b) G.S. 128-26(w) reads as rewritten:

"(w) If a member who is an elected government official and has not vested in this System on July 1, 2007, is convicted of an offense listed in G.S. 128-38.4 for acts committed after July 1, 2007, then that member shall forfeit all benefits under this ~~System~~. System, except for a return of member contributions plus interest. If a member who is an elected government official and has vested in this System on July 1, 2007, is convicted of an offense listed in G.S. 128-38.4 for acts committed after July 1, 2007, then that member is not entitled to any creditable service that accrued after July 1, 2007. No member shall forfeit any benefit or creditable service earned from a position not as an elected government official."

SECTION 6.(a) G.S. 135-10.1 reads as rewritten:

"§ 135-10.1. Failure to respond.

If a member fails to respond ~~in any way~~ within ~~90~~ 120 days after preliminary option figures and the Form 6-E or Form 7-E are mailed, or if a member fails to respond within 120 days after the effective date of retirement, whichever is later, the Form 6 or Form 7 shall be null and void; the retirement system shall not be liable for any benefits due on account of the voided application, and a new application must be filed establishing a subsequent effective date of retirement. If an applicant for disability retirement fails to furnish requested additional medical information within 90 days following such request, the application shall be declared null and void under the same conditions outlined above, unless the applicant is eligible for early or service retirement in which case the application shall be processed accordingly, using the same effective date as would have been used had the application for disability retirement been approved. The Director of the Retirement Systems Division, acting on behalf of the Board of Trustees, may extend the ~~90-day~~ 120-day limitation provided for in this section when a member has suffered incapacitation such that a reasonable person would not have expected the member to be able to complete the required paperwork within the regular deadline, or when an omission by the Retirement Systems Division prevents the member from having sufficient time to meet the regular deadline."

SECTION 6.(b) G.S. 128-32.1 reads as rewritten:

"§ 128-32.1. Failure to respond.

If a member fails to respond ~~in any way~~ within ~~90~~ 120 days after preliminary option figures and the Form 6-E or Form 7-E are mailed, or if a member fails to respond within 120 days after the effective date of retirement, whichever is later, the Form 6 or Form 7 shall be null and void; the retirement system shall not be liable for any benefits due on account of the voided application, and a new application must be filed establishing a subsequent effective date of retirement. If an applicant for disability retirement fails to furnish requested additional medical information within 90 days following such request, the application shall be declared null and void under the same conditions outlined above, unless the applicant is eligible for early or service retirement in which case the application shall be processed accordingly, using the same effective date as would have been used had the application for disability retirement been approved. The Director of the Retirement Systems Division, acting on behalf of the Board of Trustees, may extend the ~~90-day~~ 120-day limitation provided for in this section when a member has suffered incapacitation such that a reasonable person would not have expected the member to be able to complete the required paperwork within the regular deadline, or when an omission by the Retirement Systems Division prevents the member from having sufficient time to meet the regular deadline."

SECTION 7. G.S. 135-106(b) reads as rewritten:

"(b) After the commencement of benefits under this section, the benefits payable under the terms of this section during the first 36 months of the long-term disability period shall be equal to sixty-five percent (65%) of 1/12th of the annual base rate of compensation last payable to the participant or beneficiary prior to the beginning of the short-term disability period as may be adjusted for percentage increases as provided under G.S. 135-108, plus sixty-five percent (65%) of 1/12th of the annual longevity payment to which the participant or beneficiary would be eligible, to a maximum of three thousand nine hundred dollars (\$3,900) per month reduced by any primary Social Security disability benefits and by monthly payments for Workers' Compensation to which the participant or beneficiary may be entitled. When primary Social Security disability benefits are increased by cost-of-living adjustments, the increased reduction shall be applied in the first month following the month in which the member becomes entitled to the increased Social Security benefit. The monthly benefit shall be further reduced by the amount of any monthly payments from the federal Department of Veterans Affairs, any other federal agency or any payments made under the provisions of G.S. 127A-108, to which the participant or beneficiary may be entitled on account of the same disability. Provided, in any event, the benefit payable shall be no less than ten dollars (\$10.00) a month. However, a disabled participant may elect to receive any salary continuation as provided in G.S. 135-104 in

lieu of long-term disability benefits; provided such election shall not extend the first 36 consecutive calendar months of the long-term disability period. An election to receive any salary continuation for any part of any given day shall be in lieu of any long-term benefit payable for that day, provided further, any lump-sum payout for vacation leave shall be treated as if the beneficiary or participant had exhausted the leave and shall be in lieu of any long-term benefit otherwise payable. Provided that, in any event, a beneficiary's benefit shall be reduced during the first 36 months of the long-term disability period by an amount, as determined by the Board of Trustees, equal to a primary Social Security retirement benefit to which the beneficiary might be entitled.

After 36 months of long-term disability, no further benefits are payable under the terms of this section unless the member has been approved and is in receipt of primary Social Security disability benefits. In that case the benefits payable shall be equal to sixty-five percent (65%) of 1/12th of the annual base rate of compensation last payable to the participant or beneficiary prior to the beginning of the short-term disability period as may be adjusted for percentage increases as provided under G.S. 135-108, plus sixty-five percent (65%) of 1/12th of the annual longevity payment to which the participant or beneficiary would be eligible, to a maximum of three thousand nine hundred dollars (\$3,900) per month reduced by the primary Social Security disability benefits and by monthly payments for Workers' Compensation to which the participant or beneficiary may be entitled. When primary Social Security disability benefits are increased by cost-of-living adjustments, the increased reduction shall be applied in the first month following the month in which the member becomes entitled to the increased Social Security benefit. The monthly benefit shall be further reduced by the amount of any monthly payments from the federal Department of Veterans Affairs, for payments from any other federal agency, or for any payments made under the provisions of G.S. 127A-108, to which the participant or beneficiary may be entitled on account of the same disability. Provided, in any event, the benefit payable shall be no less than ten dollars (\$10.00) a month.

Notwithstanding the foregoing, the long-term disability benefit is payable so long as the beneficiary is disabled and is in receipt of a primary Social Security disability benefit until the earliest date at which the beneficiary is eligible for an unreduced service retirement allowance from the Retirement System, at which time the beneficiary would receive a retirement allowance calculated on the basis of the beneficiary's average final compensation at the time of disability as adjusted to reflect compensation increases subsequent to the time of disability and the creditable service accumulated by the beneficiary, including creditable service while in receipt of benefits under the Plan. In the event the beneficiary has not been approved and is not in receipt of a primary Social Security disability benefit, the long-term disability benefit shall cease after the first 36 months of the long-term disability period. However, a beneficiary shall be entitled to a restoration of the long-term disability benefit in the event the Social Security Administration grants a retroactive approval for primary Social Security disability benefits with a benefit effective date within the first 36 months of the long-term disability period. In such event, the long-term disability benefit shall be restored retroactively to the date of cessation."

SECTION 8.(a) G.S. 135-8(b2) reads as rewritten:

"(b2) Retroactive Adjustment in Compensation or an Underreporting of Compensation. – A member or beneficiary who is awarded backpay in cases of a denied promotional opportunity or wrongful demotion in which the aggrieved member or beneficiary is granted a promotion or a demotion is reversed retroactively, or in cases in which an employer errs in the reporting of compensation, including the employee and employer contributions, the member or beneficiary and employer may make employee and employer contributions on the retroactive or additional compensation, after submitting clear and convincing evidence of the retroactive promotion or underreporting of compensation, as follows:

- (1) Within 90 days of the denial of the promotion or the error in reporting, by the payment of employee and employer contributions that would have been paid; or

- (2) After 90 days of the denial of the promotion or the error in reporting, by the payment of the employee and employer contributions that would have been paid plus interest compounded annually at a rate equal to the greater of the average yield on the pension accumulation fund for the preceding calendar year or the actuarial investment rate-of-return assumption, as adopted by the Board of Trustees.

For members or beneficiaries electing to make the employee contributions on the retroactive adjustment in compensation or on the underreported compensation, the member's or beneficiary's employer, which granted the retroactive promotion or erred in underreporting compensation and contributions, shall make the required employer contributions. Nothing contained in this subsection shall prevent an employer from paying all or a part of the interest assessed on the employee contributions; and to the extent paid by the employer, the interest paid by the employer shall be credited to the pension accumulation fund; provided, however, an employer does not discriminate against any member or beneficiary or group of members or beneficiaries in his employ in paying all or any part of the interest assessed on the employee contributions due.

In the event the retroactive adjustment in compensation or the underreported compensation is for a period that occurs during the four consecutive calendar years that would have produced the highest average annual compensation pursuant to G.S. 135-1(5) the compensation the member or beneficiary would have received during the period shall be included in calculating the member's or beneficiary's average final compensation only in the event the appropriate employee and employer contributions are paid on such compensation.

An employer error in underreporting compensation shall not include a retroactive increase in compensation that occurs during the four consecutive calendar years that would have produced the highest average annual compensation pursuant to G.S. 135-1(5) for reasons other than a wrongfully denied promotional opportunity or wrongful demotion where the member is promoted or the demotion is reversed retroactively."

SECTION 8.(b) G.S. 128-30(b2) reads as rewritten:

"(b2) Retroactive Adjustment in Compensation or an Underreporting of Compensation. – A member or beneficiary who is awarded backpay in cases of a denied promotional opportunity or wrongful demotion in which the aggrieved member or beneficiary is granted a promotion or a demotion is reversed retroactively, or in cases in which an employer errs in the reporting of compensation, including the employee and employer contributions, the member or beneficiary and employer may make employee and employer contributions on the retroactive or additional compensation after submitting clear and convincing evidence of the retroactive promotion or underreporting of compensation, as follows:

- (1) Within 90 days of the denial of the promotion or the error in reporting, by the payment of employee and employer contributions that would have been paid; or
- (2) After 90 days of the denial of the promotion or the error in reporting, by the payment of the employee and employer contributions that would have been paid plus interest compounded annually at a rate equal to the greater of the average yield on the pension accumulation fund for the preceding calendar year or the actuarial investment rate-of-return assumption, as adopted by the Board of Trustees.

For members or beneficiaries electing to make the employee contributions on the retroactive adjustment in compensation or on the underreported compensation, the member's or beneficiary's employer, which granted the retroactive promotion or erred in underreporting compensation and contributions, shall make the required employer contributions. Nothing contained in this subsection shall prevent an employer from paying all or a part of the interest assessed on the employee contributions; and to the extent paid by the employer, the interest paid by the employer shall be credited to the pension accumulation fund; provided, however, an employer does not discriminate against any member or beneficiary or group of members or

beneficiaries in his employ in paying all or any part of the interest assessed on the employee contributions due.

In the event the retroactive adjustment in compensation or the underreported compensation is for a period that occurs during the four consecutive calendar years that would have produced the highest average annual compensation pursuant to G.S. 135-1(5), the compensation the member or beneficiary would have received during the period shall be included in calculating the member's or beneficiary's average final compensation only in the event the appropriate employee and employer contributions are paid on such compensation.

An employer error in underreporting compensation shall not include a retroactive increase in compensation that occurs during the four consecutive calendar years that would have produced the highest average annual compensation pursuant to G.S. 135-1(5), for reasons other than a wrongfully denied promotional opportunity or wrongful demotion where the member is promoted or the demotion is reversed retroactively."

SECTION 9.(a) G.S. 135-5(g1) reads as rewritten:

"(g1) In the event of the death of a retired member while in receipt of a retirement allowance under the provisions of this Article, there shall be paid to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the retiree's legal representatives, a death benefit equal to the excess, if any, of the accumulated contributions of the retiree at the date of retirement over the total of the retirement allowances paid prior to the death of the retiree. ~~For purposes of this paragraph, the term "accumulated contributions" includes amounts of employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible law enforcement officers.~~ In the event that a retiree is receiving a Special Retirement Allowance under subsection (m1) of this section, there shall be paid to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the retiree's legal representatives, an additional death benefit equal to the excess, if any, of the employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina over the total of the Special Retirement Allowances paid prior to the death of the retiree.

In the event that a retirement allowance becomes payable to the designated survivor of a retired member under the provisions above and such retirement allowance to the survivor shall terminate upon the death of the survivor before the total of the retirement allowances paid to the retiree and the designated survivor combined equals the amount of the accumulated contributions of the retiree at the date of retirement, the excess, if any, of such accumulated contributions over the total of the retirement allowances paid to the retiree and the survivor combined shall be paid in a lump sum to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time such payment falls due, otherwise to the retiree's legal representative. For purposes of this paragraph, the term "accumulated contributions" includes amounts of employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible law enforcement officers.

In the event that a retirement allowance becomes payable to the principal beneficiary designated to receive a return of accumulated contributions pursuant to subsection (m) of this section and that beneficiary dies before the total of the retirement allowances paid equals the amount of the accumulated contributions of the member at the date of the member's death, the excess of those accumulated contributions over the total of the retirement allowances paid to the beneficiary shall be paid in a lump sum to the person or persons the member has designated

as the contingent beneficiary for return of accumulated contributions, if the person or persons are living at the time the payment falls due, otherwise to the principal beneficiary's legal representative. For purposes of this paragraph, the term "accumulated contributions" includes amounts of employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible law enforcement officers.

In the event a retiree purchases creditable service as provided in G.S. 135-4, there shall be paid to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the retiree's legal representatives, an additional death benefit equal to the excess, if any, of the cost of the creditable service purchased less the administrative fee, if any, over the total of the increase in the retirement allowance attributable to the additional creditable service, paid from the month following the month in which payment was received to the death of the retiree.

In the event that a retirement allowance becomes payable to the designated survivor of a retired member under the provisions above and such retirement allowance to the survivor shall terminate upon the death of the survivor before the total of the increase in the retirement allowance attributable to the additional creditable service paid to the retiree and the designated survivor combined equals the cost of the creditable service purchased less the administrative fee, the excess, if any, shall be paid in a lump sum to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time such payment falls due, otherwise to the retiree's legal representative.

In the event that a retiree dies without having designated a beneficiary to receive a benefit under the provisions of this subsection, any such benefit that becomes payable shall be paid to the member's estate."

SECTION 9.(b) G.S. 128-27(g1) reads as rewritten:

"(g1) In the event of the death of a retired member while in receipt of a retirement allowance under the provisions of this Article, there shall be paid to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the retiree's legal representatives, a death benefit equal to the excess, if any, of the accumulated contributions of the retiree at the date of retirement over the total of the retirement allowances paid prior to the death of the retiree. ~~For purposes of this paragraph, the term "accumulated contributions" includes amounts of employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible law enforcement officers.~~ In the event that a retiree is receiving a Special Retirement Allowance under subsection (m1) of this section, there shall be paid to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the retiree's legal representatives, an additional death benefit equal to the excess, if any, of the employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina over the total of the Special Retirement Allowances paid prior to the death of the retiree.

In the event that a retirement allowance becomes payable to the designated survivor of a retired member under the provisions above and such retirement allowance to the survivor shall terminate upon the death of the survivor before the total of the retirement allowances paid to the retiree and the designated survivor combined equals the amount of the accumulated contributions of the retiree at the date of retirement, the excess, if any, of such accumulated

contributions over the total of the retirement allowances paid to the retiree and the survivor combined shall be paid in a lump sum to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time such payment falls due, otherwise to the retiree's legal representative. For purposes of this paragraph, the term "accumulated contributions" includes amounts of employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible law enforcement officers.

In the event that a retirement allowance becomes payable to the principal beneficiary designated to receive a return of accumulated contributions pursuant to subsection (m) of this section and that beneficiary dies before the total of the retirement allowances paid equals the amount of the accumulated contributions of the member at the date of the member's death, the excess of those accumulated contributions over the total of the retirement allowances paid to the beneficiary shall be paid in a lump sum to the person or persons the member has designated as the contingent beneficiary for return of accumulated contributions, if the person or persons are living at the time the payment falls due, otherwise to the principal beneficiary's legal representative. For purposes of this paragraph, the term "accumulated contributions" includes amounts of employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible law enforcement officers.

In the event a retiree purchases creditable service as provided in G.S. 128-26, there shall be paid to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the retiree's legal representatives, an additional death benefit equal to the excess, if any, of the cost of the creditable service purchased less the administrative fee, if any, over the total of the increase in the retirement allowance attributable to the additional creditable service, paid from the month following the month in which payment was received to the death of the retiree.

In the event that a retirement allowance becomes payable to the designated survivor of a retired member under the provisions above, and such retirement allowance to the survivor shall terminate upon the death of the survivor before the total of the increase in the retirement allowance attributable to the additional creditable service paid to the retiree and the designated survivor combined equals the cost of the creditable service purchased less the administrative fee, the excess, if any, shall be paid in a lump sum to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time such payment falls due, otherwise to the retiree's legal representative.

In the event that a retiree dies without having designated a beneficiary to receive a benefit under the provisions of this subsection, any such benefit that becomes payable shall be paid to the member's estate."

SECTION 10.(a) G.S. 135-5(m1) reads as rewritten:

"(m1) Special Retirement Allowance for Law Enforcement Officers. – Upon retirement, a member who is a law enforcement officer may elect to transfer any portion of his eligible accumulated contributions, not including any Roth after-tax contributions and the earnings thereon, from the Supplemental Retirement Income Plan of North Carolina to this Retirement System and receive, in addition to his basic service, early or disability retirement allowance, a special retirement allowance which shall be based upon his eligible accumulated account balance at the date of the transfer of the assets to this System. For the purpose of determining the special retirement allowance, the Board of Trustees shall adopt straight life annuity factors on the basis of mortality tables, such other tables as may be necessary and the interest

assumption rate recommended by the actuary based upon actual experience including an assumed annual post-retirement allowance increase of four percent (4%). The Board of Trustees shall modify such factors every five years, as shall be deemed necessary, based upon the five year experience study as required by G.S. 135-6(n). Provided, however, a member, who transfers his eligible accumulated contributions from the Supplemental Retirement Income Plan of North Carolina, shall be taxed for North Carolina State Income tax purposes on the special retirement allowance the same as if that special retirement allowance had been paid directly by the Supplemental Retirement Income Plan of North Carolina. The Teachers' and State Employees' Retirement System shall be responsible to determine the taxable amount, if any, and report accordingly."

SECTION 10.(b) G.S. 128-27(m1) reads as rewritten:

"(m1) Special Retirement Allowance for Law Enforcement Officers. – Upon retirement, a member who is a law enforcement officer may elect to transfer any portion of his eligible accumulated contributions, not including any Roth after-tax contributions and the earnings thereon, from the Supplemental Retirement Income Plan of North Carolina to this Retirement System and receive, in addition to his basic service, early or disability retirement allowance, a special retirement allowance which shall be based upon his eligible accumulated account balance at the date of the transfer of the assets to this System. For the purpose of determining the special retirement allowance, the Board of Trustees shall adopt straight life annuity factors on the basis of mortality tables, such other tables as may be necessary and the interest assumption rate recommended by the actuary based upon actual experience including an assumed annual post-retirement allowance increase of four percent (4%). The Board of Trustees shall modify such factors every five years, as shall be deemed necessary, based upon the five year experience study as required by G.S. 128-29(o). Provided, however, a member who transfers his eligible accumulated contributions from the Supplemental Retirement Income Plan of North Carolina shall be taxed for North Carolina State Income tax purposes on the special retirement allowance the same as if that special retirement allowance had been paid directly by the Supplemental Retirement Income Plan of North Carolina. The Local Governmental Employees' Retirement System shall be responsible to determine the taxable amount, if any, and report accordingly."

SECTION 11.(a) G.S. 143-166.30(d) reads as rewritten:

"(d) Supplemental Retirement Income Plan for State Law-Enforcement Officers. – As of January 1, 1985, there shall be created a Supplemental Retirement Income Plan, hereinafter called the "Plan," established for the benefit of all law-enforcement officers employed by the State, who shall be participants. The Board of Trustees of the State Retirement System shall administer the Plan and shall, under the terms and conditions otherwise appearing herein, provide Plan benefits either (i) by establishing a separate trust fund in conformance with Section 401(a), Section 401(k) or other sections of the Internal Revenue Code of 1954 as amended or, (ii) by causing the Plan to affiliate with some master trust fund providing the same benefits for participants. The Plan shall be separate and apart from any retirement systems.

In addition to the contributions transferred from the Law-Enforcement Officers' Retirement System and the contributions otherwise provided for in this Article, participants may make voluntary contributions to the Plan to be credited to the designated individual accounts of participants; provided, in no instance shall the total contributions by a participant exceed ten percent (10%) of a participant's compensation within any calendar year.

All contributions to the Plan shall be credited to the individual accounts of participants, and shall be fully and immediately vested in the name of the participant, and shall be invested according to each participant's election, as provided by the Board of Trustees, including but not limited to time deposits, and both fixed and variable investments. The Plan may provide for loans to participants, at reasonable rates of interest to be charged, from participants' individual accounts, and may provide for withdrawal of contributions on account of hardship.

The benefit to a participant in the Plan shall be either a lump-sum distribution or a distribution in periodic installments of the participant's account payable under retirement,

disability, or termination of employment. Upon the death of a participant there shall be paid the same lump-sum distribution or periodic installments to the surviving spouse of the participant or otherwise to the participant's estate; provided, should a participant instruct the Board of Trustees in writing that he does not wish these benefits to be paid to his spouse or estate, then the benefits shall be paid to the person or persons as the participant may name for this purpose.

Upon retirement, a participant in the Plan may elect to transfer any portion of his eligible accumulated contributions, not including any Roth after-tax contributions and the earnings thereon, to the Teachers' and State Employees' Retirement System and receive, in addition to his basic service, early or disability retirement allowance a special retirement allowance which shall be based on his eligible accumulated account balance at the date of the transfer of the assets."

SECTION 11.(b) G.S. 143-166.50(e) reads as rewritten:

"(e) Supplemental Retirement Income Plan for Local Governmental Law-Enforcement Officers. – As of January 1, 1986, all law-enforcement officers employed by a local government employer, are participating members of the Supplemental Retirement Income Plan as provided by Article 5 of Chapter 135 of the General Statutes. In addition to the contributions transferred from the Law-Enforcement Officers' Retirement System, participants may make voluntary contributions to the Supplemental Retirement Income Plan to be credited to the designated individual accounts of participants; provided, in no instance shall the total contributions by a participant exceed ten percent (10%) of a participant's compensation within any calendar year. From July 1, 1987, until July 1, 1988, local government employers of law enforcement officers shall contribute an amount equal to at least two percent (2%) of participating local officers' monthly compensation to the Supplemental Retirement Income Plan to be credited to the designated individual accounts of participating local officers; and on and after July 1, 1988, local government employers of law enforcement officers shall contribute an amount equal to five percent (5%) of participating local officers' monthly compensation to the Supplemental Retirement Income Plan to be credited to the designated individual accounts of participating local officers.

Additional contributions shall also be made to the individual accounts of all participants in the Plan, except for Sheriffs, on a per capita equal-share basis from the sum of one dollar and twenty-five cents (\$1.25) for each cost of court collected under G.S. 7A-304.

Upon retirement, a participant in the Plan may elect to transfer any portion of his eligible accumulated contributions, not including any Roth after-tax contributions and the earnings thereon, to the Local Governmental Employees' Retirement System and receive, in addition to his basic service, early or disability retirement allowance a special retirement allowance which shall be based on his eligible accumulated account balance at the date of the transfer of the assets."

SECTION 12. This act becomes effective July 1, 2010.

In the General Assembly read three times and ratified this the 28th day of June, 2010.

Became law upon approval of the Governor at 11:00 a.m. on the 8th day of July, 2010.

Session Law 2010-73

S.B. 430

AN ACT TO: (1) AMEND THE WILMINGTON CIVIL SERVICE ACT TO PROVIDE THAT THE SITTING MEMBERS OF THE CIVIL SERVICE COMMISSION, BY MAJORITY VOTE, SHALL NAME ONE MEMBER OF THE COMMISSION AND PROVIDE FOR THE REPLACEMENT OF THE MEMBER PREVIOUSLY NAMED BY THE WILMINGTON MINISTERIAL ASSOCIATION; AND (2) CLARIFY AND EXPAND THE AUTHORITY OF THE TOWN OF CAROLINA BEACH TO REGULATE AND ENFORCE LAWS IN CAROLINA BEACH HARBOR AND THE SHORELINE AREA ADJOINING THE TOWN.

The General Assembly of North Carolina enacts:

SECTION 1. Section 11.1 of Article XI of the Charter of the City of Wilmington, being Chapter 495 of the 1977 Session Laws, as amended by Chapter 342 of the 1981 Session Laws, reads as rewritten:

"ARTICLE XI. CIVIL SERVICE.

"**Sec. 11.1.** Civil Service Commission established. There is created a Civil Service Commission consisting of five members. Each member must be a citizen and a resident of the City of Wilmington. No member shall be an officer or employee of the city, or be a member of the immediate family of an employee of the city or a former employee of the police or fire department. Applicants to the Civil Service Commission shall complete the City of Wilmington Boards and Commissions application process.

The employees of the City of Wilmington Fire Department who are subject to this Article, by a majority vote, shall name one member. The employees of the City of Wilmington Police Department, who are subject to this Article, by a majority vote, shall name one member. The City Council of the City of Wilmington, by a majority vote, shall name one member. The New Hanover County Medical Society governing board, by a majority vote, shall name one member. ~~The Wilmington Ministerial Association governing body,~~ The sitting members of the Civil Service Commission, by a majority vote, shall name one member.

The members of the commission shall serve a term of three years unless removed by the appointing authority. A member may be removed by a majority vote of all members of the agency appointing that member.

A vacancy is caused by death, resignation, disqualification, or removal. A vacancy is filled by the agency authorized to name the member causing the vacancy. If the agency fails to fill the vacancy within 60 days after notification, the resident senior superior court judge of the judicial district that includes New Hanover County shall immediately fill the vacancy. Members appointed to fill a vacancy serve for the remainder of the unexpired term. Notwithstanding any other provision in this section, the member previously named by the Wilmington Ministerial Association governing body, shall be replaced with another member chosen by a majority vote of the sitting members of the Civil Service Commission. The member, who must complete the City of Wilmington Boards and Commissions application process, shall fill an at-large seat for a one-year term to run from August 1, 2010, through August 1, 2011.

The city council shall set the compensation for allowances, if any, to be paid the members of the commission. In November of each year, the commission shall elect a chairman and may elect other officers. A majority of the members of the commission constitutes a quorum. The commission may determine its own rules of procedure.

The city clerk shall be designated as permanent recording secretary to the Civil Service Commission. The recording secretary shall maintain the minutes of commission meetings and hearings, keep custody of commission records and notify members of meetings. The director of personnel shall act as an ex officio member of the commission representing the city on personnel matters to be handled by the commission. The commission shall within a reasonable time, supply the director of personnel with notification of any actions, reports, or recommendations made by the commission. The personnel office shall notify affected police

and fire department members of actions, reports and recommendations made by the commission."

SECTION 2.(a) Definitions. – The following definition applies to Sections 2.(a) to 2.(e) of this act:

- (1) "Shoreline area" means the land and water areas extending from the corporate boundaries of the Town of Carolina Beach to a distance of 200 yards in parallel lines from the corporate boundaries. This area includes Carolina Beach Harbor, the Municipal Marina, and Yacht Basin. This area does not include: (i) the shoreline areas along the Atlantic Ocean; (ii) the Intracoastal Waterway and all areas within its right-of-way; and (iii) any area within the corporate boundaries of another city or town organized pursuant to Chapter 160A of the General Statutes.

SECTION 2.(b) Purposes. – The purposes of Sections 2.(a) to 2.(e) of this act are to clarify and expand the authority of the Town of Carolina Beach to:

- (1) Operate and manage facilities in Carolina Beach Harbor, the Municipal Marina, and Yacht Basin.
- (2) Enforce navigation, boating, water safety, resource protection, recreation, and public safety laws in the shoreline area in cooperation and coordination with applicable local, State, and federal agencies.

SECTION 2.(c) Effect of ordinances in the shoreline area. – The Town may adopt ordinances pursuant to G.S. 160A-174 and extend applicable ordinances of the Town so that the ordinances have full force and effect in the shoreline area, subject to the limitation that in the event any ordinance adopted by the Town conflicts with a rule, regulation, or statute adopted by a county, State, or federal agency, then the county, State, or federal rule, regulation, or statute shall prevail over the Town ordinance to the extent of the conflict. The Town shall not adopt or extend an ordinance to apply to the shoreline area that would interfere or limit public trust rights of the people of the State or legal rights of access to such public trust areas in any way.

SECTION 2.(d) Police jurisdiction. – In addition to their authority within the corporate boundaries of the Town and as otherwise provided by law, Town law enforcement officers shall have authority to enforce ordinances adopted or extended pursuant to Section 2.(c) of this act in the shoreline area, subject to the limitations of their subject matter jurisdiction and any existing enforcement authority in those areas held by county, State, or federal agencies. The Town may also enter into enforcement and mutual aid agreements with county, State, and federal agencies to cooperatively enforce navigation, boating, water safety, resource protection, recreation, access, and public safety laws and regulations.

SECTION 2.(e) Additional powers. – The Town of Carolina Beach may:

- (1) Hire one or more special officers to serve as harbormaster and to patrol and enforce the laws in the Town and shoreline area. The harbormaster and other officers hired under this section may exercise all the powers of a law enforcement officer generally within the Town, shall be entitled to all powers, privileges, and immunities afforded by law to regularly employed law enforcement officers of the Town, and are subject to all provisions of law relating to law enforcement officers, including training requirements and the requirement that an officer must take the oath of office required of a law enforcement officer.
- (2) Own and operate facilities in the shoreline area, including: piers, docks, slips, quays, and bulkheads; boats and water transportation; moorings and mooring fields; boating safety equipment; dredging and channel maintenance equipment; boating access; and traffic control, navigational devices, lighting, and signage, subject to the limitations in G.S. 75A-15 and other applicable county, State, and federal laws.

SECTION 3. This act is effective when it becomes law.
In the General Assembly read three times and ratified this the 8th day of July, 2010.
Became law on the date it was ratified.

Session Law 2010-74**S.B. 1115**

AN ACT TO AUTHORIZE PRINCIPALS IN THE CARTERET COUNTY PUBLIC SCHOOLS TO ADMINISTER OATHS FOR STUDENT ADMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-366 is amended by adding a new subsection to read:

"(i) Principals and their designees are authorized to administer oaths to those persons giving affidavits, statements made under oath, or affirmations under this section. Principals and their designees may not administer any other oath for any other purpose unless otherwise authorized by law. Each statement made under oath or affirmation to a principal or the principal's designee under this section shall be made under the penalty of perjury in G.S. 14-209."

SECTION 2. This act applies only to the Carteret County School System.

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

In the General Assembly read three times and ratified this the 8th day of July, 2010.
Became law on the date it was ratified.

Session Law 2010-75**S.B. 1361**

AN ACT TO EXCHANGE CERTAIN DESCRIBED TERRITORY BETWEEN THE CITY OF HIGH POINT AND THE CITY OF GREENSBORO.

The General Assembly of North Carolina enacts:

SECTION 1. The following territory is removed from the corporate limits of the City of High Point and added to the corporate limits of the City of Greensboro:
Beginning at a point on the southwestern side of Chimney Rock Road, said point being located North 09 deg. 23 min. 40 sec. East 13.58 feet from a point being the northeastern corner of Lot 12 as shown on a map titled "Final Plat, Piedmont Centre, Section VA" and recorded in Plat Book 116 page 98 in the office of the Register of Deeds of Guilford County, NC; thence, along a curve to the left having a radius of 3143.03 feet, an arc distance of 497.09 feet, with a chord bearing and distance of North 57 deg. 15 min. 59 sec. West 496.57 feet to a point, said curve being the southwestern margin of Chimney Rock Road as shown on a map titled "Piedmont Centre Annexation" and recorded in Plat Book 89 page 54 in said Guilford County Registry, said curve also being the northeastern margin of "12' dedicated for right-of-way" as shown on a map titled "Final Plat, Piedmont Centre, Federal Drive Right-Of-Way" and recorded in Plat Book 100 page 136 in said Guilford County Registry; thence, the following three (3) lines as shown on said Plat Book 89 page 54: 1) North 28 deg. 12 min. 10 sec. East 60.00 feet, crossing Chimney Rock Road, to a point; thence, 2) along the northeastern margin of Chimney Rock Road, being a curve to the right having a radius of 3203.03 feet, an arc distance of 506.58 feet, with a chord bearing and distance of South 57 deg. 15 min. 59 sec. East 506.05 feet to a point; thence, 3) South 37 deg. 15 min. 52 sec. West 60.00 feet, crossing Chimney Rock Road, to said point of beginning. The herein described tract contains an area of 30,110 square feet or 0.691 acres, more or less.

SECTION 2. Section 1 of this act has no effect upon the validity of any liens of the City of High Point for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property was still within the corporate limits of the municipality from which the property was removed.

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

In the General Assembly read three times and ratified this the 8th day of July, 2010.
Became law on the date it was ratified.

Session Law 2010-76

S.B. 1445

AN ACT AUTHORIZING THE CITY OF GOLDSBORO AND THE GOLDSBORO-WAYNE AIRPORT AUTHORITY TO CONVEY BY PRIVATE NEGOTIATION AND SALE ITS RIGHT, TITLE, AND INTEREST IN THE GOLDSBORO-WAYNE MUNICIPAL AIRPORT TO WAYNE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Notwithstanding Article 12 of Chapter 160A of the General Statutes, the City of Goldsboro may convey by private negotiation and sale, with or without monetary consideration, under the terms and conditions it deems proper, any or all of its right, title, and interest in the following described property, known as the Goldsboro-Wayne Municipal Airport, to Wayne County:

BEGINNING at a point on the western right-of-way of Mt. Carmel Church Road and running southwesterly a distance of approximately 162 feet to the northwestern corner of 06-3612-17-7907; thence proceeding in a southwesterly direction a distance of approximately 612 feet to a point on the northern property line of 06-3612-07-5438; thence continuing along this line a distance of approximately 1,301 feet to the northwestern corner of 06-3612-06-0547; thence continuing along the line of 06-3612-06-0547 a distance of approximately 939 feet to a point on the northeastern corner of 06-3602-85-1420; thence from that point, continuing in a northwesterly direction a distance of approximately 783 feet to the northwestern corner of 06-3602-85-1420; thence continuing in a southwesterly direction a distance of approximately 1,051 feet to the northeastern property line of 06-3602-75-1582; thence extending in a northwesterly direction a distance of approximately 835 feet to the northwestern property line of 06-3602-75-1582; thence continuing in a southwesterly direction a distance of approximately 229 feet to the southwestern corner of 06-3602-75-1582; thence continuing in a southeasterly direction a distance of approximately 842 feet to a point near the northwestern corner of 06-3602-74-2736; thence extending in a southwesterly direction a distance of approximately 637 feet to a point on the property line of 06-3602-74-2736; thence turning and extending northwesterly a distance of approximately 1,003 feet to the northwestern corner of 06-3602-64-5889; thence extending in a southwesterly direction a distance of approximately 1,092 feet to the eastern right-of-way line of Airport Road; thence running in a southerly direction along the eastern right-of-way of Airport Road a distance of approximately 37 feet to the southwestern corner of 06-3602-64-5889; thence turning and extending northwesterly a distance of approximately 442 feet to a point on the southern property line of 06-3602-64-5889; then continuing in a southeasterly direction a distance of approximately 966 feet to a point on the southern property line of 06-3602-64-5889; thence continuing in a southerly direction a distance of approximately 547 feet to a point on the northern right-of-way of Aviation Road; thence turning and extending in a northeasterly direction a distance of approximately 388 feet to the southeastern corner of 06-3602-74-2736; thence turning and extending along the right-of-way terminus for Aviation Road a distance of approximately 68 feet to the northeastern property line of 06-3602-63-5707; thence turning and extending in a southwesterly direction a distance of approximately 1,325 feet to a point on the northwestern corner of 06-3602-63-5707; thence turning and proceeding in southwesterly direction a distance of approximately 109 feet to the western property line of 06-3602-63-5707; thence proceeding southeasterly a distance of approximately 1,331 feet to a point on the southern line of 06-3602-63-5707; thence turning and extending in a southwesterly direction a distance of approximately 989 feet; thence turning and extending in a southeasterly direction a distance of approximately 48 feet; thence turning and extending in a southwesterly direction a distance of approximately 915 feet to the

southwestern property corner of 06-3602-62-7208; thence turning and extending in a southeasterly direction a distance of approximately 930 feet; thence turning and extending in a northerly direction a distance of approximately 60 feet; thence turning and following the southern property line of 06-3602-62-7208 in a southeasterly direction a distance of approximately 343 feet; thence extending in a northeasterly direction a distance of approximately 1,976 feet to a point on the eastern property line of 06-3602-72-4566; thence extending in a southeasterly direction a distance of 548 ft. to the eastern property line of 06-3602-72-1121; then turning and extending in a northwesterly direction a distance of approximately 536 ft. to a point on the eastern property line of 06-3602-62-7208; thence turning and extending in a northeasterly direction a distance of approximately 821 feet to the northeastern corner of 06-3602-62-7208; thence turning and extending in a westerly direction a distance of approximately 70 ft. to a point at the southeastern corner of 06-3602-84-3207; thence continuing in a northerly direction a distance of approximately 2,255 ft. to the southeastern property corner of 06-3602-95-7457; thence continuing in a northeasterly direction a distance of approximately 1,918 ft. to a point in the eastern property line of 06-3612-06-0547; thence continuing in a northeasterly direction a distance of approximately 1,271 ft. to the southwestern property corner of 06-3612-17-7907; thence continuing on the line a distance of approximately 203 ft. to the western right-of-way of Mt. Carmel Church Road; thence turning and extending a distance of approximately 755 ft. to the point of beginning and containing approximately 12,605,392 sq. ft., or 289.38 acres, more or less.

SECTION 1.(b) Notwithstanding Article 12 of Chapter 160A of the General Statutes, the City of Goldsboro may convey by private negotiation and sale, with or without monetary consideration, under the terms and conditions it deems proper, any or all of its right, title, and interest in any property not included in subsection (a) of this section and owned by the City of Goldsboro for the operation of the Goldsboro-Wayne Municipal Airport to Wayne County.

SECTION 2. The Goldsboro-Wayne Airport Authority shall convey all real and personal property owned by the Goldsboro-Wayne Airport Authority to Wayne County no later than July 15, 2010.

SECTION 3. The Goldsboro-Wayne Airport Authority shall assign all of its leases and contracts to Wayne County, and the assignment shall become effective July 15, 2010.

SECTION 4. Wayne County shall accept all liabilities of the Goldsboro-Wayne Airport Authority beginning July 15, 2010.

SECTION 5. Chapter 927 of the 1963 Session Laws, as amended by Chapter 1006 of the 1987 Session Laws and S.L. 1998-20, reads as rewritten:

"Section 1. Airport or landing field, for the purposes of this and the Sections following, is defined as any plot of land or water formally set aside, and designated as a place where aircraft may land or take off.

"Sec. 2. The governing ~~bodies~~ body of the ~~City of Goldsboro, and of the~~ County of Wayne ~~are~~ is hereby authorized to ~~jointly~~ acquire, establish, construct, own, control, lease, equip, improve, maintain, operate, and regulate airports or landing fields for the use of airplanes and other aircraft within the limits of ~~said~~ the County, and may use for such purpose or purposes any properties suitable therefor that are now or may at any time hereafter be ~~jointly~~ owned or controlled by ~~said City and the~~ County.

"Sec. 3. Any lands acquired, owned, controlled, or occupied by ~~said City and the~~ County for the purposes enumerated in Section 2 hereof shall and are hereby declared to be acquired, owned, controlled and occupied for public purpose, and ~~said City and the~~ County shall have the right to acquire property for such purpose or purposes under the power of eminent domain as and for a public purpose.

"Sec. 4. Private property needed by the ~~said City and~~ County for an airport or landing field may be acquired by gift or devise or shall be acquired by purchase if ~~said City and the~~ County ~~are~~ is able to agree with the owners on the terms thereof, and otherwise by condemnation, in the manner provided by law under which the ~~said City and~~ County ~~are~~ is authorized to acquire

real property for public purposes, other than street purposes, or if there be no such law, in the manner provided for and subject to the provisions of the condemnation law. The purchase price, or award, for property acquired for an airport or landing field may be paid for by appropriation of monies available therefor, or by the application of any funds derived by ~~said City or by said~~ the County from the sale of any lands now or heretofore or hereafter owned for airport or landing field purposes or other purposes, or wholly or partly from the proceeds of the sale of bonds of ~~said City or of said~~ the County as the governing bodies of ~~such City and~~ the County shall determine.

"Sec. 5. The power to acquire lands by condemnation herein granted to the ~~said City and~~ County for the purpose of such airport or landing field shall embrace the power to acquire by condemnation any dwelling, yard, orchard, garden, kitchen, burial ground, graveyard or cemetery located or situate upon the lands found necessary to be acquired for such purpose; and in the event there are graves located upon such lands which may be necessary to be acquired by condemnation, it shall be lawful for ~~said City and~~ the County, after thirty days' notice to the surviving husband or wife, or next of kin of the deceased buried therein, or the person in control of such graves, if any are known, and if not known, then after publishing a notice once a week for four (4) weeks in a newspaper published in Wayne County, to open any such graves, and to take therefrom any dead body, or part thereof buried therein, and anything interred therewith, and to remove and reinter the same in some other cemetery or suitable place in the same county to be selected by the next of kin, or the welfare officer of the County or by the Clerk of the Superior Court of said County in the order named. Due care shall be taken to do said work in a proper and decent manner, and, if necessary, to furnish suitable coffins or boxes for reintering said remains. Due care shall also be taken to remove all tombstones and other markers from said graves, and to protect and replace all such tombstones or other markers so as to leave the new grave in as good condition as the former one. All of said work shall be done under the supervision and direction of the welfare officer of the County, if one, or his representatives, but if there is no welfare officer, then under the supervision and direction of the Clerk of the Superior Court of said County, or his representatives. All the expense connected with said work, including the actual expense of one of "next of kin" in attending to same, if one does attend, shall be borne by the ~~said City and~~ County doing or causing same to be done.

"Sec. 6. The governing ~~bodies of said City and County and each of them are~~ body of the County is hereby authorized to appropriate and use from the net proceeds derived by the ~~said City or~~ County from the operation of any public utility, or from funds derived from any source other than ad valorem taxes, sums sufficient to carry out the provisions of this Act as to the establishment and maintenance of any ~~airport in such proportion and upon such equal basis as may be determined upon by a joint board to be appointed by the governing bodies of the said City and County; provided~~ airport. However, nothing herein shall be construed to permit the governing bodies of said City or body of the County to issue bonds under the provisions of this Act without a vote of the people.

"Sec. 7. The ~~joint board to be appointed by the governing bodies of the said City and~~ body of the County shall be appointed as follows:

~~Said City shall be entitled to have three (3) representatives on said board and the representatives shall be appointed biennially by a majority of the governing body of the said City, at the first regular meeting in January. Said representatives shall hold office from their appointment until their successors are appointed and qualified and until the first regular meeting of the governing body in the second January thereafter, when successors shall be appointed.~~

~~Said~~ The County shall be entitled to have ~~three (3)~~ six representatives on ~~said the~~ board and the representatives shall be appointed biennially by a majority of the board of county commissioners of said County at the first regular meeting in January. ~~Said The~~ representatives shall hold office from their appointment until their successors are appointed and qualified and until the first regular meeting of the board of county commissioners in the second January thereafter, when successors shall be appointed. The ~~said~~ board so appointed by the governing

~~bodies of the City and~~ body of the County shall be known as the "~~Goldsboro-Wayne Airport Authority~~". "Wayne County Airport Authority." Upon the occurrence of any vacancy on ~~said the board~~, ~~said the~~ vacancy shall be filled within sixty (60) days after notice thereof by a majority of the governing body of the ~~City or County which has a vacancy within its representation~~ County.

"Sec. 8. ~~The board, appointed as herein provided by the governing bodies of said City and County~~, The County shall act in an administrative capacity and it is hereby authorized and empowered:

(a) To establish, construct, control, lease, maintain, improve, operate and regulate joint airports and landing fields established under the provisions of this Act; to have complete authority over any airport or landing field ~~jointly~~ acquired, established, or constructed by said City and County represented on said board the County.

- (b) (1) To adopt, repeal, amend, readopt rules, regulations, laws and ordinances not inconsistent with this Act, for its own government, management and operation; and
- (2) To adopt, repeal, amend and readopt rules, regulations and ordinances with respect to traffic on and use of streets, alleys, driveways, roadways, parking areas, crosswalks and safety areas (not included in the public road system of the State of North Carolina) located within the territorial limits of the lands comprising the ~~Goldsboro-Wayne Airport~~, Wayne County Airport, including by way of illustration but not in limitation of the authority herein granted, the establishment of routes of traffic, the regulation of speed, the location of parking areas, the regulation and prohibition of parking and standing in designated areas and on said streets, driveways, alleys and roadways, the prohibition of obstruction thereof, the prohibition of vehicles and pedestrians on the aprons, ramps, taxiways, runways and other designated parts of the Airport.
- (3) To adopt, repeal, amend and readopt rules, regulations, and ordinances with respect to the use of the Airport and its facilities by the public, including by way of illustration but not in limitation of the authority granted, the Terminal Building, the ramps, aprons, hangars, taxiways, runways, water plants and shops, and to prohibit the use of, occupation of, or trespass upon any part thereof.

(c) To lease real or personal property under the supervision of or administered by the ~~Authority, without the joinder in the lease agreements of the owning units of local government, to wit, the County of Wayne and the City of Goldsboro~~, County for purposes that the ~~board~~ County considers advantageous or conducive to the development of the Airport and that are not inconsistent with the grants and agreements under which the Airport is ~~held by the owning units of local government~~ held. The term of a lease to the City of ~~Goldsboro, Wayne County, Goldsboro~~ or Wayne Community College may not exceed 50 years. The term of a lease to any other lessee may not exceed 20 years.

(d) To contract with persons, firms or corporations for terms not to exceed twenty (20) years, for the operation of airline-scheduled passenger and freight flights, non-scheduled flights, and any other airplane activities, not inconsistent with said grant agreements under which the airport property is held by the owning municipal corporations, and to charge and collect reasonable and adequate fees, charges and rents for the use of such property or for services rendered in the operation thereof.

(e) To operate, own, control, regulate, lease or grant to others the right to operate any airport premises, restaurants, apartments, hotels, motels, tracks, motion picture shows, cafes, soda fountains, or other businesses, amusements or concessions for a term not exceeding twenty (20) years, as may appear to said ~~Authority~~ County advantageous or conducive to the development of said Airport.

(f) To erect and construct buildings, hangars, shops and other improvements and facilities, not inconsistent with or in violation of the agreements applicable to and the grants under which the real property of the Airport is held; to lease the same for a term or terms not to exceed twenty (20) years, to borrow money for use in making or paying for such improvements and facilities, secured by and on the credit only of the lease agreements in respect thereto, to pledge and assign such leases and lease agreements as security for loans herein authorized.

(g) To expend funds appropriated from time to time by ~~said City and County, jointly or severally, for joint airport~~ the County for airport purposes, and to appropriate and expend for airport purposes funds received by it from fees, charges, rents and dues arriving out of the operation of said Airport, the facilities, improvements and concessions located thereat or operated thereon.

(h) ~~To enter into contracts and to pledge the credit of the said Airport Authority to the extent herein authorized; provided, however, that neither said Airport Authority nor the individual members thereof shall have authority to pledge the credit of or contract for the City of Goldsboro or the County of Wayne.~~

(i) To contract and deal with the Federal Aviation Authority of the United States Government and any other representative or agency of said government relating to the grading, constructing, equipping, improving, maintaining and operation of airports and landing fields acquired under the authority of this Act.

"Sec. 9. A majority of the ~~Goldsboro-Wayne~~ Wayne County Airport Authority members shall control its decisions. Each member of the Authority, including the chairman, shall have one vote. The Authority shall elect annually in April, from among its members, a chairman, a vice chairman, a secretary and treasurer. In the absence of rules of the Authority in respect thereof, the Authority shall meet at such places and times as the chairman shall designate. Each member of said Authority shall take an oath of office to faithfully perform his duties. All members of said Authority shall serve without compensation.

"Sec. 10. The ~~Goldsboro-Wayne~~ Wayne County Airport Authority shall in no case be liable for damages for injuries to persons or property caused by or growing out of fueling, refueling or servicing any airplane at said Airport, or from falling, exploding and burning airplanes. Members of said Authority shall not be personally liable in any manner for their acts as members of the Authority, except for misfeasance or malfeasance.

"Sec. 11. The Authority shall operate under a budget on a fiscal year basis from July 1 to June 30, and shall make its requests for appropriations from the ~~City of Goldsboro and the~~ County of Wayne in the same manner as that provided under the Fiscal Control Act, and shall maintain complete and adequate records of all receipts and disbursements to be audited and reported thereon at least annually to the ~~City of Goldsboro and~~ County of Wayne as required by the aforesaid Fiscal Control Act. The treasurer shall furnish bond in some surety company authorized to do business in North Carolina, in the amount to be fixed by the Wayne County Board of ~~Commissioners and the Board of Aldermen of the City of Goldsboro~~ Commissioners.

"Sec. 12. It is hereby declared to be the policy of the State of North Carolina to promote, encourage and develop air transportation, service and facilities in connection with the commerce of the United States and to foster and preserve air transportation; and the area including the County of Wayne ~~and the City of Goldsboro~~ is hereby declared to be an area which should be developed in connection with the interior of the State of North Carolina and other states and it is hereby declared to be necessary and desirable and in the public interest of the entire State that there shall be established air transportation facilities in such area in accordance with the provisions of the Acts of Congress and the laws of this State. The ~~joint~~ Authority established pursuant to the provisions of this Act shall be regarded as performing an essential governmental function in undertaking the construction, maintenance and operation of the facilities herein provided for and in carrying out the provisions of this Act, and shall be required to pay no taxes or assessments upon any of the property acquired or used by it for such purposes. Except as herein specifically otherwise provided, the provisions of Chapter 63 of the General Statutes of North Carolina shall be applicable to the ~~joint~~ Authority herein established.

To the extent that G.S. 63-53 requires that the ~~Goldsboro-Wayne~~Wayne County Airport Authority follow the provisions of G.S. 160A-272, G.S. 160A-272 shall be applied by substituting 'the maximum term provided in Section 8 of this act' for '10 years' in each place those words and figures appear.

"Sec. 13. All rules, regulations and ordinances adopted pursuant to the authority of this Act shall be recorded in the proceedings of the ~~Goldsboro-Wayne~~Wayne County Airport Authority and Wayne County and a true copy of all such rules, regulations and ordinances, certified under the hand of the secretary and the seal of the ~~Authority,~~Authority or the clerk to the Board of County Commissioners of Wayne County, shall be filed with the Board of County Commissioners of Wayne County and the Board of Aldermen of the City of Goldsboro County.

The ~~Goldsboro-Wayne~~Wayne County Airport Authority and Wayne County shall cause to be posted at appropriate places on the ~~Goldsboro-Wayne~~Wayne County Airport, notice to the public of applicable rules, regulations and ordinances pertaining to the ~~Goldsboro-Wayne~~Wayne County Airport.

Any person violating any rule, regulation or ordinance adopted pursuant to Section 8 (b) (2) and (b) (3) shall be guilty of a misdemeanor and upon conviction shall be punishable by a fine not exceeding fifty dollars (\$50.00) or imprisonment not exceeding thirty (30) days.

"Sec. 14. This Act shall apply only to ~~the City of Goldsboro and~~ the County of Wayne.

"Sec. 15. If any part or parts of this Act shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this Act. The General Assembly expressly declares that it would have passed the remaining parts of this Act, if it had known that such part or parts thereof would be declared unconstitutional.

"Sec. 16. This Act shall take effect from and after its ratification."

SECTION 6. The terms of the three representatives appointed by the City of Goldsboro to serve on the Goldsboro-Wayne Airport Authority shall expire on July 15, 2010. Within 30 days after this act becomes law, the governing body of Wayne County shall appoint three representatives to the Wayne County Airport Authority, as enacted by Section 5 of this act, to hold office until their successors are appointed in the manner set forth in Chapter 972 of the 1963 Session Laws, as amended by Chapter 1006 of the 1987 Session Laws, S.L. 1998-20, and Section 5 of this act.

SECTION 7. The General Assembly hereby ratifies the action of the North Carolina Local Government Commission in approving the loan and financing agreement from Branch Banking & Trust to the Goldsboro-Wayne Airport Authority on December 4, 2007, and authorizes Wayne County to make payments pursuant to the financing agreement.

SECTION 8. Nothing in this act shall be deemed to affect any pending litigation involving the Goldsboro-Wayne Municipal Airport or the Goldsboro-Wayne Airport Authority.

SECTION 9. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Became law on the date it was ratified.

Session Law 2010-77

H.B. 1944

AN ACT TO AUTHORIZE THE TOWN OF BERMUDA RUN TO ASSESS GATE OPERATION AND MAINTENANCE FEES AND TO PLACE LIENS ON REAL PROPERTY FOR UNPAID FEES THAT MAY BE COLLECTED AS DELINQUENT PROPERTY TAXES.

The General Assembly of North Carolina enacts:

SECTION 1. The Town of Bermuda Run shall have the authority to assess a fee for the costs of gate operations and fence maintenance on all real property situated in the area of the town which is zoned Club Residential. The fee shall be established annually and incorporated into the local budget ordinance.

SECTION 2. A fee assessed under this act shall be a lien on the real property on which it has been assessed as of the date of the billing of the fee and shall be collected as delinquent property taxes. However, the lien shall not be enforced under the collection methods set out in the Machinery Act of North Carolina until such time as the fee remains unpaid for a period of 30 days from the date of its initial billing.

SECTION 3. This act is effective when it becomes law. Any unpaid fees previously billed by the Town of Bermuda Run for gate operations and fence maintenance shall be a lien on the real property on which the fees were assessed as of the effective date of this act and may be enforced under the provisions of this act no sooner than 30 days after the date this act becomes law.

In the General Assembly read three times and ratified this the 8th day of July, 2010.
Became law on the date it was ratified.

Session Law 2010-78

S.B. 1298

AN ACT TO AUTHORIZE THE TOWN OF PEMBROKE TO LEVY A THREE PERCENT ROOM OCCUPANCY TAX; TO AUTHORIZE CERTAIN TOWNS IN DAVIE COUNTY TO LEVY A THREE PERCENT ROOM OCCUPANCY TAX; TO AUTHORIZE MONTGOMERY AND ANSON COUNTIES TO EACH LEVY AN ADDITIONAL THREE PERCENT ROOM OCCUPANCY TAX; TO AUTHORIZE DARE COUNTY TO LEVY AN ADDITIONAL ONE PERCENT OCCUPANCY TAX; AND TO CREATE A SPECIAL TAXING DISTRICT MADE UP OF THE UNINCORPORATED AREAS OF WILKES COUNTY AND TO AUTHORIZE THE SPECIAL TAXING DISTRICT IN WILKES COUNTY TO LEVY UP TO A SIX PERCENT ROOM OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

TOWN OF PEMBROKE OCCUPANCY TAX

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

SECTION 1.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

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

The following definitions apply in this section:

- (1) Net proceeds. – Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross proceeds collected each year.
- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market

research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

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

SECTION 1.(d) Tourism Development Authority. – Appointment and Membership. – When the Town Council adopts a resolution levying a room occupancy tax under this section, it shall also adopt a resolution creating the Pembroke Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the town, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the town. The Town Council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

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

SECTION 1.(e) Duties. – The Authority shall expend the net proceeds of the tax levied under this section for the purposes provided in subsection (c) of this section. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

SECTION 1.(f) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Pembroke Town Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the Town Council may require.

MOCKSVILLE OCCUPANCY TAX

SECTION 2. Occupancy tax. – (a) Authorization and Scope. – The Board of Commissioners of the Town of Mocksville may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 2.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

SECTION 2.(c) Distribution and Use of Tax Revenue. – The Town of Mocksville shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Mocksville Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in the Town of Mocksville and shall use the remainder for tourism-related expenditures.

The following definitions apply in this section:

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

- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.
- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Mocksville Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

SECTION 2.(d) Tourism Development Authority. – Appointment and Membership. – When the Board of Commissioners adopts a resolution levying a room occupancy tax under this section, it shall also adopt a resolution creating the Mocksville Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the town, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the town. The Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

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

SECTION 2.(e) Duties. – The Authority shall expend the net proceeds of the tax levied under this section for the purposes provided in subsection (c) of this section. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

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

BERMUDA RUN OCCUPANCY TAX

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

SECTION 3.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

SECTION 3.(c) Distribution and Use of Tax Revenue. – The Town of Bermuda Run shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Bermuda Run Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in the Town of Bermuda Run and shall use the remainder for tourism-related expenditures.

The following definitions apply in this section:

- (1) Net proceeds. – Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of

gross proceeds collected each year and one percent (1%) of the remaining gross proceeds collected each year.

- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.
- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Bermuda Run Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

SECTION 3.(d) Tourism Development Authority. – Appointment and Membership. – When the Town Council adopts a resolution levying a room occupancy tax under this section, it shall also adopt a resolution creating the Bermuda Run Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the town, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the town. The Town Council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The finance officer for the Town of Bermuda Run shall be the ex officio finance officer of the Authority.

SECTION 3.(e) Duties. – The Authority shall expend the net proceeds of the tax levied under this section for the purposes provided in subsection (c) of this section. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

SECTION 3.(f) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Bermuda Run Town Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the Town Council may require.

COOLEEMEE OCCUPANCY TAX

SECTION 4. Occupancy tax. – (a) Authorization and Scope. – The Board of Commissioners of the Town of Cooleemee may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 4.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

SECTION 4.(c) Distribution and Use of Tax Revenue. – The Town of Cooleemee shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Cooleemee Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in the Town of Cooleemee and shall use the remainder for tourism-related expenditures.

The following definitions apply in this section:

- (1) Net proceeds. – Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross proceeds collected each year.
- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.
- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Cooleemee Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

SECTION 4.(d) Tourism Development Authority. – Appointment and Membership. – When the Board of Commissioners adopts a resolution levying a room occupancy tax under this section, it shall also adopt a resolution creating the Cooleemee Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the town, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the town. The Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

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

SECTION 4.(e) Duties. – The Authority shall expend the net proceeds of the tax levied under this section for the purposes provided in subsection (c) of this section. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

SECTION 4.(f) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Cooleemee Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the Board of Commissioners may require.

MONTGOMERY COUNTY OCCUPANCY TAX

SECTION 5. Section 4 of S.L. 2001-434 is amended by adding a new subsection to read:

"(a1) Authorization of Additional Tax. – In addition to the tax authorized by subsection (a) of this section, the Montgomery County Board of Commissioners may levy an additional room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of this section. The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this section. Montgomery County may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section."

ANSON COUNTY OCCUPANCY TAX

SECTION 6. Section 2 of S.L. 2001-434 is amended by adding a new subsection to read:

"(a1) Authorization of Additional Tax. – In addition to the tax authorized by subsection (a) of this section, the Anson County Board of Commissioners may levy an additional room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of this section. The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this section. Anson County may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section."

DARE COUNTY OCCUPANCY TAX

SECTION 7. Chapter 449 of the 1985 Session Laws, as amended by Chapters 177 and 906 of the 1991 Session Laws and Part VII of S.L. 2001-439, is amended by adding a new section to read:

"Sec. 3.2. Second Supplemental Occupancy Tax. – In addition to the taxes authorized by Sections 1, 3, and 3.1 of this act, the Dare County Board of Commissioners may levy a room occupancy and tourism development tax of one percent (1%) of the gross receipts derived from the rental of accommodations taxable under Section 1 of this act. The county may not levy a tax under this section unless it also levies the taxes under Sections 1, 3, and 3.1 of this act. The levy, collection, administration, and repeal of the tax authorized by this section shall be in accordance with Section 1 of this act. The county shall use the net proceeds of the tax levied under this section for beach nourishment."

WILKES COUNTY OCCUPANCY TAX

SECTION 8. Wilkes County District K Created. – Wilkes County District K is created as a taxing district. Its jurisdiction consists of that part of Wilkes County that is located outside of the incorporated areas within the County. Wilkes County District K is a body politic and corporate and has the power to carry out the provisions of this act. The Wilkes County Board of Commissioners shall serve ex officio as the governing body of the district, and the officers of the County shall serve as the officers of the governing body of the district. A simple majority of the governing body constitutes a quorum, and approval by a majority of those present is sufficient to determine any matter before the governing body, if a quorum is present.

SECTION 9. Occupancy Tax. – (a) Authorization and Scope. – The governing body of Wilkes County District K may levy a room occupancy tax of up to six percent (6%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the district that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 9.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155 as if Wilkes County District K were a county. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

SECTION 9.(c) Definitions. – The following definitions apply in this section:

- (1) Net proceeds. – Gross proceeds less the cost to the district of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.

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

SECTION 9.(d) Distribution and Use of Tax Revenue. – Wilkes County District K shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Wilkes County District K Tourism Development Authority. The Authority shall use at least two-thirds of the proceeds remitted to it to promote travel and tourism in Wilkes County District K and shall use the remainder for tourism-related expenditures. In accordance with the North Carolina Constitution and the United States Constitution, the tax proceeds may be used only for the direct benefit of the jurisdiction of Wilkes County District K. None of the proceeds may be used to promote travel or tourism in areas within Wilkes County that are outside of the district or for tourism-related expenditures in the County that are outside of the district.

SECTION 9.(e) Wilkes County District K Tourism Development Authority. – Appointment and Membership. – When the governing body of the district adopts a resolution levying a room occupancy tax under this section, it shall also adopt a resolution creating the Wilkes County District K Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals affiliated with businesses that collect the tax in the district, and at least one-half of the members must be individuals currently active in the promotion of travel and tourism in the district. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

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

SECTION 9.(f) Duties. – The Authority shall expend the net proceeds of the tax levied under this section for the purposes provided in subsection (d) of this section. The Authority shall promote travel, tourism, and conventions in the district, sponsor tourist-related events and activities in the district, and finance tourist-related capital projects in the district.

SECTION 9.(g) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the governing body of the district on its receipts and expenditures for the preceding quarter and for the year in such detail as the governing body of the district may require.

UNIFORM ADMINISTRATIVE PROVISIONS

SECTION 10. G.S. 153A-155(g) reads as rewritten:

"(g) This section applies only to Alleghany, Anson, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret, Caswell, Chatham, Cherokee, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie, Duplin, Durham, Forsyth, Franklin, Granville, Halifax, Haywood, Madison, Martin, McDowell, Montgomery, Nash, New Hanover, New Hanover County District U, Northampton, Pasquotank, Pender, Perquimans, Person, Randolph, Richmond, Rockingham, Rowan, Sampson, Scotland, Stanly, Swain, Transylvania, Tyrrell, Vance, Washington, and Wilson Counties, to Surry County District S, to Watauga County District U, to Wilkes County District K, to Yadkin County District Y, and to the Township of Averagesboro in Harnett County and the Ocracoke Township Taxing District."

SECTION 11. G.S. 160A-215(g) reads as rewritten:

"(g) This section applies only to Beech Mountain District W, to the Cities of Belmont, Conover, Eden, Elizabeth City, Gastonia, Goldsboro, Greensboro, Hickory, High Point, Jacksonville, Kings Mountain, Lenoir, Lexington, Lincolnton, Lowell, Lumberton, Monroe, Mount Airy, Mount Holly, Reidsville, Roanoke Rapids, Salisbury, Shelby, Statesville,

Washington, and Wilmington, to the Towns of Ahoskie, Beech Mountain, Benson, Bermuda Run, Blowing Rock, Boiling Springs, Boone, Burgaw, Carolina Beach, Carrboro, Cooleemee, Cramerton, Dallas, Dobson, Elkin, Franklin, Jonesville, Kenly, Kure Beach, Leland, McAdenville, Mocksville, Mooresville, North Topsail Beach, Pembroke, Pilot Mountain, Ranlo, Selma, Smithfield, St. Pauls, Troutman, Tryon, West Jefferson, Wilkesboro, Wrightsville Beach, Yadkinville, and Yanceyville, and to the municipalities in Avery and Brunswick Counties."

EFFECTIVE DATE

SECTION 12. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law on the date it was ratified.

Session Law 2010-79**S.B. 1357**

AN ACT TO MODIFY THE CABARRUS COUNTY TOURISM AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2(a) of Chapter 658 of the 1989 Session Laws, as amended by Section 1 of Chapter 97 of the 1999 Session Laws, reads as rewritten:

"(a) Establishment and Membership. ~~When the Cabarrus County Board of Commissioners adopts a resolution levying a room occupancy tax pursuant to this act, it shall establish and create the~~ The Cabarrus County Tourism Authority is composed of ~~nine~~ 12 members, with seats on the Authority numbered one through ~~nine~~, 12, all of whom shall be appointed by the ~~board~~, Cabarrus County Board of Commissioners, selected as follows:

- (1) Seats 1, 4, and 7 shall be selected by the board at large and shall include, but not be limited to, at least one member of the board or the Cabarrus County ~~Manager~~; Manager and shall include one hotelier.
- (2) Seats 2, 5, and 8 shall be appointed by the board from a list of ~~at least three~~ persons submitted by the Cabarrus County Tourism ~~Authority~~; Authority and shall include one hotelier and at least one person currently active in the promotion of tourism in the county.
- (3) Seats 3, 6, and 9 shall be appointed by the board from a list of ~~at least three~~ persons submitted to the board by the Cabarrus Regional Chamber of ~~Commerce~~; Commerce and shall include one hotelier.
- (4) Seats 10, 11, and 12 shall be appointed by the board from a list of persons submitted to the board by the Cabarrus County Tourism Authority and shall include one hotelier and at least one person currently active in the promotion of tourism in the county."

SECTION 2. Section 2(b) of Chapter 658 of the 1989 Session Laws, as amended by Section 1 of Chapter 97 of the 1999 Session Laws, reads as rewritten:

"(b) Terms of Office. Except as otherwise provided in the schedule set forth below, the term of office of each member of the Authority shall be three years. The terms shall be staggered so that after the initial members of the Authority are appointed, ~~three~~ four members are appointed each year, implemented as follows:

- (1) Seats 1, 2, ~~and 3~~, and 10 shall be appointed initially for one year, and thereafter for three ~~years~~; years.
- (2) Seats 4, 5, ~~and 6~~, and 11 shall be appointed initially for two years, and thereafter for three ~~years~~; and years.
- (3) Seats 7, 8, ~~and 9~~, and 12 shall be appointed initially for three years, and thereafter for three years."

SECTION 3. Section 2 of Chapter 658 of the 1989 Session Laws, as amended by Section 1 of Chapter 97 of the 1999 Session Laws, is amended by adding a new subsection to read:

"(b1) When any vacancy occurs, the organization responsible for nominating members for full terms for the vacant seat shall submit a recommendation to the Cabarrus County Board of Commissioners."

SECTION 4. Section 2(c) of Chapter 658 of the 1989 Session Laws reads as rewritten:

"(c) Powers and Duties of the Authority. In addition to any other powers and duties of the Authority otherwise conferred by law, the Authority may contract with any person, firm, corporation, or agency to assist it in the promotion of travel and tourism and to carry out the purposes identified in Section 1(e) of this act. The Authority may accept contributions from any source to be used for the purposes stated in Section (1)(e) of this act.

On or before April 1 of each year after the levy of the tax authorized in this act, the Authority shall prepare an annual budget based upon anticipated revenues and shall submit the budget to the Cabarrus County Manager for processing and approval through the regular budget procedure of the County. The Authority shall make quarterly reports to the board detailing its revenues, expenditures, and activities. The County may audit the Authority's financial records upon reasonable notice to the Authority. ~~At the end of each fiscal year, any funds of the Authority not expended, obligated, or reserved, as approved by the County, shall be remitted to Cabarrus County for its use."~~

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

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law on the date it was ratified.

Session Law 2010-80

S.B. 1399

AN ACT TO AMEND THE PROTEST PETITION REQUIREMENT FOR DURHAM COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Sections 1(a) and (b) of S.L. 2003-83 reads as rewritten:

"SECTION 1.(a) Zoning regulations and restrictions and zone boundaries may from time to time be amended, supplemented, changed, modified, or repealed. In case, however, of a qualified protest against such change, signed by the owners of twenty percent (20%) or more of the area either of the lots included in a proposed change or of those immediately adjacent thereto either in the rear thereof or on either side thereof, extending 100 feet therefrom, or of those directly opposite thereto extending 100 feet from the street frontage of the opposite lots, an amendment shall not become effective except by favorable vote of three-fourths of all members of the board of commissioners. The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of the ordinance. They also shall not apply to an amendment to an adopted special use district or conditional use district if the amendment does not: (i) change the types of uses that are permitted within the district or increase the approved density for residential development, (ii) increase the total approved size of nonresidential development, or (iii) reduce the size of any buffers or screening approved for the special use or conditional use district. a zoning map amendment, that amendment shall not become effective except by favorable vote of three-fourths of all the members of the Board of County Commissioners. For the purposes of this subsection, vacant positions on the board and members who are excused from voting shall not be considered "members of the board" for calculation of the requisite supermajority.

To qualify as a protest under this section, the petition must be signed by the owners of either (i) twenty percent (20%) or more of the area included in the proposed change or (ii) five percent (5%) of a 100-foot-wide buffer extending along the entire boundary of each discrete or

separate area proposed to be rezoned. A street right-of-way shall not be considered in computing the 100-foot-wide buffer area as long as that street right-of-way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot-wide buffer shall be measured from the property line of that parcel. In the absence of evidence to the contrary, the county may rely on the county tax listing to determine the "owners" of potentially qualifying areas.

The foregoing provisions concerning protests shall not be applicable to an amendment to an adopted (i) special use district, (ii) conditional use district, or (iii) conditional district if the amendment does not change the types of uses that are permitted within the district or increase the approved density for residential development, or increase the total approved size of nonresidential development, or reduce the size of any buffers, or screening approved for the special use district, conditional use district, or conditional district.

"SECTION 1.(b) ~~Protest petitions must be received by the Clerk to the Board of Commissioners in sufficient time to allow the county at least four normal work days, excluding Saturdays, Sundays, and legal holidays, before the date established for a public hearing on the proposed charge or amendment to determine the sufficiency and accuracy of the petition. No protest against any change in or amendment to a zoning ordinance or zoning map shall be valid or effective unless it be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, and unless it shall have been received by the Clerk to the Board of Commissioners in sufficient time to allow the county at least four normal workdays, excluding Saturdays, Sundays, and legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition. The Board of County Commissioners may by ordinance require that all protest petitions be on a form prescribed and furnished by the county, and such form may prescribe any reasonable information deemed necessary to permit the county to determine the sufficiency and accuracy of the petition. A person who has signed a protest petition may withdraw his or her name from the petition at any time prior to the vote on the proposed zoning amendment. Only those protest petitions that meet the qualifying standards set forth above at the time of the vote on the zoning amendment shall trigger the supermajority voting requirement.~~"

SECTION 2. This act applies to the County of Durham only.

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

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law on the date it was ratified.

Session Law 2010-81

S.B. 1446

AN ACT AMENDING THE CHARTER OF THE CITY OF DURHAM TO AUTHORIZE ASSESSMENTS AGAINST PROPERTIES SERVED BY STORMWATER FACILITIES FOR THE CONSTRUCTION AND REPAIR OF THOSE FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 7 of Chapter VI of the Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, as amended, is amended by adding a new section to read as follows:

"Sec. 82.1. Assessment Authority for Stormwater Facilities.

(a) The City Council is authorized to assess the City's costs for projects that construct, reconstruct, or repair stormwater facilities on private or public property when the projects remediate a flooding or other public nuisance or enable compliance with State or federal requirements regarding water quality. The assessments shall be made against properties the project serves or will serve or against the owner of a failing facility or the property on which the facility is located. The authority granted under this section does not allow the City to enter private property except as otherwise authorized by law or agreement. In the event that work is

necessary on an existing facility, unless the project is necessary to remediate a current public nuisance, prior to initiating a project, the City shall give advance written notice to the property owner or owners upon which the facility is located and shall afford the owner or owners a reasonable opportunity to cure any deficiency in the facility. The City Council's assessment authority under this section shall be exercised pursuant to one or more ordinances adopted by the City Council which are consistent with the provisions of this section.

(b) The City shall make a professional engineering determination regarding the properties that are or will be served by the project using drainage basins, subdivision plats, site plans, or other professionally recognized indicators. When costs are to be allocated to more than one property, the City shall allocate the costs using any or a combination of the following criteria: (i) the area of individual properties; (ii) tax valuation; (iii) the number of buildable lots or properties; (iv) zoning; (v) one or more professional appraisals; or (vi) impervious area. In addition, the City may take into account contributions and fees a property has already made toward construction or repair of a facility.

(c) The City shall prepare an assessment roll showing the cost allocated to each property which shall be filed and available for public review in the office indicated in notices provided pursuant to this subsection. The City Council shall conduct a public hearing regarding the proposed assessment and assessment roll. At least 21 days prior to the public hearing, individual notice by first-class mail shall be sent to each impacted property owner at the address shown on the most current county tax records. The notice shall include a description of the project, the assessment roll, and the time and date of the council meeting at which the public hearing is scheduled. Notice shall also be published not less than 10 days before the public hearing on the City's Web site and in a daily newspaper that serves the City. Published notice shall include a description and location of the project, the total costs to be assessed, the geographic area subject to the assessment, the public office in which the assessment roll showing individual properties and assessment amounts can be found, and an Internet link where the specifics of the assessment roll can be located. The person who has mailed notice and ensured compliance with the published and Internet postings shall file with the City Council a certificate of compliance with the requirements of this subsection and, in the absence of fraud, the certificate shall be conclusive.

(d) After the public hearing, the City Council may confirm the assessment as proposed, continue the matter, not approve the proposed assessment, or direct that the assessment process begin anew. All documentation regarding the approved assessment shall be retained in the Office of the City Clerk or the Department of Public Works.

(e) The City Council may set aside or reduce a prior assessment made against a property, with individual notice to the affected property owner, if a clerical or factual error has substantially impacted the result of any assessment by more than five percent (5%). For purposes of this subsection, the term "error" includes, but is not limited to, the use of an incorrect tax value, incorrect calculation of buildable lots or area of property, or mistaken identification of a property or lot. In addition, the City Council may set aside the whole of an assessment if there has been a substantial irregularity in the proceedings or process as required under this section. The assessment process shall be considered an in rem proceeding.

(f) A final assessment approved by the City Council shall be a lien against the property assessed of the same nature and to the same extent as a lien for county and city taxes, according to the priorities set forth in G.S. 160A-233(c).

(g) The provisions of subsections (21), (22), (22.1), (23), (26), (27), and (29) of Section 77 of this Charter shall apply to assessments approved pursuant to the provisions of this section. A request for apportionment of an assessment for property that is subdivided as provided under Section 77(26) of this Charter may be approved administratively by the City Manager and the City Manager's approval, and the resulting assessment amounts for subdivided properties shall be filed with the City Clerk with the originally approved assessment amounts. Notwithstanding the provisions of subsections (21), (22), (22.1), (23), (26), (27), and (29) of Section 77 of this Charter, the City Council may, in its discretion, by ordinance, accelerate

payment of assessments due for land that at the time of assessment was undeveloped so that payment is required prior to issuance of a building permit or a certificate of compliance.

(h) The authority provided in this section is in addition to and not in limitation of any other authority granted by this Charter or any other provision of general or local law."

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

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law on the date it was ratified.

Session Law 2010-82

H.B. 1893

AN ACT TO ESTABLISH A SEASON FOR TAKING FOXES BY TRAPPING WITH CAGE TRAPS IN WINSTON-SALEM; TO AMEND THE LAW AUTHORIZING THE TRAPPING AND SALE OF FOXES IN ASHE COUNTY AND TO REMOVE THE SUNSET ON THAT LAW; AND TO REPEAL AND AMEND CERTAIN LOCAL ACTS WITH RESPECT TO HUNTING IN GREENE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Notwithstanding any other provision of law, there is an open season for taking foxes by trapping with cage traps only during the trapping season set by the Wildlife Resources Commission each year, with no tagging requirements prior to or after sale.

SECTION 1.(b) No bag limit applies to foxes taken under this act.

SECTION 1.(c) This section applies only to Winston-Salem.

SECTION 2. S.L. 2007-51 reads as rewritten:

"**SECTION 1.** Notwithstanding any other provision of law, there is an open season for taking foxes by trapping from ~~November 7~~ November 1 through ~~February 12~~ February 28 of each year. ~~During this season, all leghold traps set on dry land with solid anchor shall have at least three swivels in the trap chain, and no leghold traps larger than size one and one half may be used.~~

"**SECTION 2.** A season bag limit of 10 applies in the aggregate to all foxes taken during the trapping season established in this act.

"**SECTION 3.** The Wildlife Resources Commission shall provide for the sale of foxes taken lawfully pursuant to this act and pursuant to former G.S. 113-111, as retained to the extent of its application to Ashe County pursuant to G.S. 113-133.1(e).

"**SECTION 4.** This act applies only to Ashe County.

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

SECTION 3.(a) Section 3 of S.L. 1975-219 and Section 1 of S.L. 1987-132 are repealed.

SECTION 3.(b) Section 4 of S.L. 1985-471 reads as rewritten:

"**Sec. 4.** This act applies only to ~~Greene and Nash Counties.~~ County."

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

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law on the date it was ratified.

Session Law 2010-83

H.B. 1921

AN ACT TO PROVIDE THAT A LIST OF THE E-MAIL ADDRESSES OF PERSONS SUBSCRIBING TO E-MAIL LISTS KEPT BY WAKE COUNTY AND CERTAIN LOCAL GOVERNMENTS WITHIN THAT COUNTY AND BY YADKIN COUNTY ARE OPEN TO PUBLIC INSPECTION BUT ARE NOT REQUIRED TO BE PROVIDED, AND TO PROVIDE THAT THE LOCAL GOVERNMENT MAY USE THAT LIST ONLY FOR THE PURPOSE THAT IT WAS SUBSCRIBED TO.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding Chapter 132 of the General Statutes, when a unit of local government maintains an electronic mail list of individual subscribers, Chapter 132 of the General Statutes does not require that unit of local government to provide a copy of the list. The list shall be available for public inspection in either printed or electronic format or both as the unit of local government elects.

SECTION 2. If a unit of local government maintains an electronic mail list of individual subscribers, the unit of local government and its employees and officers may use that list only: (i) for the purpose for which it was subscribed to; (ii) to notify subscribers of an emergency to the public health or public safety; or (iii) in case of deletion of that list, to notify subscribers of the existence of any similar lists to subscribe to.

SECTION 3. This act applies only to Wake County, the City of Raleigh, and the Towns of Apex, Cary, Fuquay-Varina, Garner, Holly Springs, Knightdale, Morrisville, Rolesville, Wake Forest, Wendell, Zebulon, and to Yadkin County.

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

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law on the date it was ratified.

Session Law 2010-84

H.B. 565

AN ACT TO ALLOW UNION COUNTY TO ADJUST ITS FIRE PROTECTION FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-236(c), as it applies to Union County pursuant to Chapter 883 of the 1991 Session Laws, as amended by Chapter 61 of the 1995 Session Laws and S.L. 1999-39, reads as rewritten:

"(c) Fees. – The fees imposed by the county may not exceed the cost of providing fire protection services within the district and may be imposed on owners of all real property that benefits from the availability of fire protection and on owners of all manufactured or mobile homes that benefit from the availability of fire protection; provided, however, that the fees shall not be imposed on the North Carolina Department of Transportation for real property owned by the Department and used solely for highway purposes. For the purpose of this section, the term 'fire protection' includes furnishing emergency medical, rescue, and ambulance services to protect persons in the district from injury or death. The county shall establish a schedule of fees for different classes of property and the fee for each class of property shall be proportional to the estimated cost of providing fire protection services to that class of property. The schedule of fees shall include the following classes of property and the fee on each class of property shall ~~not~~ not, except as otherwise provided in this section, exceed the following maximums:

- (1) A single-family dwelling or manufactured or mobile home, and appurtenant structures, plus up to five acres of surrounding land. The fee on this class of property may not exceed fifty dollars (\$50.00) per site per year.
- (2) Unimproved land other than the five acres of land classified as part of a single-family dwelling or manufactured or mobile home. The fee on this class of property may not exceed two cents (2¢) per acre per year. The county may establish a minimum fee for unimproved land of not more than five dollars (\$5.00) per year.
- (3) An animal production or horticultural operation. The fee on this class of property may not exceed ten dollars (\$10.00) per site per year.
- (4) A commercial facility other than an animal production or horticultural operation. The fee on this class of property may not exceed fifty dollars (\$50.00) per site per year for commercial facilities with structures encompassing less than 5,000 square feet and one hundred dollars (\$100.00)

per site per year for commercial facilities with structures encompassing 5,000 square feet or more.

- (5) A multiple-family dwelling. The fee on a duplex may not exceed fifty dollars (\$50.00) per building per year. The fee on a triplex may not exceed seventy-five dollars (\$75.00) per building per year. The fee on any other multiple-family dwelling may not exceed one hundred dollars (\$100.00) per building per year.
- (6) Any other class of property selected by the county. The fee on these classes of property may not exceed fifty dollars (\$50.00) per year.

The board of commissioners may increase the fees authorized by this subsection by no more than twice the amount provided for each class of property by including the increase in the budget ordinance adopted under Article 3 of Chapter 159 of the General Statutes."

SECTION 2. G.S. 153A-236, as it applies to Union County pursuant to Chapter 883 of the 1991 Session Laws, as amended by S.L. 1995-61, S.L. 1999-39, and this act, expires July 1, 2012.

SECTION 3. This act applies to Union County only.

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

In the General Assembly read three times and ratified this the 9th day of July, 2010.
Became law on the date it was ratified.

Session Law 2010-85

H.B. 710

AN ACT TO CORRECT THE BOUNDARIES OF THE TOWN OF ARCHER LODGE BY REMOVING A PARCEL INCLUDED IN THE ORIGINAL DESCRIPTION.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2.1 of the Charter of the Town of Archer Lodge, being S.L. 2009-466, reads as rewritten:

"Section 2.1. **Town Boundaries.** Until modified in accordance with law, the boundaries of the Town of Archer Lodge are as follows:

Beginning at a point on the centerline of Covered Bridge Road with an intersection of Millstone Manor S/D (PB 31/377). Thence in a southwesterly direction along the centerline of Covered Bridge Road approximately 570 feet to a corner with lot #5 of Millstone Manor S/D (PB 31/377), thence in a northwesterly direction along lot #5 following an unnamed branch (PB 31-377) following the same unnamed branch to a corner with lot 19 (PB 35/77), thence southeasterly along Millstone Manor S/D to a point (PB 69/90), thence northwesterly along Millstone Manor S/D lot numbers 55 and 56 and along a drainage easement (PB 69/90) to an unnamed branch to a corner with lot 20 where the unnamed branch intersects with Big Arm Branch (PB 70/236), thence along Big Arm Branch to its intersection with "Ben's Prong," thence along "Ben's Prong" to Lot 15, Millstone Manor S/D (PB 70/236), thence along Ben's Prong Branch (DB 3636/97), (Parcel #16J03034A) to its intersection with (Parcel #16J03033F), thence following this line in a northerly direction to its intersection with (Parcel #16J02024B), thence in a southwesterly direction, thence northwesterly, thence northeasterly (PB 28/217) to an intersection with (Parcel #16J03021), thence following this parcel line in a northeasterly direction to its intersection with (Parcel #16I02017A), thence southeasterly along this line to its intersection with (Parcel #16J03024B), thence in a northeasterly direction along this line to its intersection with (Parcel #16J03033D), thence in a southeasterly direction along this line to its intersection with (Parcel #16J03033F), thence in a northeasterly direction along this line (Parcel #16J03033D) to its intersection with (Parcel #16I02024), thence in a northwesterly direction along this line to its intersection with (Parcel #16J03024C), thence along this line in a northwesterly direction to its intersection with (Parcel #16I02017A), thence continuing northwesterly along (Parcel #16I02024) to its intersection with Big Arm Branch, thence northeasterly along Big Arm Branch to an intersection with (Parcel #16J02037), thence

in an easterly direction to a point on the centerline of Buffalo Road (SR 1003), thence following the centerline of Buffalo Road to its intersection with (Parcel #16J02038T), thence following the perimeter of this parcel (16J02038T) to an intersection with the centerline of Buffalo Road, thence in a northerly direction along the centerline of Buffalo Road to an intersection with (Parcel #16J02038B), thence in a westerly direction following this property line to its most northwesterly point with (Parcel #16J02038C), thence in an easterly direction to a corner with (Parcel #16J02038J), thence following the most easterly perimeter of this parcel to an intersection with the centerline of Buffalo Rd., thence along this centerline in a northerly direction to an intersection with (Parcel #16J02038J), thence in a northwesterly direction following the perimeter of (Parcel #16J02038 J) to its intersection with (Parcel #16J02038D), thence following this parcel line in an easterly direction to its intersection with the centerline of Buffalo Road, thence southerly along the centerline of Buffalo Road to its intersection with (Parcel #16J02026), thence following the perimeter of this line to its intersection with Fletcher Road (SR 1770), thence easterly along the centerline of Fletcher Road to its intersection with (Parcel #16J02026), thence in a northeasterly direction following the perimeter of (Parcel #16J02026) to its intersection with (Parcel #16J02011A), thence southerly along this property line to its intersection with (Parcel #16J02027A), thence southerly along this property line to its intersection with (Parcel #16K01025M), thence following this line to its intersection with (Parcel #16J02009), thence in an southerly direction following the perimeter of this line to its intersection with (Parcel #1601025A), thence with this line to its intersection with (Parcel #16J02007A), thence in a southeasterly direction following this property line along its perimeter to its intersection with (Parcel #16J02005E), thence following the run of an unnamed branch (PB 27/435) to its intersection with the centerline of Wall Road (SR 1747). Thence from the preceding point continuing southeasterly and subsequently northeasterly along Archer's Glen S/D (PB 36/29), thence northwesterly along Jimmie Barne's (Parcel #16K03026A) to a corner with Phyllis Edwards (DR 1938/207), thence southeasterly along her line to its intersection with Donald Driver's line (DR 680/382), thence northeasterly along Driver's line, thence southeasterly to an intersection with Paul Tippet's line, thence northeasterly along this line (DB 958/348), thence northeasterly along Charles Tippet's line, (DB 2645/444) to a point in the centerline of Wendell Road (SR 1701), thence in a northeasterly direction along the centerline of Wendell Road (SR 1701) to a point in the centerline of Wendell Road and Buffalo Creek (PB 64/181), thence southeasterly along Phyllis Edwards' line (PB 64/181), thence southeasterly along Barnes View S/D (PB 64/101), thence northeasterly following "Old Buffalo Creek," a parcel owned by Creekside Land Development Corporation (DR 2691/428), to where it runs into Buffalo Creek, thence in a southeasterly direction following Buffalo Creek to its intersection with (Parcel #16K03031), thence southerly along this line to its intersection with Creekside S/D (Section 9B), from this point continuing in a northeasterly direction along the property line of (Parcel #16K03031) to its intersection with Buffalo Creek, thence southerly along Buffalo Creek to its intersection with Creekside S/D, Section 6 (PB 54/201) and (Parcel #16K04022A), thence following the Creekside S/D Boundary line to a point at its intersection with (Parcel #16K04022), thence in an easterly direction following the perimeter of this parcel to its intersection with the centerline of Covered Bridge Road (SR 1700), thence in an easterly direction along the centerline of Covered Bridge Road to its intersection with (Parcel #16K04021A), thence southeasterly along this property line to its intersection with Tafton S/D Phase 2 (PB 59/495), thence in an easterly direction along this line to its intersection with Buffalo Creek, thence in a southeasterly direction along Buffalo Creek to its intersection with Wyndfall S/D Section 5 (PB 64/273), (Parcel #16J04047O), thence in a southwesterly direction following this property line to a point on the centerline of Carrie Drive, thence southeast along this centerline and continuing to follow (Parcel #16J04047O) to its intersection with Buffalo Creek, thence following Buffalo Creek in a southwesterly direction to its intersection with Hog Pen Branch, thence northwesterly following Hog Pen Branch (Edenton S/D, PB 73/54), (PB 55/270), (PB 58/127) to a point on the centerline of Buffalo Road (SR 1003), thence southeasterly along Buffalo Road (SR 1003), thence southwesterly and following Horseman's

Run S/D (PB 44/237) and (PB 41/383), thence southwesterly along Jerry Pace's line (DB 883/277) to a point on Tim's Creek (PB 25/221), thence in a northeasterly direction along Tim's Creek to its intersection with (Parcel #16J03049), thence in a westerly direction along this property line to a point at the intersection of Mineral Springs Branch (PB 25/221) and (Parcel #16J03050B), thence in a southerly direction following this line to a point where it intersects with (Parcel #16J03053B), thence in a westerly direction to its intersection with (Parcel #16J04011A), thence in a southerly direction to its intersection with (Parcel #16J04011P), thence continuing in a southerly direction and around (Parcel #16J04011P) to its intersection with Sandy Creek Drive, thence in a westerly direction, including all of Sandy Creek Drive, to the centerline of South Murphrey Road (SR 1703), thence northeasterly along the centerline to an intersection with (Parcel #16J04010), thence westerly to an intersection with (Parcel #16P990411), thence continuing westerly to an intersection with (Parcel #16J03059), thence southerly to the intersection of (Parcel #16J04009) and (Parcel #16J04007), thence in a westerly direction along Phillip Barnes' property (Parcel #16J04009) to its intersection with (Parcel #16J04009A), thence in a southerly direction to the southeastern corner of (Parcel # 16J04008) and including all of (Parcels # 16J04009A and 16J04008); thence from the corner of (Parcel # 16J04008) to its intersection with the centerline of Castleberry Road (SR 1705); thence in a southwesterly direction along this centerline to an intersection with Parcel #16J04005, ~~#16J04014E; thence southeasterly and around (Parcel # 16J04014E) to its intersection with (Parcel # 16J04007H), thence easterly and around (Parcel # 16J04007H) to its intersection with (PN # 16J04005),~~ thence following this property line in a southeasterly direction to its intersection with Watson's Mill S/D (PB 73/349), (PB 63/241) to a point at River Bend S/D (PB 31/143), thence in a southeasterly direction following the River Bend S/D line, thence following River Bend S/D to a point, thence northwesterly along River Bend S/D to a point on the centerline of Castleberry Road (SR 1705), thence following the centerline of Castleberry Road (SR 1705) in a northeasterly direction at a point in the centerline, thence in a northwesterly direction along William Holloway's line (DB 3167/343) to a point on a creek adjoining Riverwood S/D (PB 47/167), thence along this line (Perry Creek) in a northeasterly direction and continuing along Perry Creek (PB 57/436), thence northeasterly along Perry Creek (James Allen's line: Parcel #16J03061) to a point at the intersection of Phillip Barnes' line (PR 16J03060), thence southeasterly following his property line to a point at the centerline of Castleberry Road (SR 1705), thence northeasterly along Castleberry Road to a point with the intersection of J.T. Smith's line (PN # 16J03057), (DB 1448/893), thence northwesterly along Smith's line to its intersection with Charles Johnson's line (PR 16J03056), (DB 978/679), thence with Johnson's line in a northwesterly direction to its intersection with Phillip H. Barnes' property (PR 16J03063), (DB 3304/201), thence westerly and southwesterly along Phillip H. Barnes' property (PN # 16J03062), (DB 3304/201) to a point on James Allen's line (DB 595/217), thence westerly along James Allen's line where it intersects with Perry Creek, thence in a southwesterly direction along Perry Creek to an intersection with Elizabeth Badgett's line (PB 57/436), thence northwesterly along Badgett's line to a point on the centerline of Loop Road (SR 1706), thence in a northeasterly direction along the centerline of Loop Road (SR 1706) to a point where lot #1 of Mooneyham Estates (PB 33/231) intersects with Loop Road, thence in a northwesterly direction along lot #1 of Mooneyham Estates, thence in a northeasterly direction along lot #1 (PB 33/321) to a point in the eastern right-of-way of an existing 50' access easement, thence northeasterly along this easement to an intersection in the line of Cooper Farms S/D (PB 54/267), (PB 45/141), thence following Cooper Farms S/D to its intersection with Saddlebrook S/D (PB 23/127), thence northeasterly along the Saddlebrook S/D line to its intersection with Millstone Manor S/D (PB 35/77), thence following this line southwesterly thence northeasterly to its intersection with the centerline of Covered Bridge Road (SR 1700) at its Point of Beginning."

SECTION 2. This act becomes effective retroactively from and after the effective date of incorporation under S.L. 2009-466.

In the General Assembly read three times and ratified this the 9th day of July, 2010.
Became law on the date it was ratified.

Session Law 2010-86**S.B. 1444**

AN ACT TO AUTHORIZE THE CITIES OF CONCORD AND KANNAPOLIS TO ANNEX CERTAIN PROPERTIES CURRENTLY TOTALLY SURROUNDED BY THE CORPORATE LIMITS AND TO AUTHORIZE THE CITY OF KANNAPOLIS TO DEANNEX PROPERTY FOR THE BENEFIT OF THE PUBLIC HEALTH AUTHORITY OF CABARRUS COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the provisions of G.S. 160A-48, a municipality to which that section applies may adopt ordinances annexing property completely enclosed on May 1, 2010, by the corporate limits of the municipality, if the ordinance makes a finding that the total acreage being annexed is less than five percent (5%) of the total acreage within the corporate limits of the municipality prior to the annexation and also either:

- (1) Makes a finding based upon circumstances and evidence satisfactory to the municipality that the annexation is necessary for the orderly growth and development of the municipality; or
- (2) Makes a finding based upon circumstances and evidence satisfactory to the municipality that the annexation improves the ability to provide public safety services.

SECTION 2. The municipality shall fix a date for a public hearing on the annexation and publish notice of the public hearing at least 10 days before the day of the hearing.

SECTION 3. The procedure for recording any annexation under this act is as provided in G.S. 160A-51.

SECTION 4. Any annexation ordinance adopted under this act shall be adopted before December 31, 2020.

SECTION 5. Sections 1 through 4 of this act apply only to the Cities of Concord and Kannapolis.

SECTION 6. The City of Kannapolis may remove a tract of real property from its corporate limits, not to exceed five acres, upon an application to do so by the owner of the property for the purpose of benefiting the public health authority of Cabarrus County. The City must fix a date for a public hearing on the deannexation and publish a notice of the public hearing at least 10 days before the day of the hearing. A deannexation ordinance adopted under this act must be adopted before December 31, 2011.

SECTION 7. Section 6 of this act applies only to the City of Kannapolis.

SECTION 8. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of July, 2010.
Became law on the date it was ratified.

Session Law 2010-87

H.B. 1670

AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE RECOMMENDATION OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT PRO TEMPORE OF THE SENATE AND TO FILL AN UNEXPIRED TERM OF A MEMBER OF THE BOARD OF DIRECTORS FOR THE NORTH CAROLINA PARTNERSHIP FOR CHILDREN, INC., UPON THE RECOMMENDATION OF THE MAJORITY LEADER OF THE SENATE.

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

Whereas, the Speaker of the House of Representatives and the President Pro Tempore of the Senate have made recommendations; Now, therefore,

The General Assembly of North Carolina enacts:

PART 1. SPEAKER'S RECOMMENDATIONS

SECTION 1.1. Nancy W. Davison of Wake County is appointed to the Acupuncture Licensing Board for a term expiring on June 30, 2013.

SECTION 1.2.(a) Effective October 1, 2010, E.B. Palmer of Wake County is appointed to the African-American Heritage Commission for a term expiring on September 30, 2013.

SECTION 1.2.(b) Bernard George of Craven County is appointed to the African-American Heritage Commission for a term expiring on September 30, 2012, to fill the unexpired term of Donald A. Bonner.

SECTION 1.3. Thomas J. Emerson of Chatham County is appointed to the North Carolina Agricultural Finance Authority for a term expiring on July 1, 2013.

SECTION 1.4. Constance M. Haire of Jackson County is appointed to the Board of Directors of the North Carolina Arboretum for a term expiring on June 30, 2014.

SECTION 1.5. Connie Locklear Harland of Wake County and Lorrie Looper of Watauga County are appointed to the Child Care Commission for terms expiring on June 30, 2012.

SECTION 1.6. Charles E. Johnson of Pitt County and Karen Cragolin of Buncombe County are appointed to the North Carolina Clean Water Management Trust Fund Board of Trustees for terms expiring on July 1, 2014.

SECTION 1.7. Angela Lucas-Williams of Guilford County is appointed to the North Carolina Criminal Justice Education and Training Standards Commission for a term expiring on June 30, 2011, to fill the unexpired term of Vernon J. Bryant.

SECTION 1.8. Effective September 1, 2010, Jo M. Liles of Hertford County, Ben Thalheimer of Mecklenburg County, Steven Storch of Durham County, Julia B. Freeman of Haywood County, Alisa Hunt-Lowery of Johnston County, Dewey Jones of Person County, and the Honorable Marian N. McLawhorn of Pitt County are appointed to the Domestic Violence Commission for terms expiring on August 31, 2012.

SECTION 1.9. Effective January 1, 2011, David B. Strahan of Haywood County, Alfred D. Riddick of Halifax County, Peggy T. Vick of Cumberland County, Arnold Dennis of Durham County, and Bennie Walker of Forsyth County are appointed to the Committee on Dropout Prevention for terms expiring on December 31, 2014.

SECTION 1.10. Effective December 1, 2010, Burr W. Sullivan of Davidson County is appointed to the Economic Investment Committee for a term expiring on November 30, 2012.

SECTION 1.11. Effective January 1, 2011, the Honorable Marvin W. Lucas of Cumberland County is appointed to the Education Commission of the States for a term expiring on December 31, 2012.

SECTION 1.12. Effective September 1, 2010, Thelma G. White of Durham County is appointed to the North Carolina Board of Electrolysis Examiners for a term expiring on August 31, 2013.

SECTION 1.13. Effective January 1, 2011, the Honorable William L. Wainwright of Craven County is appointed to the North Carolina Emergency Medical Services Advisory Council for a term expiring on December 31, 2014.

SECTION 1.14. Donnie Brewer of Pitt County is appointed to the Environmental Management Commission for a term expiring on June 30, 2012.

SECTION 1.15. Effective October 1, 2010, Linda A. Smith of Lee County and Russell S. Jones of Buncombe County are appointed to the North Carolina State Board of Examiners of Fee-Based Practicing Pastoral Counselors for terms expiring on September 30, 2014.

SECTION 1.16. Elizabeth G. Page of Wake County is appointed to the Board of the North Carolina Health Insurance Risk Pool for a term expiring on June 30, 2013.

SECTION 1.17. Faline Locklear Dial of Robeson County is appointed to the North Carolina State Commission of Indian Affairs for a term expiring on June 30, 2012.

SECTION 1.18. Effective January 1, 2011, Judith B. Brunger of Wake County, John C. Moskop of Forsyth County, Dean E. Vavra of Forsyth County, and Kathryn Payne of Pitt County are appointed to the License to Give Trust Fund Commission for terms expiring on December 31, 2012.

SECTION 1.19. Effective January 1, 2011, James D. Storie of Watauga County is appointed to the North Carolina Locksmith Licensing Board for a term expiring on December 31, 2013.

SECTION 1.20. David M. Green of Mecklenburg County is appointed to the 911 Board for a term expiring on December 31, 2012, to fill the unexpired term of Francisco J. Cairon.

SECTION 1.21. Steven Elliott Howell of Northampton County, Frank B. Lewis of Beaufort County, and Frederick L. Yates of Perquimans County are appointed to the North Carolina's Northeast Commission for terms expiring on June 30, 2012.

SECTION 1.22. Jerry O. Pearce of Wake County is appointed to the North Carolina On-site Wastewater Contractors and Inspections Certification Board for a term expiring on July 1, 2013.

SECTION 1.23. Robert L. Epting of Orange County and Ashley B. Futrell, Jr., of Beaufort County are appointed to the North Carolina Parks and Recreation Authority for terms expiring on July 1, 2013.

SECTION 1.24. Kelly Edwards Baxter of Pitt County is appointed to the Board of Directors for the North Carolina Partnership for Children, Inc., for a term expiring on December 31, 2011, to fill the unexpired term of Robert M. Shinn.

SECTION 1.25. Jeff D. Etheridge, Jr., of Columbus County is appointed to the North Carolina State Ports Authority for a term expiring on June 30, 2012.

SECTION 1.26. Malcolm K. Fearing, III, of Dare County, Saint C. Basnight of Dare County, and Joseph M. Bryan, Jr., of Guilford County are appointed to the Roanoke Island Commission for terms expiring on June 30, 2012.

SECTION 1.27. Curtis B. Venable of Buncombe County and John B. Lewis of Pitt County are appointed to the Rules Review Commission for terms expiring on June 30, 2012.

SECTION 1.28. Effective September 1, 2010, Steve O. Hunt of Catawba County is appointed to the North Carolina Sheriff's Education and Training Standards Commission for a term expiring on August 31, 2012.

SECTION 1.29. Effective January 1, 2011, Patrick Barnes of Chatham County and Sondra Dickens of Northampton County are appointed to the North Carolina Small Business Contractor Authority for terms expiring on December 31, 2014.

SECTION 1.30. Constance Adams of Burke County is appointed to the North Carolina Board for Licensing of Soil Scientists for a term expiring on June 30, 2013.

SECTION 1.31. The Honorable Harold J. Brubaker of Randolph County is appointed to the Southern Dairy Compact Commission for a term expiring on June 30, 2014.

SECTION 1.32. James T. Driscoll, Jr., of Robeson County is appointed to the State Building Commission for a term expiring on June 30, 2012.

SECTION 1.33. Effective January 1, 2011, Barbara K. Allen of Wake County is appointed to the State Ethics Commission for a term expiring on December 31, 2014.

SECTION 1.34. Garry W. Cooper of Pamlico County is appointed to the State Fire and Rescue Commission for a term expiring on June 30, 2013.

SECTION 1.35. Martha Adams of Wake County is appointed to the State Health Plan Administrative Commission for a term expiring on June 30, 2012.

SECTION 1.36. Jonathan B. Howes of Orange County and Martha Johnson of Johnston County are appointed to the Board of Trustees of the State Health Plan for Teachers and State Employees for terms expiring on June 30, 2012.

SECTION 1.37. Effective January 1, 2011, John Wayne Kahl of Iredell County is appointed to the State Judicial Council for a term expiring on December 31, 2013.

SECTION 1.38. Lisa Grafstein of Wake County is appointed to the State Personnel Commission for a term expiring on June 30, 2016.

SECTION 1.39. Harold Allen Langley of Cleveland County is appointed to the Structural Pest Control Committee for a term expiring on June 30, 2014.

SECTION 1.40. Karen McDonald of Cumberland County is appointed to the North Carolina Substance Abuse Professional Practice Board for a term expiring on June 30, 2014.

SECTION 1.41. Mona M. Keech of Wake County is appointed to the Supplemental Retirement Board of Trustees for a term expiring on June 30, 2012.

SECTION 1.42.(a) The Honorable John May of Franklin County is appointed to the Virginia-North Carolina High-Speed Rail Compact Commission for a term expiring on December 31, 2010, to fill the unexpired term of the Honorable Lucy T. Allen.

SECTION 1.42.(b) Effective January 1, 2011, the Honorable E. Nelson Cole of Rockingham County is appointed to the Virginia-North Carolina High-Speed Rail Compact Commission for a term expiring on December 31, 2012.

SECTION 1.43. John Howard Boyette, Jr., of Wilson County and Paul Weller of Durham County are appointed to the Well Contractors Certification Commission for terms expiring on June 30, 2013.

PART II. PRESIDENT PRO TEMPORE'S RECOMMENDATIONS

SECTION 2.1. David Peters of Wake County and Andrew Prescott of Durham County are appointed to the Acupuncture Licensing Board for terms expiring on June 30, 2013.

SECTION 2.2. Annie McCoy of Wake County is appointed to the African-American Heritage Commission for a term expiring on June 30, 2013.

SECTION 2.3. Jimmy Harrell of Camden County is appointed to the North Carolina Agricultural Finance Authority for a term expiring on July 1, 2013.

SECTION 2.4. Dr. Paul Phibbs of Buncombe County is appointed to the Board of Directors of the North Carolina Arboretum for a term expiring on June 30, 2014.

SECTION 2.5. Margaret Ann Biddle of Wake County and Linda Knight of Edgecombe County are appointed to the Child Care Commission for terms expiring on June 30, 2012.

SECTION 2.6. Dr. Ronald Wahler of Wake County is appointed to the State Board of Chiropractic Examiners for a term expiring on June 30, 2013.

SECTION 2.7. John Garrou of Forsyth County and Jerry Wright of Currituck County are appointed to the Clean Water Management Trust Fund Board of Trustees for terms expiring on July 1, 2014.

SECTION 2.8. Valoree Eikinas of Wake County and Dean Barbour of Johnston County are appointed to the North Carolina Code Officials Qualification Board for terms expiring on July 1, 2014.

SECTION 2.9. Joseph Lovallo of Mecklenburg County is appointed to the North Carolina Board of Cosmetic Art Examiners for a term expiring on June 30, 2013.

SECTION 2.10. Joe Castro of Transylvania County is appointed to the Disciplinary Hearing Committee of the North Carolina State Bar for a term expiring on June 30, 2013.

SECTION 2.11. Effective September 1, 2010, the Honorable J. Thomas Davis of Rutherford County, David Badger of Cherokee County, the Honorable Valerie Asbell of Hertford County, Chief John Guard of Pitt County, and the Honorable Doug Berger of Franklin County are appointed to the Domestic Violence Commission for terms expiring on August 31, 2012.

SECTION 2.12. Effective January 1, 2011, Dr. Zoe Locklear of Robeson County, Lisa Daye of McDowell County, Margaret Ellis of Vance County, Johnny Mack Gibbs of Cumberland County, and Richard Hooker of Cleveland County are appointed to the Committee on Dropout Prevention for terms expiring on December 31, 2014.

SECTION 2.13. Harrell Everett of Wayne County is appointed to the Economic Investment Committee for a term expiring on June 30, 2011.

SECTION 2.14. Stephen E. Taylor of Dare County is appointed to the North Carolina Emergency Medical Services Advisory Council for a term expiring on December 31, 2013.

SECTION 2.15. Kevin McCarter of Wake County is appointed to the e-NC Authority Commission for a term expiring on December 31, 2011. Paul Tine of Dare County is appointed to the e-NC Authority Commission for a term expiring on December 31, 2012.

SECTION 2.16. Effective October 1, 2010, John Arey of Mecklenburg County is appointed to the North Carolina State Board of Examiners of Fee-Based Practicing Pastoral Counselors for a term expiring on September 30, 2014.

SECTION 2.17. Andy Penry of Wake County is appointed to the Board of Directors of the North Carolina Global TransPark Authority for a term expiring on June 30, 2011, to fill an unexpired term of Jack Kellogg.

SECTION 2.18. Talmadge Jones of Dare County is appointed to the North Carolina Home Inspector Licensure Board for a term expiring on July 1, 2014.

SECTION 2.18A. Effective October 1, 2010, Lindsey R. Griffin of Pitt County is appointed to the North Carolina Irrigation Contractors' Licensing Board for a term expiring on September 30, 2013.

SECTION 2.19. David Cranfield of Rowan County and Cliff DeSpain of Wake County are appointed to the North Carolina Manufactured Housing Board for terms expiring on June 30, 2013.

SECTION 2.20. Richard Brunstetter of Forsyth County and Pamela Poteat of Gaston County are appointed to the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services for terms expiring on June 30, 2013.

SECTION 2.21. Lois Winstead of Person County is appointed to the Natural Heritage Trust Fund Board of Trustees for a term expiring on December 31, 2015.

SECTION 2.22. William R. (Russ) Davis of Wilson County is appointed to the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board for a term expiring on July 1, 2012. Glenn Hines of Currituck County is appointed to the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board for a term expiring on July 1, 2013.

SECTION 2.23. The Honorable Loretta Clawson of Watauga County is appointed to the North Carolina Parks and Recreation Authority for a term expiring on June 30, 2013.

SECTION 2.24. Effective January 1, 2011, Rance Henderson of Burke County, Marie Inscore of Nash County, and Tannis Nelson of New Hanover County are appointed to the Board of Directors for the North Carolina Partnership for Children, Inc., for terms expiring on December 31, 2013.

SECTION 2.25. Steve Johnson of Wake County is appointed to the Private Protective Services Board for a term expiring on June 30, 2012.

SECTION 2.26. Walter Pierce of Hertford County is appointed to the Public Officers and Employees Liability Insurance Commission for a term expiring on June 30, 2011, to fill the unexpired term of David Walker.

SECTION 2.27. Michael Atkins of Wake County is appointed to the North Carolina Recreational Therapy Licensure Board for a term expiring on June 30, 2013.

SECTION 2.28. Dr. William Kiger of Forsyth County is appointed to the North Carolina Respiratory Care Board for a term expiring on June 30, 2013.

SECTION 2.29. Elmer Midgett of Dare County and Joanne Williams of Dare County are appointed to the Roanoke Island Commission for terms expiring on June 30, 2012.

SECTION 2.30. Kevin D. Davidson of Wake County is appointed to the North Carolina Board for Licensing of Soil Scientists for a term expiring on June 30, 2011, to fill the unexpired term of Edward Hearn.

SECTION 2.31. John Muter of Wake County is appointed to the State Building Commission for a term expiring on June 30, 2013.

SECTION 2.32. Brigadier General Ralph R. Griffin of Wayne County is appointed to the State Fire and Rescue Commission with a term expiring on June 30, 2013.

SECTION 2.33. Thomas Stern of Durham County is appointed to the State Personnel Commission for a term expiring on June 30, 2016.

SECTION 2.34. Linda Jones of Wayne County and Bonnita Hargis of Wake County are appointed to the Board of Trustees of the State Health Plan for Teachers and State Employees for terms expiring on June 30, 2012.

SECTION 2.35. Laura Wilson of New Hanover County is appointed to the North Carolina State Ports Authority for a term expiring on June 30, 2012.

SECTION 2.36. William Tesh of Guilford County is appointed to the Structural Pest Control Committee for a term expiring on June 30, 2014.

SECTION 2.37. David Turpin of Wake County is appointed to the North Carolina Substance Abuse Professional Practice Board for a term expiring on June 30, 2014.

SECTION 2.38. Dexter V. Perry of Wake County is appointed to the Supplemental Retirement Board of Trustees for a term expiring on June 30, 2012.

SECTION 2.39. Jeff Israel of Haywood County is appointed to the Board of Trustees of the Teachers' and State Employees' Retirement System for a term expiring on June 30, 2011, to fill the unexpired term of William Moyer.

SECTION 2.40. Effective January 14, 2011, Robert Clay of Gaston County is appointed to the North Carolina Turnpike Authority for a term expiring on January 14, 2015.

PART III. MAJORITY LEADER OF THE SENATE'S RECOMMENDATION

SECTION 3. Charles Carter of Buncombe County is appointed to the Board of Directors for the North Carolina Partnership for Children, Inc., for a term expiring on January 1, 2011, to fill the unexpired term of Carole Wilson.

PART IV. EFFECTIVE DATE

SECTION 4.1. Unless otherwise provided for in this act, appointments are for terms to begin July 1, 2010.

SECTION 4.2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of July, 2010. Became law on the date it was ratified.

Session Law 2010-88**H.B. 1692**

AN ACT TO REQUIRE THE DIVISION OF MEDICAL ASSISTANCE AND THE DIVISION OF PUBLIC HEALTH, IN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, TO EXPLORE ISSUES RELATED TO PROVIDING DENTAL SERVICES TO THE SPECIAL NEEDS POPULATION.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Department of Health and Human Services, Divisions of Medical Assistance and Public Health, shall study issues that may facilitate dental care and improved dental outcomes for the special needs population. Issues studied shall include at least the following:

- (1) The feasibility and anticipated impact of expanding Medicaid dental services to include reimbursement for evidenced-based topical fluoride treatment and other chemotherapeutic agents used to prevent periodontal disease in high-risk adults with special health care needs.
- (2) The feasibility and anticipated impact of implementing facility code policies that would allow certified providers to bill for each patient seen in a long-term care facility or group home on the date of service.

SECTION 1.(b) The Department of Health and Human Services shall report its findings and recommendations to the North Carolina Study Commission on Aging and the Public Health Study Commission on or before November 15, 2011.

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

In the General Assembly read three times and ratified this the 6th day of July, 2010.

Became law upon approval of the Governor at 7:00 a.m. on the 11th day of July, 2010.

Session Law 2010-89**H.B. 713**

AN ACT TO PROVIDE THAT THE ADDITION TO FEDERAL TAXABLE INCOME OF AMOUNTS ALLOWED AS A CREDIT AGAINST NORTH CAROLINA INCOME DOES NOT APPLY TO THE FILM CREDIT AND TO INCREASE THE PERIOD OF TIME FOR WHICH THE SECRETARY OF REVENUE MAY ALLOW A CORPORATION TO USE AN ALTERNATIVE APPORTIONMENT FORMULA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-130.5(a)(10) reads as rewritten:

"(a) The following additions to federal taxable income shall be made in determining State net income:

- ...
- (10) The total amounts allowed under this Chapter during the taxable year as a credit against the taxpayer's income tax. This subdivision does not apply to a credit allowed under G.S. 105-130.47. A corporation that apportions part of its income to this State shall make the addition required by this subdivision after it determines the amount of its income that is apportioned and allocated to this State and shall not apply to a credit taken under this Chapter the apportionment factor used by it in determining the amount of its apportioned income.

...."

SECTION 2.(a) G.S. 105-130.4(t1) reads as rewritten:

"(t1) Alternative Apportionment Method. – A corporation that believes the statutory apportionment method that otherwise applies to it under this section subjects a greater portion of its income to tax than is attributable to its business in this State may make a written request

to the Secretary for permission to use an alternative method. The request must set out the reasons for the corporation's belief and propose an alternative method.

The statutory apportionment method that otherwise applies to a corporation under this section is presumed to be the best method of determining the portion of the corporation's income that is attributable to its business in this State. A corporation has the burden of establishing by clear, cogent, and convincing proof that the proposed alternative method is a better method of determining the amount of the corporation's income attributable to the corporation's business in this State.

The Secretary must issue a written decision on a corporation's request for an alternative apportionment method. If the decision grants the request, it must describe the alternative method the corporation is authorized to use and state the tax years to which the alternative method applies. A decision may apply to no more than three tax ~~years—years, unless the provisions of subsection (t2) of this section apply.~~ A corporation may renew a request to use an alternative apportionment method by following the procedure in this subsection. A decision of the Secretary on a request for an alternative apportionment method is final and is not subject to administrative or judicial review. A corporation authorized to use an alternative method may apportion its income in accordance with the alternative method or the statutory method. A corporation may not use an alternative apportionment method except upon written order of the Secretary, and any return in which any alternative apportionment method, other than the method prescribed by statute, is used without permission of the Secretary is not a lawful return."

SECTION 2.(b) G.S. 105-130.4 is amended by adding a new subsection to read:

"(t2) 15-Year Alternative. – A corporation that, by September 15, 2010, signs a letter of commitment with the Secretary of Commerce certifying that the corporation will invest at least five hundred million dollars (\$500,000,000) in private funds to construct a facility in a development tier one area within five years after the time construction begins may make a written request to the Secretary for permission to use an alternative method of apportionment if it believes the statutory apportionment method that otherwise applies to it under this section subjects a greater portion of its income to tax than is attributable to its business in this State. The corporation must include the letter of commitment with its request to the Secretary. All of the provisions of subsection (t1) of this section apply to a request for an alternative apportionment method under this subsection except that a decision may apply to no more than 15 tax years."

SECTION 2.(c) G.S. 105-122(c1) reads as rewritten:

"(c1) Apportionment. – A corporation that is doing business in this State and in one or more other states must apportion its capital stock, surplus, and undivided profits to this State. A corporation must use the apportionment method set out in subdivision (1) of this subsection unless the Department has authorized it to use a different method under subdivision (2) of this subsection. The portion of a corporation's capital stock, surplus, and undivided profits determined by applying the appropriate apportionment method is considered the amount of capital stock, surplus, and undivided profits the corporation uses in its business in this State.

- (1) Statutory. – A corporation that is subject to income tax under Article 4 of this Chapter must apportion its capital stock, surplus, and undivided profits by using the fraction it applies in apportioning its income under that Article. A corporation that is not subject to income tax under Article 4 of this Chapter must apportion its capital stock, surplus, and undivided profits by using the fraction it would be required to apply in apportioning its income if it were subject to that Article. The apportionment method set out in this subdivision is considered the statutory method of apportionment and is presumed to be the best method of determining the amount of a corporation's capital stock, surplus, and undivided profits attributable to the corporation's business in this State.

- (2) Alternative. – A corporation that believes the statutory apportionment method set out in subdivision (1) of this subsection subjects a greater portion of its capital stock, surplus, and undivided profits to tax under this section than is attributable to its business in this State may make a written request to the Secretary for permission to use an alternative method. The request must set out the reasons for the corporation's belief and propose an alternative method. The corporation has the burden of establishing by clear, cogent, and convincing proof that the statutory apportionment method subjects a greater portion of the corporation's capital stock, surplus, and undivided profits to tax under this section than is attributable to its business in this State and that the proposed alternative method is a better method of determining the amount of the corporation's capital stock, surplus, and undivided profits attributable to the corporation's business in this State.

The Secretary must issue a written decision on a corporation's request for an alternative apportionment method. If the decision grants the request, it must describe the alternative method the corporation is authorized to use and state the tax years to which the alternative method applies. A decision may apply to no more than three tax years—years, unless the provisions of subdivision (3) of this subsection applies. A corporation may renew a request to use an alternative apportionment method by following the procedure in this subdivision. A decision of the Secretary on a request for an alternative apportionment method is final and is not subject to administrative or judicial review. A corporation authorized to use an alternative method may apportion its capital stock, surplus, and undivided profits in accordance with the alternative method or the statutory method.

- (3) 15-Year Alternative. – A corporation that, by September 15, 2010, signs a letter of commitment with the Secretary of Commerce certifying that the corporation will invest at least five hundred million dollars (\$500,000,000) in private funds to construct a facility in a development tier one area within five years after the time construction begins may make a written request to the Secretary for permission to use an alternative method of apportionment if it believes the statutory apportionment method that otherwise applies to it under this subsection subjects a greater portion of its capital stock, surplus, and undivided profits to tax than is attributable to its business in this State. The corporation must include the letter of commitment with its request to the Secretary. All of the provisions of subdivision (2) of this subsection apply to a request for an alternative apportionment method under this subdivision except that a decision may apply to no more than 15 tax years."

SECTION 3. Section 1 of this act becomes effective for taxable years beginning on or after January 1, 2011. The remainder of this act is effective when it becomes law. Section 2 of this act applies to requests for alternative apportionment formulas filed on or after that date.

In the General Assembly read three times and ratified this the 10th day of July, 2010.

Became law upon approval of the Governor at 7:07 a.m. on the 11th day of July, 2010.

Session Law 2010-90

S.B. 567

AN ACT TO AMEND THE LAWS PERTAINING TO THE RESPONSIBLE INDIVIDUALS LIST AS RELATED TO JUVENILE ABUSE, NEGLECT, AND DEPENDENCY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7B-101(18a) reads as rewritten:

"As used in this Subchapter, unless the context clearly requires otherwise, the following words have the listed meanings:

- ...
- (18a) Responsible individual. – ~~An individual identified by the director as the person who is responsible for rendering a juvenile abused or seriously neglected.~~ A parent, guardian, custodian, or caretaker who abuses or seriously neglects a juvenile.

...."

SECTION 2. G.S. 7B-101 is amended by adding a new subdivision to read:

"As used in this Subchapter, unless the context clearly requires otherwise, the following words have the listed meanings:

- ...
- (19a) Serious neglect. – Conduct, behavior, or inaction of the juvenile's parent, guardian, custodian, or caretaker that evidences a disregard of consequences of such magnitude that the conduct, behavior, or inaction constitutes an unequivocal danger to the juvenile's health, welfare, or safety, but does not constitute abuse.

...."

SECTION 3. G.S. 7B-200(a)(9) reads as rewritten:

"(a) The court has exclusive, original jurisdiction over any case involving a juvenile who is alleged to be abused, neglected, or dependent. This jurisdiction does not extend to cases involving adult defendants alleged to be guilty of abuse or neglect.

The court also has exclusive original jurisdiction of the following proceedings:

- ...
- (9) ~~Petitions for expunction of an individual's name from the responsible individuals list.~~ judicial review of a director's determination under Article 3A of this Chapter."

SECTION 4. G.S. 7B-311 reads as rewritten:

"§ 7B-311. Central registry; responsible individuals list.

(a) The Department of Health and Human Services shall maintain a central registry of abuse, neglect, and dependency cases and child fatalities that are the result of alleged maltreatment that are reported under this Article in order to compile data for appropriate study of the extent of abuse and neglect within the State and to identify repeated abuses of the same juvenile or of other juveniles in the same family. This data shall be furnished by county directors of social services to the Department of Health and Human Services and shall be confidential, subject to rules adopted by the Social Services Commission providing for its use for study and research and for other appropriate disclosure. Data shall not be used at any hearing or court proceeding unless based upon a final judgment of a court of law.

(b) The Department shall also maintain a list of responsible ~~individuals identified by county directors of social services as the result of investigative assessment responses.~~ individuals. The Department may provide information from this list to child caring institutions, child placing agencies, group home facilities, and other providers of foster care, child care, or adoption services that need to determine the fitness of individuals to care for or adopt children. The name of an individual who has been identified as a responsible individual shall be placed on the responsible individuals list only after one of the following:

- (1) The individual is properly notified pursuant to G.S. 7B-320 and fails to file a petition for judicial review in a timely manner.
- (2) The court determines that the individual is a responsible individual as a result of a hearing either:
 - a. On the individual's petition for judicial review; or
 - b. On a juvenile petition that alleges and seeks a determination that the individual is a responsible person.

- (3) The individual is criminally convicted as a result of the same incident involved in an investigative assessment response.

(c) It is unlawful for any public official or public employee to knowingly and willfully release information from either the central registry or the responsible individuals list to a person who is not authorized to receive the information. It is unlawful for any person who is authorized to receive information from the central registry or the responsible individuals list to release that information to an unauthorized person. It is unlawful for any person who is not authorized to receive information from the central registry or the responsible individuals list to access or attempt to access that information. A person who commits an offense described in this subsection is guilty of a Class 3 misdemeanor.

(d) The Social Services Commission shall adopt rules regarding the operation of the central registry and responsible individuals list, ~~including~~including procedures for each of the following:

- (1) ~~Procedures for filing~~Filing data.
- (2) ~~Procedures for notifying~~Notifying an individual that the individual has been determined by the director to be a responsible individual of a determination of abuse or serious neglect.
- (3) ~~Procedures for correcting~~Correcting and expunging information.
- (4) Determining persons who are authorized to receive information from the responsible individuals list.
- (5) Releasing information from the responsible individuals list to authorized requestors.
- (6) Gathering statistical information.
- (7) Keeping and maintaining information placed in the registry and on the responsible individuals list.
- (8) ~~A definition of "serious neglect".~~

SECTION 5. The title of Article 3A of Chapter 7B of the General Statutes and G.S. 7B-320 read as rewritten:

"Article 3A.

~~Expunction;~~Judicial Review; Responsible Individuals List.

"§ 7B-320. **Notification to individual determined to be a responsible for abuse or substantial neglect.**

(a) Within five working days after the completion of an investigative assessment response that results in a determination of abuse or serious ~~neglect~~neglect and the identification of a responsible individual, the director shall ~~notify the Department of the results of the assessment and shall give personal~~personally deliver written notice of the determination to the responsible individual of the determination-identified individual.

(b) If personal written notice is not ~~obtained~~made within 15 days of the ~~determination being made~~determination, the director shall send the notice to the ~~responsible-identified~~ individual by registered or certified mail, restricted delivery, return receipt requested, and addressed to the ~~responsible~~ individual at the individual's last known address. ~~Only the responsible individual may receive the notice.~~

(c) The notice shall include all of the following:

- (1) A statement informing the individual of the nature of the investigative assessment response and whether the director determined abuse or serious neglect or both.
- (1a) A statement that the individual has been identified as a responsible individual.
- (2) A statement summarizing the substantial evidence supporting the director's determination without identifying the reporter or collateral contacts.
- (3) A statement informing the individual that unless the individual petitions for judicial review, the individual's name ~~has been~~will be placed on the responsible individuals list as provided in G.S. 7B-311, and that the

Department of Health and Human Services may provide information from this list to child caring institutions, child placing agencies, group home facilities, and other providers of foster care, child care, or adoption services that need to determine the fitness of individuals to care for or adopt children.

- (4) A clear description of the actions the individual must take ~~to have his or her name removed from the responsible individuals list. The description shall include information regarding how to request an expunction by the director of the individual's name from the responsible individuals list and procedures for seeking review by the district attorney and for seeking to seek~~ judicial review of the director's decision not to remove the individual's name from the list determination.

(d) In addition to the notice, the director shall provide the individual with a copy of a petition for judicial review form and instructions for how to file and serve the petition."

SECTION 6. G.S. 7B-321 and G.S. 7B-322 are repealed.

SECTION 7. G.S. 7B-323 reads as rewritten:

"§ 7B-323. Petition for ~~expunction;~~ judicial review; district court.

(a) Within ~~30~~ 15 days of the receipt of notice of the director's ~~decision under G.S. 7B-321(b) or (c), or within 30 days from the date of a determination by the district attorney under G.S. 7B-322, whichever is later,~~ determination under G.S. 7B-320(a) or (b), an individual may file a petition for ~~expunction~~ judicial review with the district court of the county in which the abuse or serious neglect report arose. The request shall be by a petition for ~~expunction~~ judicial review filed with the appropriate clerk of court's office with a copy delivered in person or by certified mail, return receipt requested, to the ~~director~~ director who determined the abuse or serious neglect and identified the individual as a responsible individual. The petition for ~~expunction~~ judicial review shall contain the name, date of birth, and address of the individual seeking ~~expunction~~ judicial review, the name of the juvenile who was the subject of the determination of abuse or serious neglect, and facts that invoke the jurisdiction of the court. Failure to timely file a petition for ~~expunction~~ judicial review constitutes a waiver of the individual's right ~~to file a petition for expunction and to a district court hearing~~ hearing and to contest the placement of the individual's name on the responsible individuals list.

(b) The clerk of court shall maintain a separate docket for ~~expunction actions and upon receipt of a filed petition for expunction~~ judicial review actions. Upon the filing of a petition for judicial review, the clerk shall calendar the matter for hearing within 15 days from the date the petition is filed at a session of district court hearing juvenile ~~matters and~~ matters or, if there is no such session, at the next session of juvenile court. The clerk shall send notice of the hearing to the petitioner and to the ~~director~~ director who determined the abuse or serious neglect and identified the individual as a responsible individual. Upon the request of a party, the court shall close the hearing to all persons, except officers of the court, the parties, and their witnesses. At the hearing, the director shall have the burden of proving by a preponderance of the evidence the ~~correctness of the director's decision determining~~ abuse or serious neglect and identifying the identification of the individual seeking ~~expunction~~ judicial review as a responsible individual. The hearing shall be before a judge without a jury. The rules of evidence applicable in civil cases shall apply. However, the ~~court shall have discretion to~~ court, in its discretion, may permit the admission of any reliable and relevant evidence if the general purposes of the rules of evidence and the interests of justice will best be served by its admission.

(b1) Upon receipt of a notice of hearing for judicial review, the director who identified the individual as a responsible individual shall review all records, reports, and other information gathered during the investigative assessment response. If after a review, the director determines that there is not sufficient evidence to support a determination that the individual abused or seriously neglected the juvenile and is a responsible individual, the director shall prepare a written statement of the director's determination and either deliver the statement personally to the individual seeking judicial review or send the statement by

first-class mail. The director shall also give written notice of the director's determination to the clerk to be placed in the court file, and the judicial review hearing shall be cancelled with notice of the cancellation given by the clerk to the petitioner.

(c) At the hearing, the following rights of the parties shall be preserved:

- (1) The right to present sworn evidence, law, or rules that bear upon the case.
- (2) The right to represent themselves or obtain the services of an attorney at their own expense.
- (3) The right to subpoena witnesses, cross-examine witnesses of the other party, and make a closing argument summarizing the party's view of the case and the law.

(d) Within 30 days after completion of the hearing, the court shall enter a ~~signed, written~~ order containing findings of fact and conclusions of law. ~~A~~ The clerk shall serve a copy of the order shall be served on each party or the party's attorney of record. If the court concludes that the director has not established by a preponderance of the evidence ~~the correctness of the determination~~ of abuse or serious neglect or the identification of the responsible individual, the court shall reverse the director's ~~decision~~ determination and order the director to ~~notify the Department of Health and Human Services to expunge~~ not to place the individual's name ~~from~~ on the responsible individuals list. If the court concludes that ~~sufficient evidence has not been presented to support a determination of abuse, but there is sufficient evidence to support a determination of the director has established by a preponderance of the evidence~~ abuse or serious neglect and the identification of the individual seeking expunction judicial review as a responsible individual, the court shall ~~modify the director's decision and~~ order the director to ~~notify the Department of Health and Human Services to change the entry place the individual's name~~ on the responsible individuals list to that of neglect list, consistent with the court's order.

(e) Notwithstanding any time limitations contained in this section or the provisions of ~~G.S. 7B-324(a)(3) or (4), G.S. 7B-324(a)(4), upon the filing of a petition for judicial review by an individual identified by a director as a responsible individual, the~~ a district court of the county in which the abuse or neglect report arose may review a director's determination of abuse or serious neglect at any time if the review serves the interests of justice or for extraordinary circumstances. If the district court undertakes such a review, a hearing shall be held pursuant to this section at which the director shall have the burden of establishing by a preponderance of the evidence abuse or serious neglect and the identification of the individual seeking judicial review as a responsible individual. If the court concludes that the director has not established by a preponderance of the evidence abuse or serious neglect or the identification of the responsible individual, the court shall reverse the director's determination and order the director to expunge the individual's name from the responsible individuals list.

(f) A party may appeal the district court's decision under G.S. 7A-27(c)."

SECTION 8. G.S. 7B-324 reads as rewritten:

"§ 7B-324. **Persons ineligible to request expunction; petition for judicial review; stay of expunction-judicial review proceeding pending juvenile court case.**

(a) ~~Any~~ An individual who has been identified by a director as a responsible individual ~~in an abuse or serious neglect case is not entitled to challenge the placement of the individual's name on the responsible individuals list may not petition for judicial review~~ if any of the following apply:

- (1) The individual is criminally convicted as a result of the same incident. The district attorney shall inform the director of the result of the criminal proceeding, ~~and the director shall immediately notify the Department of Health and Human Services. The Department shall consider this information when determining whether the individual's name should remain on or be expunged from the responsible individuals list.~~ proceeding.
- (2) The individual is a respondent in a juvenile court proceeding regarding abuse or neglect resulting from the same incident. ~~The director shall~~

~~immediately notify the Department of Health and Human Services. The Department shall consider this information when determining whether the individual's name should remain on or be expunged from the responsible individuals list.~~ incident that concludes with an adjudication of abuse or neglect and a determination that the individual has abused or seriously neglected the juvenile and is a responsible individual.

- (3) ~~That individual fails to make a timely request for expunction with the director who made the determination of abuse or serious neglect and identified the individual as a responsible individual.~~
- (4) ~~That~~ After proper notice, the individual fails to file a petition for expunction judicial review with the district court in a timely manner.
- (5) ~~That individual fails to keep the county department of social services informed of the individual's current address during any request for expunction so that the individual may receive notification of the director's decisions.~~

(b) ~~If, prior to or during any proceeding provided for in this section,~~ If an individual seeking expunction judicial review is named as a respondent in a juvenile court case resulting from the same incident, the director, the district attorney, the district court judge, or the Court of Appeals shall stay any further proceedings for the expunction of that individual's name from the responsible individuals list until the juvenile court case is concluded or dismissed. ~~the district court judge may stay the judicial review proceeding or consolidate the proceeding with the juvenile court case. If a the juvenile court case resulting from the same determination of abuse or serious neglect is involuntarily dismissed, or concludes without an adjudication of abuse or neglect, or with an adjudication that differs from the prior determination,~~ neglect and a determination that the individual has abused or seriously neglected a juvenile and is a responsible individual, the director shall notify the Department of Health and Human Services to expunge not place the individual's name from on the responsible individuals list or modify the prior decision of the director accordingly. If a juvenile court case concludes with an adjudication of abuse or neglect and a determination that the individual has abused or seriously neglected a juvenile and is a responsible individual, the director shall place that individual's name on the responsible individuals list, consistent with the court's order."

SECTION 9. G.S. 7B-402(a) reads as rewritten:

"(a) The petition shall contain the name, date of birth, address of the juvenile, the name and last known address of the juvenile's parent, guardian, or custodian, and allegations of facts sufficient to invoke jurisdiction over the juvenile. A petition alleging that a juvenile is abused or neglected may also allege and seek a determination that a respondent is a responsible individual as defined in G.S. 7B-101(18a). A person whose actions resulted in a conviction under G.S. 14-27.2 or G.S. 14-27.3 and the conception of the juvenile need not be named in the petition. The petition may contain information on more than one juvenile when the juveniles are from the same home and are before the court for the same reason."

SECTION 10. G.S. 7B-406(b) reads as rewritten:

"(b) A summons shall be on a printed form supplied by the Administrative Office of the Courts and shall ~~include~~ include each of the following:

- (1) Notice of the nature of the ~~proceeding;~~ proceeding.
- (2) Notice of any right to counsel and information about how to seek the appointment of counsel prior to a ~~hearing;~~ hearing.
- (2a) Notice that, if the petition alleges and the court determines that the respondent is a responsible individual, the respondent's name will be placed on the responsible individuals list as provided in G.S. 7B-311, and that the Department of Health and Human Services may provide information from the list to child caring institutions, child placing agencies, group home facilities, and other providers of foster care, child care, or adoption services that need to determine the fitness of individuals to care for or adopt children.

- (3) Notice that, if the court determines at the hearing that the allegations of the petition are true, the court will conduct a dispositional hearing to consider the needs of the juvenile and enter an order designed to meet those needs and the objectives of the ~~State; and State.~~
- (4) Notice that the dispositional order or a subsequent order:
- a. May remove the juvenile from the custody of the parent, guardian, or custodian.
 - b. May require that the juvenile receive medical, psychiatric, psychological, or other treatment and that the parent participate in the treatment.
 - c. May require the parent to undergo psychiatric, psychological, or other treatment or counseling for the purpose of remedying the behaviors or conditions that are alleged in the petition or that contributed to the removal of the juvenile from the custody of that person.
 - d. May order the parent to pay for treatment that is ordered for the juvenile or the parent.
 - e. May, upon proper notice and hearing and a finding based on the criteria set out in G.S. 7B-1111, terminate the parental rights of the respondent parent."

SECTION 11. G.S. 7B-800 reads as rewritten:

"§ 7B-800. Amendment of petition.

The ~~court~~ court, in its discretion, may permit a petition to be amended when the amendment does not change the nature of the conditions upon which the petition is based. The court shall direct the manner in which an amended petition shall be served and the time allowed for a party to prepare after the petition has been amended."

SECTION 12. G.S. 7B-805 reads as rewritten:

"§ 7B-805. Quantum of proof in adjudicatory hearing.

The allegations in a petition alleging ~~abuse, neglect, or dependency~~ that a juvenile is abused, neglected, or dependent shall be proved by clear and convincing evidence. Allegations in a petition alleging that a respondent is a responsible individual who has abused or seriously neglected a juvenile shall be proved by a preponderance of the evidence."

SECTION 13. G.S. 7B-807 is amended by adding a new subsection to read:

"(a1) After an adjudication that a juvenile is abused or neglected, if the petition alleges and the court determines by a preponderance of the evidence that a respondent has abused or seriously neglected a juvenile and is a responsible individual, the court shall order the placement of that individual's name on the responsible individuals list as provided in G.S. 7B-311."

SECTION 14. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Became law upon approval of the Governor at 7:08 a.m. on the 11th day of July,

2010.

Session Law 2010-91

S.B. 1171

AN ACT TO MODIFY ELIGIBILITY FOR ECONOMIC INCENTIVE SALES AND USE TAX EXEMPTIONS AND REFUNDS; TO MODIFY ELIGIBILITY FOR THE ONE PERCENT PRIVILEGE TAX ON DATACENTER MACHINERY AND EQUIPMENT; AND TO MODIFY THE CIRCUMSTANCES UNDER WHICH THE DEPARTMENT OF COMMERCE MAY EXTEND THE BASE PERIOD FOR A JDIG GRANT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.3(8e) reads as rewritten:

"(8e) Eligible Internet datacenter. – A datacenter that satisfies each of the following conditions:

- a. The facility is used primarily or is to be used primarily by a business engaged in ~~"Internet service providers and Web search portals" industry 51811, as defined by NAICS~~ software publishing included in industry 511210 of NAICS or an Internet activity included in industry 519130 of NAICS.
- b. The facility is comprised of a structure or series of structures located or to be located on a single parcel of land or on contiguous parcels of land that are commonly owned or owned by affiliation with the operator of that facility.
- c. The facility is located or to be located in a county that was designated, at the time of application for the written determination required under sub-subdivision d. of this subdivision, either an enterprise tier one, two, or three area or a development tier one or two area pursuant to G.S. 105-129.3 or G.S. 143B-437.08, regardless of any subsequent change in county enterprise or development tier status.
- d. The Secretary of Commerce has made a written determination that at least two hundred fifty million dollars (\$250,000,000) in private funds has been or will be invested in real property or eligible business property, or a combination of both, at the facility within five years after the commencement of construction of the facility."

SECTION 2. G.S. 105-164.3(23a) reads as rewritten:

"(23a) NAICS. – ~~Defined in G.S. 105-129.81.~~ The North American Industry Classification System adopted by the United States Office of Management and Budget as of December 31, 2007."

SECTION 3. G.S. 105-164.13(55) reads as rewritten:

"(55) Sales of electricity for use at an eligible Internet ~~data center~~ datacenter and eligible business property to be located and used at an eligible Internet ~~data center~~ datacenter. As used in this subdivision, "eligible business property" is property that is capitalized for tax purposes under the Code and is used either:

- a. For the provision of ~~Internet service or Web search portal services as contemplated by G.S. 105-164.3(8e)a.~~ a service included in the business of the primary user of the datacenter, including equipment cooling systems for managing the performance of the property.
- b. For the generation, transformation, transmission, distribution, or management of electricity, including exterior substations and other business personal property used for these purposes.
- c. To provide related computer engineering or computer science research.

If the level of investment required by G.S. 105-164.3(8e)d. is not timely made, then the exemption provided under this subdivision is forfeited. If the level of investment required by G.S. 105-164.3(8e)d. is timely made but any specific eligible business property is not located and used at an eligible Internet ~~data center, datacenter,~~ then the exemption provided for such eligible business property under this subdivision is forfeited. If the level of investment required by G.S. 105-164.3(8e)d. is timely made but any portion of the electricity is not used at an eligible Internet ~~data center, datacenter,~~ then the exemption provided for such electricity under this subdivision is forfeited. A taxpayer that forfeits an exemption under this subdivision is liable for all past taxes avoided as a result of the forfeited exemption, computed from the date the taxes would have been due if the exemption had not been allowed, plus interest at the rate established under G.S. 105-241.21. If the forfeiture is triggered due to the lack of a timely investment required by G.S. 105-164.3(8e)d., then interest is computed from the date the taxes would have been due if the exemption had not been allowed. For all other forfeitures, interest is computed from the time as of which the eligible business property or electricity was put to a disqualifying use. The past taxes and interest are due 30 days after the date the exemption is forfeited. A taxpayer that fails to pay the past taxes and interest by the due date is subject to the provisions of G.S. 105-236."

SECTION 4. G.S. 105-164.14(j)(3) is amended by adding the following new sub-subdivisions to read:

"(j) **Certain Industrial Facilities.** – The owner of an eligible facility is allowed an annual refund of sales and use taxes as provided in this subsection.

...
(3) **Industries.** – This subsection applies to the following industries:

...
i. Paper-from-pulp manufacturing. – Paper-from-pulp manufacturing means an industry primarily engaged in manufacturing or converting paper, other than newsprint or uncoated groundwood paper, from pulp or pulp products, or in converting purchased sanitary paper stock or wadding into sanitary paper products.

...
p. Turbine manufacturing. – Turbine manufacturing means an industry primarily engaged in manufacturing turbines or complete turbine generator set units, such as steam, hydraulic, gas, and wind. Turbine manufacturing under this provision does not include the manufacturing of aircraft turbines."

SECTION 5. G.S. 105-187.50 reads as rewritten:

"§ **105-187.50. Definitions.**

The definitions in G.S. 105-164.3 apply in this Article. ~~In addition, the following definitions apply in this Article:~~

- (1) ~~Repealed by Session Laws 2009-451, s. 27A.3(v), effective August 7, 2009.~~
(2) ~~Eligible datacenter. – A datacenter that satisfies each of the following conditions:~~
- a. ~~Repealed by Session Laws 2009-451, s. 27A.3(v), effective August 7, 2009.~~
b. ~~The Secretary of Commerce has made a written determination of the following:~~
1. ~~For facilities that are located in a development tier one area at the time of application for the written determination, that at least one hundred fifty million dollars (\$150,000,000) in~~

~~private funds has been or will be invested in improvements to real property or installed datacenter machinery and equipment, or a combination thereof, within five years of the date on which the first qualifying improvement is made, regardless of any subsequent change in county development tier status.~~

2. ~~For facilities that are not located in a development tier one area at the time of application for the written determination, that at least three hundred million dollars (\$300,000,000) in private funds has been or will be invested in improvements to real property or installed datacenter machinery and equipment, or a combination thereof, within five years of the date on which the first qualifying improvement is made, regardless of any subsequent change in county development tier status.~~

- e. ~~The facility satisfies the wage standard and health insurance requirements of G.S. 105-129.83."~~

SECTION 6. G.S. 105-187.51C(a)(1) reads as rewritten:

- "(1) For the provision of datacenter services, including equipment cooling systems for managing the performance of the datacenter property; hardware ~~and software~~ for distributed and mainframe computers and servers; data storage devices; network connectivity equipment and peripheral components and systems."

SECTION 7. G.S. 105-187.51C, as amended by Section 6 of this act, reads as rewritten:

"§ 105-187.51C. Tax imposed on datacenter machinery and equipment.

(a) Tax. – A privilege tax is imposed on ~~an eligible datacenter, other than one as defined in G.S. 105-164.3(8e),~~ the owner of a datacenter that meets the requirements of subsection (a1) of this section and that purchases machinery or equipment to be located and used at the datacenter that is capitalized for tax purposes under the Code and is used either:

- (1) For the provision of datacenter services, including equipment cooling systems for managing the performance of the datacenter property; hardware for distributed and mainframe computers and servers; data storage devices; network connectivity equipment and peripheral components and systems.
- (2) For the generation, transformation, transmission, distribution, or management of electricity, including exterior substations and other business personal property used for these purposes.

(a1) Requirements. – The Secretary of Commerce must certify that the datacenter meets all of the following requirements:

- (1) The investment requirements of this subdivision. The level of investment required by this subdivision must consist of private funds that have been or will be made in real and tangible personal property for the facility within five years of the date on which the first property investment is made by the owner of the facility.
 - a. For facilities located in a development tier one area, at least one hundred fifty million dollars (\$150,000,000).
 - b. For facilities located in a development tier two area or a development tier three area, at least two hundred twenty-five million dollars (\$225,000,000).
- (2) The wage standard requirements of G.S. 105-129.83.
- (3) The health insurance requirements of G.S. 105-129.83.

(a2) Second Datacenter. – A privilege tax is imposed on an owner of a datacenter that is subject to tax under subsection (a) of this section, constructs a second datacenter, and purchases

machinery or equipment to be located and used at that datacenter. As used in this subsection, the owner of a datacenter includes an entity that is owned by or under common control with the owner of a datacenter subject to tax under subsection (a) of this section. The tax applies only if the second datacenter meets the following requirements and the machinery or equipment that is purchased is capitalized for tax purposes under the Code and is used for one of the purposes listed in subsection (a) of this section:

- (1) The Secretary of Commerce certifies that an investment of private funds of at least seventy-five million dollars (\$75,000,000) has been or will be made in real and tangible personal property for the facility within five years after the facility subject to tax under subsection (a) of this section is placed into service and that the datacenter meets the requirements in subsection (a1) of this section, other than the minimum investment amount in that subsection.
- (2) The two datacenters are linked through a fiber-optic connection or a similar connection.
- (3) The datacenters are placed in service within five years of each other.

(a3) Contractor Option. – A contractor or subcontractor that is subject to this subsection may elect to pay tax on its purchases of machinery and equipment described in subsection (a) of this section at the rate set in this section instead of the rate set in Article 5 of this Chapter. To make this election, a contractor or subcontractor must register with the Secretary for payment of tax under this section. The following contractors and subcontractors are subject to this section:

- (1) A contractor that purchases the machinery and equipment for use in the performance of a contract with the owner of a datacenter subject to tax under this section.
- (2) A subcontractor that purchases the machinery and equipment for use in the performance of a contract with a general contractor that has a contract with the owner of a datacenter subject to tax under this section.

(b) Rate. Rate and Scope. – The tax is one percent (1%) of the sales price of the eligible equipment and machinery. The maximum tax is eighty dollars (\$80.00) per article. The tax does not apply to equipment and machinery of an eligible Internet datacenter that is exempt from sales tax under G.S. 105-164.13(55).

(c) Forfeiture. – If the required level of investment to qualify as an eligible datacenter is not timely made, then the rate provided under this section is forfeited. If the required level of investment is timely made but any eligible machinery and equipment is not located and used at an eligible datacenter, then the rate provided for that machinery and equipment under this section is forfeited. A taxpayer that forfeits a rate under this section is liable for all past sales and use taxes avoided as a result of the forfeiture, computed at the combined general rate from the date the taxes would otherwise have been due, plus interest at the rate established under G.S. 105-241.21. If the forfeiture is triggered due to the lack of a timely investment required by this section, then interest is computed from the date the sales or use tax would otherwise have been due. For all other forfeitures, interest is computed at the combined general rate from the time as of which the machinery or equipment was put to a disqualifying use. A credit is allowed against the sales or use tax owed as a result of the forfeiture provisions of this subsection for privilege taxes paid pursuant to this section. For purposes of applying this credit, the fact that payment of the privilege tax occurred in a period outside the statute of limitations provided under G.S. 105-241.6 is not considered. The credit reduces the amount forfeited, and interest applies only to the reduced amount. The past taxes and interest are due 30 days after the date of forfeiture. A taxpayer that fails to pay the past taxes and interest by the due date is subject to the provisions of G.S. 105-236.

- (d) Sunset. – This section expires for sales occurring on or after July 1, ~~2013~~2015."

SECTION 8. G.S. 143B-437.59(b) reads as rewritten:

"(b) If a business fails to maintain employment at the levels stipulated in the agreement or otherwise fails to comply with any condition of the agreement for any two consecutive

years:years, the Committee shall take one of the following actions listed in this subsection. Under no circumstances may the Committee extend the base period by more than a total of 48 months. In no event shall the term of the grant be extended beyond the date set by the Committee at the time the Committee awarded the grant. The actions are:

- (1) If the business is still within the base period established by the ~~Committee, Committee~~ in at least one of the two consecutive years in which it fails to comply with any condition in the agreement, the Committee shall withhold the grant payment for any consecutive year after the second consecutive year remaining in the base period in which the business fails to comply with any condition of the agreement, and the Committee may extend the base period ~~for up to 24 additional months. Under no circumstances may the Committee extend the base period by more than a total of 24 months. In no event shall the term of the grant be extended beyond the date set by the Committee at the time the Committee awarded the grant.~~ as provided in this subdivision:
 - a. The Committee may extend the base period for up to 24 additional months, if the business has created and maintained fewer than 1,000 jobs pursuant to its agreement.
 - b. The Committee may extend the base period for up to 48 additional months if the business has created and maintained at least 1,000 jobs pursuant to its agreement.
- (2) If the business is no longer within the base period established by the Committee, the Committee shall terminate the agreement."

SECTION 9. Section 6 of this act becomes effective January 1, 2010. Section 8 of this act is effective when it becomes law, applies to all agreements in effect on or entered into after that date, and expires January 1, 2013. The remainder of this act becomes effective July 1, 2010, and applies to sales made on or after that date.

In the General Assembly read three times and ratified this the 10th day of July, 2010.

Became law upon approval of the Governor at 7:14 a.m. on the 11th day of July, 2010.

Session Law 2010-92

H.B. 1693

AN ACT TO DIRECT THE NORTH CAROLINA AREA HEALTH EDUCATION CENTERS (AHEC) PROGRAM TO COORDINATE WORKFORCE DEVELOPMENT EFFORTS TO INCREASE THE NUMBER OF DENTAL CARE PROVIDERS SERVING THE SPECIAL NEEDS POPULATION.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The North Carolina Area Health Education Centers (AHEC) Program shall coordinate efforts to increase the number of dental care providers serving the special needs population. These efforts shall include, but are not limited to, the following:

- (1) Working with the dental schools at the University of North Carolina at Chapel Hill and East Carolina University, the North Carolina Community College System, and current dental providers serving the special needs population to identify opportunities to increase the dental care workforce supply that is available and willing to treat the special needs population. These opportunities shall include, but are not limited to, options that could be undertaken without additional funding.
- (2) Working with the North Carolina State Board of Dental Examiners to explore the feasibility of allowing dental students, dental hygiene students, and assisting students the opportunity to receive training in long-term care facilities under the direction of nonprofit special care dental organizations.

SECTION 1.(b) The North Carolina Area Health Education Centers (AHEC) Program shall report its findings and recommendations to the North Carolina Study Commission on Aging and the Public Health Study Commission on or before August 1, 2011.

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

In the General Assembly read three times and ratified this the 6th day of July, 2010.

Became law upon approval of the Governor at 7:16 a.m. on the 11th day of July, 2010.

Session Law 2010-93

H.B. 1703

AN ACT TO DIRECT THE DIVISION OF AGING AND ADULT SERVICES, DEPARTMENT OF HEALTH AND HUMAN SERVICES, TO STUDY THE ISSUE OF CRIMINAL HISTORY RECORD CHECKS FOR CURRENT AND PROSPECTIVE OWNERS, OPERATORS, AND VOLUNTEERS OF ADULT DAY CARE PROGRAMS AND ADULT DAY HEALTH SERVICES PROGRAMS, AS RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Division of Aging and Adult Services, Department of Health and Human Services, shall study the issue of criminal history record checks for owners, operators, volunteers, and prospective owners, operators, and volunteers in adult day care programs and adult day health services programs. In conducting the study, the Division of Aging and Adult Services shall seek input from the North Carolina Adult Day Services Association and shall ensure that the current process used for adult day care employee criminal history record checks is incorporated into the study. The study shall include the following elements:

- (1) Identifying the positions that warrant a criminal history record check.
- (2) Developing a process for conducting the criminal history record check.
- (3) Designating the entity responsible for requesting the criminal history record check.
- (4) Designating the entity responsible for paying for the criminal history record check.
- (5) Determining whether a State or a national criminal history record check, or both, is performed.
- (6) Defining the relevant offenses that indicate an individual's fitness to have responsibility for the safety and well-being of program participants.
- (7) Any other issues deemed appropriate.

SECTION 1.(b) The Division of Aging and Adult Services, Department of Health and Human Services, shall report findings and recommendations on criminal history record checks in adult day and adult day health services programs to the North Carolina Study Commission on Aging on or before November 1, 2010.

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

In the General Assembly read three times and ratified this the 7th day of July, 2010.

Became law upon approval of the Governor at 7:21 a.m. on the 11th day of July, 2010.

Session Law 2010-94

H.B. 1403

AN ACT TO REQUIRE THAT A DNA SAMPLE BE TAKEN FROM ANY PERSON ARRESTED FOR COMMITTING CERTAIN OFFENSES, AND TO AMEND THE STATUTES THAT PROVIDE FOR A DNA SAMPLE UPON CONVICTION.

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known and may be cited as "The DNA Database Act of 2010."

SECTION 2. G.S. 15A-266.2 reads as rewritten:

"§ 15A-266.2. Definitions.

As used in this Article, unless another meaning is specified or the context clearly requires otherwise, the following terms have the meanings specified:

- (1) "CODIS" means the FBI's national DNA identification index system that allows the storage and exchange of DNA records submitted by federal, State and local forensic DNA laboratories. The term "CODIS" is derived from Combined DNA Index System, System (NDIS) administered and operated by the Federal Bureau of Investigation.
- (1a) "Custodial Agency" means the governmental entity in possession of evidence collected as part of a criminal investigation or prosecution. ~~This term includes a central evidence storage facility operated by a State agency.~~
- (2) "DNA" means deoxyribonucleic acid. DNA is located in the ~~nucleus of cells~~ and provides an individual's personal genetic blueprint. DNA encodes genetic information that is the basis of human heredity and forensic identification.
- (3) "DNA Record" means DNA identification information stored in the State DNA Database or CODIS for the purpose of generating investigative leads or supporting statistical interpretation of DNA test results. The DNA record is the result obtained from the DNA ~~typing tests, analysis.~~ The DNA record is comprised of the characteristics of a DNA sample which are of value in establishing the identity of individuals. The results of all DNA identification ~~tests, analyses~~ on an individual's DNA sample are also collectively referred to as the DNA profile of an individual.
- (4) "DNA Sample" ~~in this Article~~ means a blood, buccal, cheek swabs, or any other biological sample containing cells provided by any person with respect to convicted of offenses covered by this Article or submitted to the SBI Laboratory State Bureau of Investigation pursuant to this Article for analysis pursuant to a criminal investigation, investigation or storage or both.
- (5) "FBI" means the Federal Bureau of Investigation.
- (5a) "NDIS" means the National DNA Index System that is the national DNA database system of DNA profile records which that meet federal quality assurance and privacy standards.
- (6) "SBI" means the State Bureau of Investigation. The SBI is responsible for the ~~policy management~~ policy, management, and administration of the State DNA identification record system to support law enforcement, and for liaison with the FBI regarding the State's participation in CODIS, enforcement and other criminal justice agencies.
- (7) "State DNA Database" means the SBI's DNA identification record system to support law enforcement. It is administered by the SBI and provides DNA records to the FBI for storage and maintenance in CODIS. The SBI's DNA Database system is the collective capability provided by computer software and procedures administered by the SBI to store and maintain DNA records ~~related to forensic casework, to convicted offenders required to provide a DNA sample under this Article, and to anonymous DNA records used for research or quality control.~~ to: forensic casework; convicted offenders and arrestees required to provide a DNA sample under this Article; persons required to register as sex offenders under G.S. 14-208.7; unidentified persons or body parts; missing persons; relatives of missing persons; and anonymous DNA profiles used for forensic validation, forensic protocol

- development, or quality control purposes or establishment of a population statistics database for use by criminal justice agencies.
- (8) "State DNA Databank" means the repository of DNA samples collected under the provisions of this Article.
- (9) "Criminal Justice Agency" means an agency or institution of a federal, State, or local government, other than the office of the public defender, that performs as part of its principal function, activities relating to the apprehension, investigation, prosecution, adjudication, incarceration, supervision, or rehabilitation of criminal offenders.
- (10) "Arrestee" means any person arrested for an offense in G.S. 15A-266.3A(d) or (e).
- (11) "Conviction" includes a conviction by a jury or a court, a guilty plea, a plea of nolo contendere, or a finding of not guilty by reason of insanity or mental disease or defect."

SECTION 3. G.S. 15A-266.3 reads as rewritten:

"§ 15A-266.3. Procedural compatibility with the FBI. Establishment of State DNA database and databank.

The DNA identification system as established by the SBI shall be compatible with the procedures specified by the FBI, including use of comparable test procedures, laboratory equipment, supplies, and computer software. There is established under the administration of the SBI, the State DNA Database and State DNA Databank. The SBI shall provide DNA records to the FBI for the searching of DNA records nationwide and storage and maintenance by CODIS. The State DNA Databank shall serve as the repository for DNA samples obtained pursuant to this Article. The State DNA Database shall be compatible with the procedures specified by the FBI, including use of comparable test procedures, laboratory and computer equipment, supplies and computer platform and software. The State DNA Database shall have the capability provided by computer software and procedures administered by the SBI to store and maintain DNA records related to all of the following:

- (1) Crime scene evidence and forensic casework.
- (2) Arrestees, offenders, and persons found not guilty by reason of insanity, who are required to provide a DNA sample under this Article.
- (3) Persons required to register as sex offenders under G.S. 14-208.7.
- (4) Unidentified persons or body parts.
- (5) Missing persons.
- (6) Relatives of missing persons.
- (7) Anonymous DNA profiles used for forensic validation, forensic protocol development, or quality control purposes or establishment of a population statistics database, for use by criminal justice agencies."

SECTION 4. Article 13 of Chapter 15A of the General Statutes is amended by adding a new section to read:

"§ 15A-266.3A. DNA sample required for DNA analysis upon arrest for certain offenses.

(a) Unless a DNA sample has previously been obtained by lawful process and the DNA record stored in the State DNA Database, and that record and sample has not been expunged pursuant to any provision of law, a DNA sample for DNA analysis and testing shall be obtained from any person who is arrested for committing an offense described in subsection (d) or (e) of this section.

(b) The arresting law enforcement officer shall obtain, or cause to be obtained, a DNA sample from an arrested person at the time of arrest, or when fingerprinted. However, if the person is arrested without a warrant, then the DNA sample shall not be taken until a probable cause determination has been made pursuant to G.S. 15A-511(c)(1). The DNA sample shall be by cheek swab unless a court order authorizes that a DNA blood sample be obtained. If a DNA blood sample is taken, it shall comply with the requirements of G.S. 15A-266.6(b). The

arresting law enforcement officer shall forward, or cause to be forwarded, the DNA sample to the appropriate laboratory for DNA analysis and testing.

(b1) At the time a DNA sample is taken pursuant to this section, the person obtaining the DNA sample shall record, on a form promulgated by the SBI, the date and time the sample was taken, the name of the person taking the DNA sample, the name and address of the person from whom the sample was taken, and the offense or offenses for which the person was arrested. This record shall be maintained in the case file and shall be available to the prosecuting district attorney for the purpose of completing the requirements of subsection (g1) of this section.

(b2) After taking a DNA sample from an arrested person required to provide a DNA sample pursuant to this section, the person taking the DNA sample shall provide the arrested person with a written notice of the procedures for seeking an expunction of the DNA sample pursuant to subsections (f), (g), (g1), (g2), and (g3) of this section. The Department of Justice shall provide the written notice required by this subsection.

(c) The DNA record of identification characteristics resulting from the DNA testing and the DNA sample itself shall be stored and maintained by the SBI in the State DNA Databank pursuant to this Article.

(d) This section shall apply to a person arrested for violating any one of the following offenses in Chapter 14 of the General Statutes:

- (1) G.S. 14-17, First and Second Degree Murder.
- (2) G.S. 14-18, Manslaughter.
- (3) Any offense in Article 7A, Rape and Other Sex Offenses.
- (4) G.S. 14-32, Felonious assault with deadly weapon with intent to kill or inflicting serious injury; G.S. 14-32.4(a), Assault inflicting serious bodily injury; G.S. 14-34.2, Assault with a firearm or other deadly weapon upon governmental officers or employees, company police officers, or campus police officers; G.S. 14-34.5, Assault with a firearm on a law enforcement, probation, or parole officer or on a person employed at a State or local detention facility; G.S. 14-34.6, Assault or affray on a firefighter, an emergency medical technician, medical responder, emergency department nurse, or emergency department physician; and G.S. 14-34.7, Assault inflicting serious injury on a law enforcement, probation, or parole officer or on a person employed at a State or local detention facility.
- (5) Any offense in Article 10, Kidnapping and Abduction, or Article 10A, Human Trafficking.
- (6) G.S. 14-51, First and second degree burglary; G.S. 14-53, Breaking out of dwelling house burglary; G.S. 14-54.1, Breaking or entering a place of religious worship; and G.S. 14-57, Burglary with explosives.
- (7) Any offense in Article 15, Arson.
- (8) G.S. 14-87, Armed robbery.
- (9) Any offense which would require the person to register under the provisions of Article 27A of Chapter 14 of the General Statutes, Sex Offender and Public Protection Registration Programs.
- (10) G.S. 14-196.3, Cyberstalking.
- (11) G.S. 14-277.3A, Stalking.

(e) This section shall also apply to a person arrested for attempting, solicitation of another to commit, conspiracy to commit, or aiding and abetting another to commit, any of the violations included in subsection (d) of this section.

(f) The State Bureau of Investigation shall remove a person's DNA record, and destroy any DNA biological samples that may have been retained, from the State DNA Database and DNA Databank if both of the following are determined pursuant to subsection (g) of this section:

- (1) As to the charge, or all charges, resulting from the arrest upon which a DNA sample is required under this section, a court or the district attorney has taken action resulting in any one of the following:
 - a. The charge has been dismissed.
 - b. The person has been acquitted of the charge.
 - c. The defendant is convicted of a lesser-included misdemeanor offense that is not an offense included in subsection (d) or (e) of this section.
 - d. No charge was filed within the statute of limitations, if any.
 - e. No conviction has occurred, at least three years has passed since the date of arrest, and no active prosecution is occurring.
- (2) The person's DNA record is not required to be in the State DNA Database under some other provision of law, or is not required to be in the State DNA Database based upon an offense from a different transaction or occurrence from the one which was the basis for the person's arrest.

(g) Prior to June 1, 2012, upon the occurrence of one of the events in sub-subdivision d. or e. of subdivision (1) of subsection (f) of this section, the defendant or the defendant's counsel shall provide the prosecuting district attorney with a signed request form, promulgated by the Administrative Office of the Courts, requesting that the defendant's DNA record be expunged from the DNA Database and that any biological samples in the DNA Databank be destroyed. On or after June 1, 2012, upon the occurrence of one of the events in sub-subdivision d. or e. of subdivision (1) of subsection (f) of this section, no request form shall be required and the prosecuting district attorney shall initiate the procedure provided in subsection (g1) of this section.

(g1) Prior to June 1, 2012, within 30 days of the receipt of the form required by subsection (g) of this section or the occurrence of one of the events in sub-subdivision a., b., or c. of subdivision (1) of subsection (f) of this section; and on or after June 1, 2012, within 30 days of the occurrence of one of the events in subdivision (1) of subsection (f) of this section, the prosecuting district attorney shall determine if a DNA sample was taken pursuant to this section, and if so, shall:

- (1) Verify and indicate the facts of the qualifying event on a verification form promulgated by the Administrative Office of the Courts.
- (2) Include the last known address of the defendant, as reflected in the court files, on the verification form.
- (3) Sign the verification form or, if the defendant was acquitted or the charges were dismissed by the court, obtain the signature of a judge.
- (4) Transmit the verification form to the SBI.

(g2) Within 30 days of receipt of the verification form, the SBI shall:

- (1) Determine whether the requirement of subdivision (2) of subsection (f) of this section has been met.
- (2) If the requirement has been met, remove the defendant's DNA record and samples as required by subsection (f) of this section.
- (3) Mail to the defendant, at the address specified in the verification form, a notice either:
 - a. Documenting expunction of the DNA record and destruction of the DNA sample, or
 - b. Notifying the defendant that the DNA record and sample do not qualify for expunction pursuant to subsection (f) of this section.

(g3) The defendant may file a motion with the court to review the denial of the defendant's request or the failure of either the district attorney or the SBI to act within the prescribed time period.

(h) Any identification, warrant, probable cause to arrest, or arrest based upon a database match of the defendant's DNA sample which occurs after the expiration of the statutory periods

prescribed for expunction of the defendant's DNA sample, shall be invalid and inadmissible in the prosecution of the defendant for any criminal offense.

(i) Notwithstanding subsection (f) of this section, the SBI is not required to destroy or remove an item of physical evidence obtained from a sample if evidence relating to another person would thereby be destroyed.

(j) The SBI shall adopt procedures to comply with this section."

SECTION 5. G.S. 15A-266.4 reads as rewritten:

"§ 15A-266.4. ~~Blood sample~~DNA sample required for DNA analysis upon conviction or finding of not guilty by reason of insanity.

(a) Unless a DNA sample has previously been obtained by lawful process and a record stored in the State DNA ~~database, Database,~~ and that ~~sample has record and sample have not~~ been expunged pursuant to ~~G.S. 15A-148, on or after December 1, 2003,~~ a person any provision of law, a person:

(1) ~~who~~ Who is convicted of any of the crimes listed in subsection (b) of this section or who is found not guilty of any of these crimes by reason of insanity and committed to a mental health facility in accordance with ~~G.S. 15A-1321~~ G.S. 15A-1321, shall ~~have provide~~ a DNA sample ~~drawn~~ upon intake to jail, prison, or the mental health facility. In addition, every person convicted ~~on or after December 1, 2003,~~ of any of these crimes, but who is not sentenced to a term of confinement, shall provide a DNA sample as a condition of the sentence.

(2) ~~A person who~~ Who has been convicted and incarcerated as a result of a conviction of one or more of ~~these crimes prior to December 1, 2003,~~ the crimes listed in subsection (b) of this section, or who was found not guilty of any of these crimes by reason of insanity and committed to a mental health facility in accordance with ~~G.S. 15A-1321 before December 1, 2003,~~ G.S. 15A-1321, shall ~~have provide~~ a DNA sample ~~drawn~~ before parole or release from the penal system or before release from the mental health facility.

(b) Crimes covered by this Article include all of the following:

- (1) All felonies.
- (2) G.S. 14-32.1 – Assaults on handicapped persons.
- (3) ~~G.S. 14-277.3A or former~~ Former G.S. 14-277.3 – Stalking.
- (4) ~~G.S. 14-27.5A – Sexual battery.~~
- (5) All offenses described in G.S. 15A-266.3A."

SECTION 6. G.S. 15A-266.5 reads as rewritten:

"§ 15A-266.5. Tests to be performed on ~~blood sample,~~DNA sample.

(a) The tests to be performed on each ~~blood~~ DNA sample are:

- (1) To analyze and type only the genetic markers that are used for identification purposes contained in or derived from the DNA.
- (2) For law enforcement identification purposes.
- (3) For research and administrative purposes, including:
 - a. Development of a population database when personal identifying information is removed.
 - b. To support identification research and protocol development of forensic DNA analysis methods.
 - c. For quality control purposes.
 - d. To assist in the recovery or identification of human remains from mass disasters or for other humanitarian purposes, including identification of missing persons.

(b) The DNA record of identification characteristics resulting from the DNA testing shall be stored and maintained by the SBI in the State DNA Database. The DNA sample itself will be stored and maintained by the SBI in the State DNA Databank.

(c) The SBI shall report annually to the Joint Legislative Commission on Governmental Operations and to the Joint Legislative Corrections, Crime Control and Juvenile Justice Oversight Committee, on or before February 1, with information for the previous calendar year, which shall include: a summary of the operations and expenditures relating to the DNA Database and DNA Databank; the number of DNA records from arrestees entered; the number of DNA records from arrestees that have been expunged; and the number of DNA arrestee matches or hits that occurred with an unknown sample, and how many of those have led to an arrest and conviction; and how many letters notifying defendants that a record and sample have been expunged, along with the number of days it took to complete the expunction and notification process, from the date of the receipt of the verification form from the State.

(d) The Department of Justice, in consultation with the Administrative Office of the Courts and the Conference of District Attorneys, shall study, develop, and recommend an automated procedure to facilitate the process of expunging DNA samples and records taken pursuant to G.S. 15A-266.3A, and shall report to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections, Crime Control and Juvenile Justice Oversight Committee, and the Courts Commission, on or before February 1, 2011."

SECTION 7. G.S. 15A-266.6 reads as rewritten:

"§ **15A-266.6. Procedures for ~~withdrawal of blood sample for obtaining DNA analysis.~~ sample for analysis; refusal to provide sample.**

(a) Each DNA sample required to be drawn provided pursuant to G.S. 15A-266.4 from persons who are incarcerated shall be ~~drawn~~ obtained at the place of incarceration. DNA samples from persons who are not sentenced to a term of confinement shall be ~~drawn~~ obtained immediately following sentencing. The sentencing court shall order any person not sentenced to a term of ~~confinement~~ confinement, who has not previously provided a DNA sample pursuant to any provision of law requiring a sample and whose DNA record and sample have not been expunged pursuant to law, to report immediately following sentencing to the location designated by the sheriff. If the sample cannot be taken immediately, the sheriff shall inform the court of the date, time, and location at which the sample shall be taken, and the court shall enter that date, time, and location into its order. A copy of the court order indicating the date, time, and location the person is to appear to have a sample taken shall be given to the sheriff. If a person not sentenced to a term of confinement fails to appear immediately following sentencing or at the date, time, and location designated in the court order, the sheriff shall inform the court of the failure to appear and the court may issue an order to show cause pursuant to G.S. 5A-15 and may issue an order for arrest pursuant to G.S. 5A-16. The defendant shall continue to be subject to the court's order to provide a DNA sample until such time as his or her DNA sample is analyzed and a record is successfully entered into the State DNA Database.

(b) If, for any reason, the defendant provides a DNA blood sample instead of a cheek swab, ~~Only~~ only a correctional health nurse technician, physician, registered professional nurse, licensed practical nurse, laboratory technician, phlebotomist, or other health care worker with phlebotomy training shall draw ~~any the~~ the DNA blood sample to be submitted for analysis. No civil liability shall attach to any person authorized to draw blood by this section as a result of drawing blood from any person if the blood was drawn according to recognized medical procedures. No person shall be relieved from liability for negligence in ~~the drawing of any obtaining a DNA sample.~~ sample by any method.

(c) The SBI shall provide ~~to the sheriff the materials and supplies~~ the materials, supplies, and postage prepaid envelopes necessary to ~~draw~~ obtain a DNA sample from a person ~~not sentenced to a term of confinement~~ required to provide a DNA sample pursuant to this Article and to forward the DNA sample to the appropriate laboratory for DNA analysis and testing. Any DNA sample ~~drawn from a person not sentenced to a term of confinement~~ obtained pursuant to this Article, other than a DNA sample obtained from a person who is incarcerated, shall be taken using the materials and supplies provided by the SBI."

SECTION 8. G.S. 15A-266.7 reads as rewritten:

"§ 15A-266.7. Procedures for conducting DNA analysis of ~~blood~~ DNA sample.

~~The SBI shall adopt rules governing the procedures to be used in the submission, identification, analysis, and storage of DNA samples and typing results of DNA samples submitted under this Article. The DNA sample shall be securely stored in the State Databank. The typing results shall be securely stored in the State Database. These procedures shall also include quality assurance guidelines to insure that DNA identification records meet standards and audit standards for laboratories which submit DNA records to the State Database. Records of testing shall be retained on file at the SBI.~~

(a) The SBI shall:

(1) Adopt procedures to be used in the collection, security, submission, identification, analysis, and storage of DNA samples and typing results of DNA samples submitted under this Article. These procedures shall also include quality assurance guidelines to insure that DNA identification records meet audit standards for laboratories which submit DNA records to the State DNA Database.

(2) Adopt Quality Assurance Guidelines for DNA Testing Laboratories and DNA Databasing Laboratories that meet or exceed the quality assurance guidelines established for such laboratories by the CODIS unit of the Federal Bureau of Investigation.

(b) DNA samples shall be securely stored in the State DNA Databank. The typing results shall be securely stored in the State DNA Database.

(c) Records of testing shall be retained on file at the SBI."

SECTION 9. G.S. 15A-266.8 reads as rewritten:

"§ 15A-266.8. DNA database exchange.

(a) It shall be the duty of the SBI to receive DNA samples, to store, to analyze or to contract out the DNA typing analysis to a qualified DNA laboratory that meets the guidelines as established by the SBI, classify, and file the DNA record of identification characteristic profiles of DNA samples submitted pursuant to ~~G.S. 15A-266.7~~ this Article and to make such information available as provided in this section. The SBI may contract out DNA typing analysis to a qualified DNA laboratory that meets guidelines as established by the SBI. The results of the DNA profile of individuals in the State Database shall be made available to local, State, or federal law enforcement agencies, approved crime laboratories which serve these agencies, or the district attorney's office upon written or electronic request and in furtherance of an official investigation of a criminal offense. These records shall also be available upon receipt of a valid court order directing the SBI to release these results to appropriate parties not listed above, when the court order is signed by a superior court judge after a hearing. The SBI shall maintain a file of such court orders.

(b) The SBI shall adopt rules governing the methods of obtaining information from the State Database and CODIS and procedures for verification of the identity and authority of the requester.

(c) The SBI shall create a separate population database comprised of ~~blood~~ DNA samples obtained under this Article, after all personal identification is removed. Nothing shall prohibit the SBI from sharing or disseminating population databases with other law enforcement agencies, crime laboratories that serve them, or other third parties the SBI deems necessary to assist the SBI with statistical analysis of the SBI's population databases. The population database may be made available to and searched by other agencies participating in the CODIS system."

SECTION 10. G.S. 15A-266.11 reads as rewritten:

"§ 15A-266.11. Unauthorized uses of DNA Databank; penalties.

(a) Any person ~~who, by virtue of employment, or official position,~~ who has possession of, or access to, individually identifiable DNA information contained in the State DNA Database or Databank and who willfully discloses it in any manner to any person or agency not

entitled to receive it is guilty of a ~~Class 1 misdemeanor in accordance with G.S. 14-3~~ Class H felony.

(b) Any person who, without authorization, willfully obtains individually identifiable DNA information from the State DNA Database or Databank is guilty of a ~~Class 1 misdemeanor in accordance with G.S. 14-3~~ Class H felony."

SECTION 11. G.S. 15A-266.12 reads as rewritten:

"§ 15A-266.12. Confidentiality of records.

(a) All DNA profiles and samples submitted to the SBI pursuant to this Article shall be treated as confidential and shall not be disclosed to or shared with any person or agency except as provided in G.S. 15A-266.8.

(b) Only DNA records and samples that directly relate to the identification of individuals shall be collected and stored. These records and samples shall solely be used as a part of the criminal justice system for the purpose of facilitating the personal identification of the perpetrator of a criminal offense; provided that in appropriate circumstances such records may be used to identify potential victims of mass disasters or missing persons.

(c) DNA records and DNA samples submitted to the SBI pursuant to this Article are not a public record as defined by G.S. 132-1.

(d) In the case of a criminal proceeding, requests to access a person's DNA record shall be in accordance with the rules for criminal discovery as defined in G.S. 15A-902. The SBI shall not be required to provide the State DNA Database for criminal discovery purposes.

(e) DNA records and DNA samples submitted to the SBI may only be released for the following authorized purposes:

- (1) For law enforcement identification purposes, including the identification of human remains, to federal, State, or local criminal justice agencies.
- (2) For criminal defense and appeal purposes, to a defendant who shall have access to samples and analyses performed in connection with the case in which such defendant is charged or was convicted.
- (3) If personally identifiable information is removed to local, State, or federal law enforcement agencies for forensic validation studies, forensic protocol development or quality control purposes, and for establishment or maintenance of a population statistics database.

(f) In order to maintain the computer system security of the SBI DNA database program, the computer software and database structures used by the SBI to implement this Article are confidential."

SECTION 12. Article 23 of Chapter 15A of the General Statutes is amended by adding a new section to read:

"§ 15A-502A. DNA sample upon arrest.

A DNA sample shall be obtained from any person arrested for an offense designated under G.S. 15A-266.3A, in accordance with the provisions contained in Article 13 of Chapter 15A of the General Statutes."

SECTION 12.1. G.S. 15A-534(a) reads as rewritten:

"(a) In determining conditions of pretrial release a judicial official must impose at least one of the following conditions:

- (1) Release the defendant on his written promise to appear.
- (2) Release the defendant upon his execution of an unsecured appearance bond in an amount specified by the judicial official.
- (3) Place the defendant in the custody of a designated person or organization agreeing to supervise him.
- (4) Require the execution of an appearance bond in a specified amount secured by a cash deposit of the full amount of the bond, by a mortgage pursuant to G.S. 58-74-5, or by at least one solvent surety.
- (5) House arrest with electronic monitoring.

If condition (5) is imposed, the defendant must execute a secured appearance bond under subdivision (4) of this subsection. If condition (3) is imposed, however, the defendant may elect to execute an appearance bond under subdivision (4). If the defendant is required to provide fingerprints pursuant to G.S. 15A-502(a1) or (a2), or a DNA sample pursuant to G.S. 15A-266.3A or G.S. 15A-266.4, and (i) the fingerprints or DNA sample have not yet been taken or (ii) the defendant has refused to provide the fingerprints or DNA sample, the judicial official shall make the collection of the fingerprints or DNA sample a condition of pretrial release. The judicial official may also place restrictions on the travel, associations, conduct, or place of abode of the defendant as conditions of pretrial release."

SECTION 13. G.S. 7B-2201 reads as rewritten:

"§ **7B-2201. Fingerprinting and DNA sample from juvenile transferred to superior court.**

(a) When jurisdiction over a juvenile is transferred to the superior court, the juvenile shall be fingerprinted and the juvenile's fingerprints shall be sent to the State Bureau of Investigation.

(b) When jurisdiction over a juvenile is transferred to the superior court, a DNA sample shall be taken from the juvenile if any of the offenses for which the juvenile is transferred are included in the provisions of G.S. 15A-266.3A."

SECTION 14. The provisions of this act are severable. If any provision is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions of the act that can be given effect without the invalid provision.

SECTION 15. This act becomes effective February 1, 2011.

In the General Assembly read three times and ratified this the 10th day of July, 2010.

Became law upon approval of the Governor at 10:30 a.m. on the 15th day of July, 2010.

Session Law 2010-95

S.B. 1177

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES TO THE TAX AND RELATED LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. The introductory language to G.S. 105-113.40A reads as rewritten:

"The Secretary must credit the net proceeds of the tax collected under this ~~Article-Part~~ as follows:"

SECTION 2. G.S. 105-129.16D(b1) reads as rewritten:

"(b1) Alternative Production Credit. – In lieu of the credit allowed under subsection (b) of this section, a taxpayer that constructs and places in service in this State three or more commercial facilities for processing renewable fuel and that invests a total amount of at least four hundred million dollars (\$400,000,000) in the facilities is allowed a credit equal to thirty-five percent (35%) of the cost to the taxpayer of constructing and equipping the facilities. In order to claim the credit, the taxpayer must obtain a written determination from the Secretary of Commerce that the taxpayer is expected to invest within a five-year period a total amount of at least four hundred million dollars (\$400,000,000) in three or more facilities. The credit must be taken in seven equal annual installments beginning with the taxable year in which the first facility is placed in service. If, in one of the years in which the installment of credit accrues, a facility with respect to which the credit was claimed is disposed of or taken out of service and the investment requirements of this subsection are no longer satisfied, the credit expires and the taxpayer may take any remaining installment of the credit only to the extent allowed under subsection (b) of this section. The taxpayer may, however, take the portion of an installment under this subsection that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.17. Notwithstanding the provisions of G.S. 105-129.17, a taxpayer may carry forward unused portions of the credit allowed under this subsection for the succeeding 10 years.

If a taxpayer that claimed a credit under this subsection fails to meet the requirements of this subsection but meets the requirements of subsection (b) of this section, the taxpayer forfeits the difference between the alternative credit claimed under this subsection and the credit allowed under subsection (b) of this section. A taxpayer that forfeits part of the alternative credit under this subsection is liable for the additional taxes avoided plus interest at the rate established under ~~G.S. 105-241.1(i)~~, G.S. 105-241.21, computed from the date the additional taxes would have been due if the credit had not been allowed. The additional taxes and interest are due 30 days after the date the credit is forfeited. A taxpayer that fails to pay the additional taxes and interest by the due date is subject to penalties provided in G.S. 105-236."

SECTION 3. G.S. 105-159.1(a) reads as rewritten:

"(a) Every individual whose income tax liability for the taxable year is three dollars (\$3.00) or more may designate on his or her income tax return that three dollars (\$3.00) of the tax shall be credited to the North Carolina Political Parties Financing Fund for the use of the political party designated by the taxpayer. In the case of a married couple filing a joint return whose income tax liability for the taxable year is six dollars (\$6.00) or more, each spouse may designate on the income tax return that three dollars (\$3.00) of the tax shall be credited to the North Carolina Political Parties Financing Fund for the use of the political party designated by the taxpayer. Amounts credited to the Fund shall be allocated among the political parties according to the designation of the taxpayer. Where any taxpayer elects to designate but does not specify a particular political party, those funds shall be distributed among the political parties on a pro rata basis according to their respective party voter registrations as determined by the most recent certification of the State Board of Elections. As used in this section, the term "political party" has the same meaning as defined in G.S. 163-96, ~~means one of the following that has at least one percent (1%) of the total number of registered voters in the State:~~

- (1) ~~A political party that at the last preceding general State election received at least ten percent (10%) of the entire vote cast in the State for Governor or for presidential electors.~~
- (2) ~~A group of voters who by July 1 of the preceding calendar year, by virtue of a petition as a new political party, had duly qualified as a new political party within the meaning of Chapter 163 of the General Statutes."~~

SECTION 4.(a) G.S. 105-164.14(c) is amended by adding a new subdivision to read:

"(23) A public library created pursuant to an act of the General Assembly."

SECTION 4.(b) This section becomes effective July 1, 2008, and applies to purchases made on or after that date.

SECTION 5. G.S. 105-187.3 reads as rewritten:

...."

(b) Retail Value. – The retail value of a motor vehicle for which a certificate of title is issued because of a sale of the motor vehicle by a retailer is the sales price of the motor vehicle, including all accessories attached to the vehicle when it is delivered to the purchaser, less the amount of any allowance given by the retailer for a motor vehicle taken in trade as a full or partial payment for the purchased motor vehicle. ~~The~~

The retail value of a motor vehicle for which a certificate of title is issued because of a sale of the motor vehicle by a seller who is not a retailer is the market value of the vehicle, less the amount of any allowance given by the seller for a motor vehicle taken in trade as a full or partial payment for the purchased motor vehicle. A transaction in which two parties exchange motor vehicles is considered a sale regardless of whether either party gives additional consideration as part of the transaction. ~~The~~

The retail value of a motor vehicle for which a certificate of title is issued because of a reason other than the sale of the motor vehicle is the market value of the vehicle. The market value of a vehicle is presumed to be the value of the vehicle set in a schedule of values adopted by the Commissioner.

(b1) ~~Retail Value of Transferred Department of Defense Vehicles.~~—The retail value of a vehicle for which a certificate of title is issued because of a transfer by a State agency that assists the United States Department of Defense with purchasing, transferring, or titling a vehicle to another State agency, a unit of local government, a volunteer fire department, or a volunteer rescue squad is the sales price paid by the State agency, unit of local government, volunteer fire department, or volunteer rescue squad.

...."

SECTION 6. G.S. 105-187.6(a) is amended by adding a new subdivision to read:

"(a) Full Exemptions. – The tax imposed by this Article does not apply when a certificate of title is issued as the result of a transfer of a motor vehicle:

...

(11) To a revocable trust from an owner who is the sole beneficiary of the trust."

SECTION 7. Reserved.

SECTION 8.(a) G.S. 105-241.9(c) is amended by adding a new subdivision to read:

"(c) Notice. – The Secretary must give a taxpayer written notice of a proposed assessment. The notice of a proposed assessment must contain the following information:

- (1) The basis for the proposed assessment. The statement of the basis for the proposed assessment does not limit the Department from changing the basis.
- (2) The amount of tax, interest, and penalties included in the proposed assessment. The amount for each of these must be stated separately.
- (2a) The date a failure to pay penalty will apply to the proposed assessment if the proposed assessment is not paid by that date and the amount of the penalty. If the proposed assessment is not paid by the specified date, the failure to pay penalty is considered to be assessed and applies to the proposed assessment without further notice.
- (3) The circumstances under which the proposed assessment will become final and collectible."

SECTION 8.(b) G.S. 105-241.11 is amended by adding a new subsection to read:

"(c) FTP Penalty. – A request for a Departmental review of a proposed assessment is considered a request for a Departmental review of a failure to pay penalty that is based on the assessment. A taxpayer who does not request a Departmental review of a proposed assessment may not request a Departmental review of a failure to pay penalty that is based on the assessment."

SECTION 9. G.S. 105-241.16 reads as rewritten:

"§ **105-241.16. Judicial review of decision after contested case hearing.**

A taxpayer aggrieved by the final decision in a contested case commenced at the Office of Administrative Hearings may seek judicial review of the decision in accordance with Article 4 of Chapter 150B of the General Statutes. Notwithstanding G.S. 150B-45, a petition for judicial review must be filed in the Superior Court of Wake County and in accordance with the procedures for a mandatory business case set forth in G.S. 7A-45.4(b) through (f). ~~A taxpayer who files~~ Before filing a petition for judicial review, a taxpayer must pay the amount of tax, penalties, and interest the final decision states is due. A taxpayer may appeal a decision of the Business Court to the appellate division in accordance with G.S. 150B-52."

SECTION 10.(a) G.S. 105-263 reads as rewritten:

"§ **105-263. ~~Extensions of time for filing a report or return.~~ Timely filing of mailed documents and requests for extensions.**

(a) Mailed Document. – Section 7502 of the Code governs when a return, report, payment, or any other document that is mailed to the Department is timely filed.

(b) Extension. – The Secretary may extend the time in which a person must file a report or return with the Secretary. To obtain an extension of time for filing a report or return, a person must comply with any application requirement set by the Secretary. An extension of time for filing a franchise tax return or an income tax return does not extend the time for paying

the tax due or the time when a penalty attaches for failure to pay the tax. An extension of time for filing a report or any return other than a franchise tax return or an income tax return extends the time for paying the tax due and the time when a penalty attaches for failure to pay the tax. When an extension of time for filing a report or return extends the time for paying the tax expected to be due with the report or return, interest, at the rate established pursuant to G.S. 105-241.21, accrues on the tax due from the original due date of the report or return to the date the tax is paid."

SECTION 10.(b) G.S. 105-241.11(b) reads as rewritten:

"(b) Filing. – A request for a Departmental review of a proposed denial of a refund or a proposed assessment is considered filed on the following dates:

- (1) For a request that is delivered in person, the date it is delivered.
- (2) For a request that is mailed, the date determined in accordance with G.S. 105-263.
- (3) For a request not delivered in person, delivered by another method, the date the Department receives it."

SECTION 11. G.S. 105-259(b) is amended by adding a new subdivision to read:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person except as provided in this subsection. Standards used or to be used for the selection of returns for examination and data used or to be used for determining the standards may not be disclosed for any purpose. All other tax information may be disclosed only if the disclosure is made for one of the following purposes:

- ...
- (40) To furnish a nonparticipating manufacturer, as defined in G.S. 66-292, the amount of the manufacturer's tobacco products that a taxpayer sells in this State and that the Secretary reports to the Attorney General under G.S. 105-113.4C."

SECTION 12. G.S. 105-466(c) reads as rewritten:

"(c) Collection of the tax, and liability therefor, must begin and continue only on and after the first day of ~~the month of either January or July, a calendar quarter,~~ as set by the board of county commissioners in the resolution levying the tax. In no event may the tax be imposed, or the tax rate changed, earlier than the first day of the second succeeding calendar month after the date of the adoption of the resolution. The county must give the Secretary at least 90 days advance notice of a new tax levy or tax rate change. The applicability of a new tax or a tax rate change to purchases from printed catalogs becomes effective on the first day of a calendar quarter after a minimum of 120 days from the date the Secretary notifies the seller that receives orders by means of a catalog or similar publication of the new tax or tax rate change."

SECTION 13. G.S. 105-164.15 is repealed.

SECTION 14. G.S. 105-523(d) reads as rewritten:

"(d) Method. – The Secretary must estimate a county's repealed sales tax amount, city hold harmless amount, and hold harmless threshold for a fiscal year to determine if the county is eligible for a hold harmless payment. The Secretary must send to an eligible county with the distribution made under G.S. 105-472 for March of that year an amount equal to ninety percent (90%) of its estimated hold harmless payment. At the end of each fiscal year, the Secretary must determine each county's hold harmless payment for that year. The Secretary must send by August 15 the remainder of the county's hold harmless payment for the fiscal year that ended on June 30. The Secretary of the Department of ~~Human Resources Health and Human Services~~ must give the Secretary of Revenue the data needed to determine a county's hold harmless ~~threshold~~ threshold by February 24th of each year, and the data needed for the final calculation of each county's hold harmless threshold by July 24th of each year."

PROPERTY TAX CHANGES

SECTION 15. G.S. 105-275(29a) reads as rewritten:

"§ 105-275. Property classified and excluded from the tax base.

The following classes of property are designated special classes under Article V, Sec. 2(2), of the North Carolina Constitution and are excluded from tax:

- ...
- (29a) Land that is within an historic district and is held by a nonprofit corporation organized for historic preservation purposes for use as a future site for an historic structure that is to be moved to the site from another location. Property may be classified under this subdivision for no more than five years. The taxes that would otherwise be due on land classified under this subdivision shall be a lien on the real property of the taxpayer as provided in G.S. 105-355(a). The taxes shall be carried forward in the records of the taxing unit or units as deferred taxes. The deferred taxes are due and payable in accordance with G.S. 105-277.1F when the property loses its eligibility for deferral as a result of a disqualifying event. A disqualifying event occurs when an historic structure is not moved to the property within five years from the first day of the fiscal year the property was classified under this subdivision. In addition to the provisions in G.S. 105-277.1F, all liens arising under this subdivision are extinguished upon the location of an historic structure on the site within the time period allowed under this subdivision."

SECTION 16. G.S. 105-277.1C(b)(1) reads as rewritten:

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

- (1) Disabled veteran. – A veteran of any branch of the Armed Forces of the United States whose character of service at separation was honorable or under honorable conditions and who satisfies one of the following requirements:
- a. As of January 1 preceding the taxable year for which the exclusion allowed by this section is claimed, the veteran had received benefits under 38 U.S.C. § 2101.
 - b. The veteran has received a certification by the United States Department of Veterans Affairs or another federal agency indicating that, as of January 1 preceding the taxable year for which the exclusion allowed by this section is claimed, he or she has a service-connected, permanent, and total disability.
 - c. ~~If the veteran is deceased, the certificate must indicate that he or she had the disability prior to the date of death or that the death was~~ The veteran is deceased and the United States Department of Veterans Affairs or another federal agency has certified that, as of January 1 preceding the taxable year for which the exclusion allowed by this section is claimed, the veteran's death was the result of a service-connected condition.
- (2) Repealed by Session Laws 2009-445, s. 22(c), effective for taxes imposed for taxable years beginning on or after July 1, 2009.
- (3) Permanent residence. – Defined in G.S. 105-277.1.
- (4) Property tax relief. – Defined in G.S. 105-277.1.
- (4a) Qualifying owner. – An owner, as defined in G.S. 105-277.1, who is a North Carolina resident and one of the following:
- a. A disabled veteran.
 - b. The surviving spouse of a disabled veteran who has not remarried.
- (5), (6) Repealed by Session Laws 2009-445, s. 22(c), effective for taxes imposed for taxable years beginning on or after July 1, 2009.
- (7) Service-connected. – Defined in 38 U.S.C. § 101."

SECTION 17. G.S. 105-278(b) reads as rewritten:

"(b) The difference between the taxes due on the basis of fifty percent (50%) of the true value of the property and the taxes that would have been payable in the absence of the classification provided for in subsection (a) shall be a lien on the property of the taxpayer as provided in G.S. 105-355(a). The taxes shall be carried forward in the records of the taxing unit or units as deferred taxes. The deferred taxes for the preceding three fiscal years are due and payable in accordance with G.S. 105-277.1F when the property loses the benefit of this classification as a result of a disqualifying event. A disqualifying event occurs when there is a change in an ordinance designating a historic property or a change in the property, other than by fire or other natural disaster, that causes the property's historical significance to be lost or substantially impaired. In addition to the provisions in G.S. 105-277.1F, no deferred taxes are due and all liens arising under this subsection are extinguished when the property's historical significance is lost or substantially impaired due to fire or other natural disaster."

SECTION 18. G.S. 105-278.6(e) reads as rewritten:

"(e) Real property held by an organization described in subdivision (a)(8) for a charitable purpose under this section as a future site for housing for individuals or families with low or moderate incomes may be classified under this section for no more than five years. The taxes that would otherwise be due on real property exempt under this subsection shall be a lien on the property as provided in G.S. 105-355(a). The taxes shall be carried forward in the records of the taxing unit as deferred taxes. The deferred taxes are due and payable in accordance with G.S. 105-277.1F when the property loses its eligibility for deferral as a result of a disqualifying event. A disqualifying event occurs when the organization fails to construct low- or moderate-income housing on the site within five years from the first day of the fiscal year the property was classified under this subsection. In addition to the provisions in G.S. 105-277.1F, all liens arising under this subdivision are extinguished when the property is used for low- or moderate-income housing within the time period allowed under this subsection."

SECTION 19. G.S. 105-333(14) reads as rewritten:

"(14) Public service company. – A railroad company, a pipeline company, a gas company, an electric power company, an electric membership corporation, a telephone company, a telegraph company, a bus line company, an airline company, or a motor freight carrier company. The term also includes any company performing a public service that is regulated by the United States Department of Energy, the United States Department of Transportation, the Federal Communications Commission, the Federal Aviation Agency, or the North Carolina Utilities Commission, except that the term does not include a water company, ~~a radio common carrier company as defined in G.S. 62-119(3)~~, a cable television company, or a radio or television broadcasting company."

SECTION 20. G.S. 105-333 is amended by adding a new subdivision to read:

"(21) Terminal. – A motor freight carrier facility that includes buildings for the handling and temporary storage of freight pending transfer between locations. The term also includes a facility that handles truckloads only and typically consists of a wide, open space where rolling stock is parked and a building for offices and maintenance of rolling stock."

SECTION 21. Section 4 of S.L. 2009-308 reads as rewritten:

"**SECTION 4.** This act is effective for taxes imposed for taxable years beginning on or after July 1, 2010. This act is repealed effective for taxes imposed for taxable years beginning on or after July 1, 2013. ~~Residences receiving the property tax benefit provided by this act are not affected by the repeal of this act until the occurrence of a disqualifying event.~~ Notwithstanding the repeal of this act, residences that are receiving the property tax benefit provided by this act in the year immediately prior to the repeal are not affected by the repeal of this act and remain eligible for approval of this benefit for subsequent taxable years until the occurrence of a disqualifying event."

SECTION 22.(a) Section 22(d) of S.L. 2007-527 reads as rewritten:

"**SECTION 22.(d)** Subsection (c) of this section becomes effective ~~January 1, 2010~~July 1, 2010. The remainder of this section is effective when it becomes law."

SECTION 22.(b) Section 22(d) of S.L. 2007-527, as amended by Section 66 of S.L. 2008-134, reads as rewritten:

"**SECTION 22.(d)** Subsection (c) of this section becomes effective ~~January 1, 2011~~July 1, 2013, or when the Division of Motor Vehicles of the Department of Transportation and the Department of Revenue certify that the integrated computer system for registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first. The remainder of this section is effective when it becomes law."

SECTION 22.(c) Section 24(c) of S.L. 2009-445 reads as rewritten:

"**SECTION 24.(c)** G.S. 105-330.9 and G.S. 105-330.11, as amended in subsection (a) of this section, are effective when this act becomes law. Subsection (b) of this section and the remainder of subsection (a) of this section become effective ~~July 1, 2011~~July 1, 2013, and apply to combined tax and registration notices issued on or after that date, or when the Division of Motor Vehicles and the Department of Revenue certify that the integrated computer system or registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first. The remainder of this section is effective when it becomes law."

SECTION 22.(d) Section 8 of S.L. 2007-471, as amended by Section 25(a) of S.L. 2009-445, reads as rewritten:

"**SECTION 8.** Unless otherwise stated, this act becomes effective ~~July 1, 2011~~July 1, 2013, and applies to combined tax and registration notices issued on or after that date, or when the Division of Motor Vehicles and the Department of Revenue certify that the integrated computer system for registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first."

SECTION 22.(e) Section 79 of S.L. 2008-134, as amended by Section 25(b) of S.L. 2009-445, reads as rewritten:

"**SECTION 79.** Sections 16 through 60 of this act become effective January 1, 2009. Except as otherwise provided, the remainder of this act is effective when it becomes law. Section 63 of this act is repealed July 1, 2013."

SECTION 23. Reserved.

SECTION 24. Reserved.

MOTOR FUEL TAX CHANGES

SECTION 25. G.S. 105-241(b)(2a) reads as rewritten:

"(b) Electronic Funds Transfer. – Payment by electronic funds transfer is required as provided in this subsection.

...

(2a) Motor fuel taxes. – A taxpayer that is required to file an electronic return under ~~Article 36C or Article 36D~~Subchapter V of this Chapter or Article 3 of Chapter 119 of the General Statutes must pay the tax by electronic funds transfer."

SECTION 26.(a) G.S. 105-449.39 reads as rewritten:

"§ **105-449.39. Credit for payment of motor fuel tax.**

Every motor carrier subject to the tax levied by this Article is entitled to a credit on its quarterly ~~report-return~~ for tax paid by the carrier on fuel purchased in the State. The amount of the credit is determined using the flat cents-per-gallon rate plus the variable cents-per-gallon rate of tax in effect during the quarter covered by the ~~report-return~~. To obtain a credit, the motor carrier must furnish evidence satisfactory to the Secretary that the tax for which the credit is claimed has been paid.

If the amount of a credit to which a motor carrier is entitled for a quarter exceeds the motor carrier's liability for that quarter, the excess is refundable in accordance with G.S. 105-241.7."

SECTION 26.(b) G.S. 105-449.40(a) reads as rewritten:

"(a) Authority. – The Secretary may require a motor carrier to furnish a bond when any of the following occurs:

- (1) The motor carrier fails to file a ~~report~~-return within the time required by this Article.
- (2) The motor carrier fails to pay a tax when due under this Article.
- (3) After auditing the motor carrier's records, the Secretary determines that a bond is needed to protect the State from loss in collecting the tax due under this Article."

SECTION 26.(c) G.S. 105-449.42 reads as rewritten:

"§ 105-449.42. Payment of tax.

The tax levied by this Article is due when a motor carrier files a quarterly ~~report~~-return under G.S. 105-449.45. The amount of tax due is calculated on the amount of motor fuel or alternative fuel used by the motor carrier in its operations within this State during the quarter covered by the ~~report~~-return."

SECTION 26.(d) G.S. 105-449.42A reads as rewritten:

"§ 105-449.42A. Leased motor vehicles.

(a) Lessor in Leasing Business. – A lessor who is regularly engaged in the business of leasing or renting motor vehicles without drivers for compensation is the motor carrier for a leased or rented motor vehicle unless the lessee of the leased or rented motor vehicle gives the Secretary written notice, by filing a ~~report~~-return or otherwise, that the lessee is the motor carrier. In that circumstance, the lessee is the motor carrier for the leased or rented motor vehicle.

Before a lessee gives the Secretary written notice under this subsection that the lessee is the motor carrier, the lessee and lessor must make a written agreement for the lessee to be the motor carrier. Upon request of the Secretary, the lessee must give the Secretary a copy of the agreement.

(b) Independent Contractor. – The lessee of a motor vehicle that is leased from an independent contractor is the motor carrier for the leased motor vehicle unless ~~either of the following applies: one of the circumstances listed in this subsection applies. If either of these circumstances applies, the lessor is the motor carrier for the leased motor vehicle.~~

- (1) The motor vehicle is leased for fewer than 30 days.
- (2) The motor vehicle is leased for at least 30 days and the lessor gives the Secretary written notice, by filing a ~~report~~-return or otherwise, that the lessor is the motor carrier. Before a lessor gives the Secretary written notice that the lessor is the motor carrier, the lessor and lessee must make a written agreement for the lessor to be the motor carrier. Upon request of the Secretary, the lessor must give the Secretary a copy of the agreement.

~~If either of these circumstances applies, the lessor is the motor carrier for the leased motor vehicle.~~

~~Before a lessor gives the Secretary written notice under subdivision (2) that the lessor is the motor carrier, the lessor and lessee must make a written agreement for the lessor to be the motor carrier. Upon request of the Secretary, the lessor must give the Secretary a copy of the agreement.~~

(c) Liability. – An independent contractor who leases a motor vehicle to another for fewer than 30 days is liable for compliance with this Article and the person to whom the motor vehicle is leased is not liable. Otherwise, both the lessor and lessee of a motor vehicle are jointly and severally liable for compliance with this Article."

SECTION 26.(e) G.S. 105-449.44(b) reads as rewritten:

"(b) Presumption. – The Secretary must check ~~reports~~-returns filed under this Article against the weigh station records and other records of the Division of Motor Vehicles of the Department of Transportation and the State Highway Patrol of the Department of Crime Control and Public Safety concerning motor carriers to determine if motor carriers that are operating in this State are filing the ~~reports~~-returns required by this Article. If the records

indicate that a motor carrier operated in this State in a quarter and either did not file a ~~report return~~ for that quarter or understated its mileage in this State on a ~~report return~~ filed for that quarter by at least twenty-five percent (25%), the Secretary may assess the motor carrier for an amount based on the motor carrier's presumed operations. The motor carrier is presumed to have mileage in this State equal to 10 trips of 450 miles each for each of the motor carrier's qualified motor vehicles and to have fuel usage of four miles per gallon."

SECTION 26.(f) G.S. 105-449.45 reads as rewritten:

"§ **105-449.45. Reports-Returns of carriers.**

(a) ~~Report-Return.~~ – A motor carrier must report its operations to the Secretary on a quarterly basis unless subsection (b) of this section exempts the motor carrier from this requirement. A quarterly ~~report return~~ covers a calendar quarter and is due by the last day in April, July, October, and January. A ~~report return~~ must be filed in the form required by the Secretary.

(b) Exemptions. – A motor carrier is not required to file a quarterly ~~report return~~ if any of the following applies:

- (1) All the motor carrier's operations during the quarter were made under a temporary permit issued under G.S. 105-449.49.
- (2) The motor carrier is an intrastate motor carrier, as indicated on the motor carrier's application for registration with the Secretary.

(c) ~~Other Reports-Informational Returns.~~ – A motor carrier must file with the Secretary ~~other reports~~ any informational returns concerning its operations that the Secretary requires.

(d) Penalties. – A motor carrier that fails to file a ~~report return~~ under this section by the required date is subject to a penalty of fifty dollars (\$50.00)."

SECTION 27. G.S. 105-449.37(a)(1) reads as rewritten:

"(a) Definitions. – The following definitions apply in this Article:

- (1) International Fuel Tax Agreement. – The Articles of Agreement adopted by the International Fuel Tax Association, Inc., as amended as of ~~June 1, 2008~~ June 1, 2010."

SECTION 28. G.S. 105-449.47A reads as rewritten:

"§ **105-449.47A. Reasons why the Secretary can deny an application for a registration and decals.**

The Secretary may refuse to register and issue a decal to an applicant that does not meet the requirements set out in G.S. 105-449.69(b) or that has done any of the following:

- (1) Had a registration issued under Chapter 105 or Chapter 119 of the General Statutes cancelled by the Secretary for cause.
- (2) Had a registration issued by another jurisdiction, pursuant to the International Fuel Tax Agreement, cancelled for cause.
- (3) Been convicted of fraud or misrepresentation.
- (4) Been convicted of any other offense that indicates that the applicant may not comply with this Article if registered and issued a decal.
- (5) Failed to remit payment for a tax debt under Chapter 105 or Chapter 119 of the General Statutes. The term "tax debt" has the same meaning as defined in G.S. 105-243.1.
- (6) Failed to file a return due under Chapter 105 or Chapter 119 of the General Statutes."

SECTION 29.(a) G.S. 105-449.105A reads as rewritten:

"§ **105-449.105A. Monthly refunds for kerosene.**

(a) ~~Refund.~~—~~A distributor who sells kerosene to any of the following may obtain a monthly refund for the excise tax the distributor paid on the kerosene, less the amount of any discount allowed on the kerosene under G.S. 105-449.93:~~

- (1) ~~The end user of the kerosene, if the distributor dispenses the kerosene into a storage facility of the end user that contains fuel used only for one of the~~

- ~~following purposes and the storage facility is installed in a manner that makes use of the fuel for any other purpose improbable:~~
- ~~a. Heating.~~
 - ~~b. Drying crops.~~
 - ~~e. A manufacturing process.~~
- (2) ~~A retailer of kerosene, if the distributor dispenses the kerosene into a storage facility that meets both of the following conditions:~~
- ~~a. It is marked with the phrase "Undyed, Untaxed Kerosene, Nontaxable Use Only" or a similar phrase that clearly indicates that the fuel is not to be used to operate a highway vehicle.~~
 - ~~b. It either has a dispensing device that is not suitable for use in fueling a highway vehicle or is kept locked by the retailer and must be unlocked by the retailer for each sale of kerosene.~~
- (3) ~~An airport, if the distributor dispenses the kerosene into a storage facility that contains fuel used only for fueling airplanes and that meets at least one of the following conditions:~~
- ~~a. It is marked with the phrase "Undyed, Untaxed Kerosene, Nontaxable Use Only" or a similar phrase that clearly indicates that the fuel is not to be used to operate a highway vehicle.~~
 - ~~b. It has a dispensing device that is not suitable for use in fueling a highway vehicle.~~

Refund for Undyed Kerosene Sold to an End User for Non-Highway Use. – A distributor who sells kerosene to an end user for one of the purposes listed in this subsection may obtain a monthly refund for the excise tax the distributor paid on the kerosene, less the amount of any discount allowed on the kerosene under G.S. 105-449.93, if the distributor dispenses the kerosene into a storage facility of the end user that contains fuel used only for one of those purposes and the storage facility is installed in a manner that makes use of the fuel for any other purpose improbable.

- (1) Heating.
- (2) Drying crops.
- (3) A manufacturing process.

(b) Liability. – If the Secretary determines that the Department overpaid a distributor by refunding more tax to the distributor than is due under this section, the distributor is liable for the amount of the overpayment. This liability applies regardless of whether the actions of a retailer of kerosene contributed to the overpayment.

SECTION 29.(b) This section becomes effective January 1, 2011, and applies to sales of kerosene made by a distributor on or after that date.

SECTION 30. G.S. 105-449.105B reads as rewritten:

"§ 105-449.105B. Monthly hold harmless refunds for licensed distributors and some licensed importers.

~~quarter~~

If a licensed distributor or licensed importer purchases motor fuel from a licensed supplier during a month and the discount the distributor or importer receives under G.S. 105-449.93(b) on the motor fuel is less than the amount the distributor or importer would have received during that month if the distributor or importer had been allowed a discount on taxable gasoline purchased by the distributor or importer from a supplier under the following schedule, the distributor or importer is allowed a monthly refund of the difference:

<u>Amount of Gasoline Purchased</u>	<u>Percentage</u>
<u>Each Month</u>	<u>Discount</u>
First 150,000 gallons	2%
Next 100,000 gallons	1 1/2%
Amount over 250,000 gallons	1%.

In determining the amount of discounts a distributor or importer received under G.S. 105-449.93(b) for motor fuel purchased in a month, a distributor or importer is considered to have received the amount of any discounts the distributor or importer could have received under that subsection but did not receive because the distributor or importer failed to pay the tax due to the supplier by the date the supplier had to pay the tax to the State."

SECTION 31.(a) G.S. 105-449.106(b) reads as rewritten:

"(b) Taxi. – A person who purchases and uses motor fuel in a ~~taxicab, as defined in G.S. 20-87(1),~~ taxicab while the taxicab is engaged in transporting passengers for hire, or in a bus operated as part of a city transit system that is exempt from regulation by the North Carolina Utilities Commission under G.S. 62-260(a)(8), may receive a quarterly refund, for the excise tax paid during the preceding quarter, at a rate equal to the flat cents-per-gallon rate plus the variable cents-per-gallon rate in effect during the quarter for which the refund is claimed, less one cent (1¢) per gallon. For purposes of this subsection, the term "taxicab" means a motor vehicle that seats no more than nine passengers, transports passengers for hire, operates on call or demand, and accepts and solicits passengers indiscriminately. An application for a refund must be made in accordance with this Part."

SECTION 31.(b) G.S. 105-449.106(c) reads as rewritten:

"(c) Special Mobile Equipment. – A person who purchases and uses motor fuel ~~to operate special mobile equipment off-highway for the off-highway operation of special mobile equipment registered under Chapter 20 of the General Statutes~~ may receive a quarterly refund, for the excise tax paid during the preceding quarter, at a rate equal to the flat cents-per-gallon rate plus the variable cents-per-gallon rate in effect during the quarter for which the refund is claimed, less the amount of sales and use tax or privilege tax due on the fuel under this Chapter, as determined in accordance with G.S. 105-449.107(c). An application for a refund must be made in accordance with this Part."

SECTION 31.(c) Subsection (b) of this section becomes effective October 1, 2010, and applies to motor fuel purchased on or after that date. The remainder of this section is effective when it becomes law.

SECTION 32. G.S. 105-449.108(b) reads as rewritten:

"(b) Requirements. – An application for ~~an annual~~ a refund allowed under this Part must be filed with the Secretary and be in the form required by the Secretary. The application must state whether or not the applicant has filed a North Carolina income tax return for the preceding taxable year. An application for a refund allowed under this Part must state that the applicant has paid for the fuel for which a refund is claimed or that payment for the fuel has been secured to the seller's satisfaction. An application for an annual refund must state whether or not the applicant has filed a North Carolina income tax return for the preceding taxable year."

SECTION 33. Reserved.

SECTION 34. Reserved.

OTHER CHANGES

SECTION 35. G.S. 20-81.12(b11) reads as rewritten:

"(b11) Animal Lovers Plates. – The Division must receive 300 or more applications before an animal lovers plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the animal lovers plate to the Spay/Neuter Account established in ~~G.S. 19A-60~~ G.S. 19A-62."

SECTION 37.(a) G.S. 143B-437.012(j) reads as rewritten:

"(j) Agreement. – Unless the Secretary of Commerce determines that the project is no longer eligible or appropriate for a grant under this section, the Department shall enter into an agreement to provide a grant or grants for a project recommended by the Committee. Each grant agreement is binding and constitutes a continuing contractual obligation of the State and the business. The grant agreement shall include the performance criteria, remedies, and other safeguards recommended by the Committee or required by the Department.

Each grant agreement ~~for a business that is a major employer under subdivision (1) of subsection (d) of this section~~ shall contain a provision prohibiting a business from receiving a payment or other benefit under the agreement at any time when the business has received a notice of an overdue tax debt and the overdue tax debt has not been satisfied or otherwise resolved. Each grant agreement for a business that is a major employer under subdivision (1) of subsection (d) of this section shall contain a provision requiring the business to maintain the employment level at the project that is the subject of the agreement that is the lesser of the level it had at the time it applied for a grant under this section or that it had at the time that the investment required under subsection (d) of this section began. For the purposes of this subsection, the employment level includes full-time employees and equivalent full-time contract employees. The agreement shall further specify that the amount of a grant shall be reduced in proportion to the extent the business fails to maintain employment at this level and that the business shall not be eligible for a grant in any year in which its employment level is less than eighty percent (80%) of that required.

Each grant agreement for a business that is a large manufacturing employer under subdivision (2) of subsection (d) of this section shall contain a provision requiring the business to maintain the employment level required under that subdivision at the project that is the subject of the grant. The agreement shall further specify that the business is not eligible for a grant in any year in which the business fails to maintain the employment level.

A grant agreement may obligate the State to make a series of grant payments over a period of up to 10 years. Nothing in this section constitutes or authorizes a guarantee or assumption by the State of any debt of any business or authorizes the taxing power or the full faith and credit of the State to be pledged.

The Department shall cooperate with the Attorney General's office in preparing the documentation for the grant agreement. The Attorney General shall review the terms of all proposed agreements to be entered into under this section. To be effective against the State, an agreement entered into under this section shall be signed personally by the Attorney General."

SECTION 37.(b) This section becomes effective July 1, 2010.

SECTION 38.(a) G.S. 143B-437.012(l)(4) reads as rewritten:

"(4) Ninety-five percent (95%) of the sales and use taxes paid on ~~electricity, electricity and~~ the excise tax paid on piped natural gas, ~~and the privilege tax paid on other fuel for electricity, piped natural gas, and other fuel consumed at the project that is the subject of the agreement.gas.~~"

SECTION 38.(b) This section becomes effective July 1, 2010.

SECTION 39. G.S. 159-107(e) reads as rewritten:

"(e) ~~Increment Agreements.~~—Effect of Annexation on District Established by a County. – If a city annexes land in a development financing district established by a county pursuant to G.S. 158-7.3, the proceeds of all taxes levied by the city on property within the district shall be paid to the city unless the city enters into an agreement with the county pursuant to this subsection, and the annexed land in the county's district that subsequently becomes a part of the city does not count against the city's five-percent (5%) limit under G.S. 158-7.3 or G.S. 160A-515.1 unless the city and the county enter into an agreement pursuant to this section. The city and the county may enter into an increment agreement under which the city agrees that city taxes on part or all of the incremental valuation in the district shall be paid into the revenue increment fund for the district. An increment agreement may be entered into when the district is established or at any time after the district is established. The increment agreement may extend for the duration of the district or for a shorter time agreed to by the parties."

SECTION 40. G.S. 160A-239.4(b) reads as rewritten:

"(b) Assessments Pledged. – An assessment imposed under this Article may be pledged to secure revenue bonds under ~~G.S. 153A-210.6~~G.S. 160A-239.6 or as additional security for a project development financing debt instrument under G.S. 159-111. If an assessment imposed under this Article is pledged to secure financing, the city council must covenant to enforce the payment of the assessments."

SECTION 41. G.S. 160A-613(b) is repealed.

SECTION 42. Section 27A.3(c) of S.L. 2009-451 is repealed.

SECTION 43. Section 7(c) of S.L. 2007-383, as amended by Section 1(d) of S.L. 2008-134 and S.L. 2009-90, reads as rewritten:

"**SECTION 7.(c)** Notwithstanding G.S. 62A-43, the charge imposed by that section does not apply to prepaid wireless telephone service for the 2008, 2009, ~~and 2010~~ calendar years 2010, and 2011 calendar years."

SECTION 44. Notwithstanding the provisions of G.S. 105-466(c), as amended by Section 12 of this act, during the 2010 calendar year a tax levied under Article 46 of Chapter 105 of the General Statutes may become effective on the first day of any calendar quarter so long as the county gives the Secretary at least 75 days advance notice of the new tax levy.

EFFECTIVE DATE

SECTION 45. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Became law upon approval of the Governor at 11:45 a.m. on the 17th day of July, 2010.

Session Law 2010-96

S.B. 1165

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

The General Assembly of North Carolina enacts:

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

SECTION 1. G.S. 7A-809 reads as rewritten:

"§ 7A-809. Reports.

The Conference of Clerks of Superior Court shall, in consultation with the registers of deeds, annually study the status of the individual counties and judicial districts as to whether or not the clerks of superior court or the registers of deeds are implementing ~~Session Laws 2009-355-G.S. 132-1.10(f1)~~ and report results of the study to the Joint Legislative Commission on Governmental Operations on or before March 1 of each year."

SECTION 2. G.S. 15-203 reads as rewritten:

"§ 15-203. Duties of the Secretary of Correction; appointment of probation officers; reports; requests for extradition.

The Secretary of Correction shall direct the work of the probation officers appointed under this Article. ~~He~~The Secretary shall consult and cooperate with the courts and institutions in the development of methods and procedure in the administration of probation, and shall arrange conferences of probation officers and judges. ~~He~~The Secretary shall make an annual written report with statistical and other information to the Department of Correction and the Governor. ~~He~~The Secretary is authorized to present to the Governor written applications for requisitions for the return of probationers who have broken the terms of their probation, and are believed to be in another state, and ~~he~~the Secretary shall follow the procedure outlined for requests for extradition as set forth in ~~G.S. 15-77-G.S. 15A-743.~~"

SECTION 3. G.S. 15A-534(h) reads as rewritten:

"(h) A bail bond posted pursuant to this section is effective and binding upon the obligor throughout all stages of the proceeding in the trial division of the General Court of Justice until the entry of judgment in the district court from which no appeal is taken or the entry of

judgment in the superior court. The obligation of an obligor, however, is terminated at an earlier time if:

- (1) A judge authorized to do so releases the obligor from his bond; or
- (2) The principal is surrendered by a surety in accordance with G.S. 15A-540; or
- (3) The proceeding is terminated by voluntary dismissal by the State before forfeiture is ordered under ~~G.S. 15A-544(b)~~; G.S. 15A-544.3; or
- (4) Prayer for judgment has been continued indefinitely in the district court."

SECTION 4. G.S. 15A-1230(b) reads as rewritten:

"(b) Length, number, and order of arguments allotted to the parties are governed by ~~G.S. 84-14~~; G.S. 7A-97."

SECTION 5. G.S. 15A-1342(e) reads as rewritten:

"(e) Out-of-State Supervision. – Supervised probationers are subject to out-of-State supervision under the provisions of ~~G.S. 148-65.1~~; Article 4B of Chapter 148 of the General Statutes."

SECTION 6. G.S. 15A-1383(d) reads as rewritten:

"(d) Plans prepared under this Article are not "rules" within the meaning of Chapter 150B of the General Statutes or ~~within the meaning of Article 6C of Chapter 120 of the General Statutes~~; Statutes."

SECTION 7. G.S. 20-183.7(f)(5) reads as rewritten:

"(5) A statement that a vehicle that fails an inspection may be reinspected at the same station within ~~30~~60 days of the inspection without payment of another inspection fee."

SECTION 8. The catch line of G.S. 36C-3-302 reads as rewritten:

"§ ~~36C-3-302~~. **Representation by holder of power of revocation or general testamentary power of appointment**."

SECTION 9. G.S. 41-2(b) reads as rewritten:

"(b) The interests of the grantees holding property in joint tenancy with right of survivorship shall be deemed to be equal unless otherwise specified in the conveyance. Any joint tenancy interest held by a husband and wife, unless otherwise specified, shall be deemed to be held as a single tenancy by the entirety, which shall be treated as a single party when determining interests in the joint tenancy with right of survivorship. If joint tenancy interests among three or more joint tenants holding property in joint tenancy with right of survivorship are held in unequal shares, upon the death of one joint tenant, the share of the deceased joint tenant shall be divided among the surviving joint tenants according to their respective pro rata interest and not equally, unless the creating instrument provides otherwise.

This subsection shall apply to any conveyance of an interest in property created at any time that explicitly sought to create unequal ownership interests in a joint tenancy with right of survivorship. Distributions made prior to the enactment of this subsection that were made in equal amounts from a joint tenancy with the right of survivorship that sought to create unequal ownership shares shall remain valid and shall not be subject to modification on the basis of this ~~act~~; subsection."

SECTION 10. G.S. 58-71-75 reads as rewritten:

"§ ~~58-71-75~~. **License renewal; criminal history record checks; renewal fees.**

(a) Annual Renewal. – A license of a bail bondsman and a license of a runner shall be renewed on July 1 of each year upon payment of the applicable annual renewal fee. In even-numbered years, in addition to paying the annual renewal fee, an applicant seeking renewal must submit an application for renewal in accordance with this section. The Commissioner is not required to print renewal licenses.

(b) Renewal Application. – In even-numbered years, a bail bondsman or runner seeking to renew a license shall provide the Commissioner, not less than 30 days prior to the expiration date of the bail bondsman's or runner's current license, all of the following:

- (1) A renewal application containing all of the following:
 - a. Proof that the applicant is a resident of this State as required by G.S. 58-71-50(c).
 - b. Proof that the applicant meets the qualifications set out in G.S. 58-71-50(b)(5) through G.S. 58-71-50(b)(7).
 - c. The information required by G.S. 58-2-69.
- (2) The annual renewal fee as provided in ~~subsection (e)~~ subsection (d) of this section.
- (3) A complete set of fingerprints of the bail bondsman or runner and a fee to cover the cost of conducting the criminal history record check. The fingerprints shall be submitted in the manner prescribed by the Commissioner and shall be certified by an authorized law enforcement officer.

(c) Criminal History Record Check. – Upon receipt of a license renewal application in an even-numbered year, the Commissioner shall conduct a criminal history record check of the applicant seeking renewal in accordance with G.S. 58-71-51.

(d) Fee. – The renewal fee for a runner's license is sixty dollars (\$60.00). The renewal fee for a bail bondsman's license is one hundred dollars (\$100.00). A renewed license continues in effect until suspended or revoked for cause."

SECTION 11. The introductory language of G.S. 58-89A-106(a) reads as rewritten:

"(a) In order for a licensee to sponsor and maintain a health benefit plan that is not fully insured by one or more of the entities specified in subsection (a) of ~~G.S. 58-89A-109~~ G.S. 58-89A-105 on and after October 1, 2009, as authorized by subsection (e) of that section, the licensee shall meet all of the requirements listed in this subsection. A health benefit plan developed under this section is not required to provide coverage that meets the requirements of other provisions of this Chapter that mandate either coverage or the offer of coverage by the type or level of health care services or health care provider. The licensee shall:"

SECTION 12. G.S. 113-28 is repealed.

SECTION 13. G.S. 115C-102.6B(b) reads as rewritten:

"(b) The Board shall submit the plan to the State Chief Information Officer for approval of the technical components of the plan set out in G.S. 115C-102.6A(1) through (4). At least one-fourth of the members of any technical committee that reviews the plan for the State Chief Information Officer shall be people actively involved in primary or secondary education.

~~G.S. 115C-102.6A(c)(1) through (17)~~

The Board shall report annually by February 1 of each year to the Joint Legislative Education Oversight Committee on the status of the State School Technology Plan."

SECTION 14. G.S. 115D-5.1(f1) reads as rewritten:

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

SECTION 15. G.S. 120-29.1 reads as rewritten:

"§ 120-29.1. **Approval of bills.**

(a) If the Governor approves a bill, the Governor shall write upon the same, below the signatures of the presiding officers of the two houses, the fact, date, and time of approval, as follows: "Approved _____m. this _____ day of _____, _____" and shall sign the same as follows: "_____ Governor". The Governor shall then return the approved bill to the enrolling clerk.

(b) If any bill becomes law because of the failure of the Governor to take any action, it shall be the duty of the Governor to return the measure to the enrolling clerk, who shall sign the following certificate on the measure and deposit it with the Secretary of State: "This bill having been presented to the Governor for his signature on the _____ day of _____, _____"

and the Governor having failed to approve it within the time prescribed by law, the same is hereby declared to have become a law.

This _____ day of _____, _____, _____ Enrolling Clerk".

(c) If the Governor returns any bill to the house of origin with ~~his~~ objections, the Governor shall write such objections on the measure or cause the objections to be attached to the measure. When any such bill becomes law after reconsideration of the two houses, the principal clerk of the second house to act shall, below the objections of the Governor, sign the following certificate: "Became law notwithstanding the objections of the Governor, _____m. this _____ day of _____, _____". The principal clerk of the second house to act shall fill in the time. The enrolling clerk shall deposit the measure with the Secretary of State.

(d) In calculating the period under Section 22(7) of Article II of the North Carolina Constitution, the day on which the bill is presented to the Governor shall be excluded and the entire last day of the period is included."

SECTION 16. G.S. 143B-499.8 reads as rewritten:

"§ 143B-499.8. **North Carolina Silver Alert System established.**

(a) There is established within the North Carolina Center for Missing Persons the Silver Alert System. The purpose of the Silver Alert System is to provide a statewide system for the rapid dissemination of information regarding a missing person or missing child who is believed to be suffering from dementia or other cognitive impairment.

(b) If the Center receives a report that involves a missing person or missing child who is believed to be suffering from dementia or other cognitive impairment, for the protection of the missing person or missing child from potential abuse or other physical harm, neglect, or exploitation, the Center shall issue an alert providing for rapid dissemination of information statewide regarding the missing ~~person-person~~ or missing child. The Center shall make every effort to disseminate the information as quickly as possible when the person's or child's status as missing has been reported to a law enforcement agency.

(c) The Center shall adopt guidelines and develop procedures for issuing an alert for missing persons and missing children believed to be suffering from dementia or other cognitive impairment and shall provide education and training to encourage radio and television broadcasters to participate in the alert. The guidelines and procedures shall ensure that specific health information about the missing person or missing child is not made public through the alert or otherwise.

(d) The Center shall consult with the Department of Transportation and develop a procedure for the use of overhead permanent changeable message signs to provide information on the missing person or missing child meeting the criteria of this section when information is available that would enable motorists to assist in the recovery of the missing ~~person-person~~ or missing child. The Center and the Department of Transportation shall develop guidelines for the content, length, and frequency of any message to be placed on an overhead permanent changeable message sign."

SECTION 17. G.S. 143C-8-6 reads as rewritten:

"§ 143C-8-6. **Recommendations for capital improvements set forth in the Recommended State Budget.**

(a) Budget Director's Recommendations. – The Director of the Budget shall recommend expenditures for repairs and renovations of existing facilities, and real property acquisition, new construction, or rehabilitation of existing facilities in the Recommended State Budget in accordance with G.S. 143C-3-5.

(b) Repairs and Renovations in the Recommended State Budget. – The Recommended State Budget shall contain for repairs and renovations of existing facilities: (i) the amount recommended for each State agency, (ii) a summary of the recommendations by project type, and (iii) the means of financing.

(c) Repairs and Renovations in the Budget Support Document. – The Budget Support Document shall contain for each repair and renovation project recommended in accordance

with ~~143C-8-6(b)~~-subsection (b) of this section: (i) a project description and justification, (ii) a detailed cost estimate, (iii) an estimated schedule for the completion of the project, and (iv) an explanation of the means of financing.

(d) Other Capital Projects in the Recommended State Budget. – The Recommended State Budget shall contain for each capital project involving real property acquisition, new construction, building area (sq. ft.) expansions, or the rehabilitation of existing facilities to accommodate new or expanded uses: (i) a project description and statement of need, (ii) an estimate of acquisition and construction or rehabilitation costs, and (iii) a means of financing the project.

(e) Other Capital Projects in the Budget Support Document. – The Budget Support Document shall contain for each capital project recommended in accordance with ~~143C-8-6(c)~~-subsection (d) of this section: (i) a detailed project description and justification, (ii) a detailed estimate of acquisition, planning, design, site development, construction, contingency and other related costs, (iii) an estimated schedule of cash flow requirements over the life of the project, (iv) an estimated schedule for the completion of the project, (v) an estimate of maintenance and operating costs, including personnel, for the project, covering the first five years of operation, (vi) an estimate of revenues, if any, likely to be derived from the project, covering the first five years of operation, and (vii) an explanation of the means of financing."

SECTION 18. G.S. 163-85(c) reads as rewritten:

"(c) Grounds for Challenge. – Such challenge may be made only for one or more of the following reasons:

- (1) That a person is not a resident of the State of North Carolina, or
- (2) That a person is not a resident of the county in which the person is registered, provided that no such challenge may be made if the person removed his residency and the period of removal has been less than 30 days, or
- (3) That a person is not a resident of the precinct in which the person is registered, provided that no such challenge may be made if the person removed his residency and the period of removal has been less than 30 days, or
- (4) That a person is not 18 years of age, or if the challenge is made within 60 days before a primary, that the person will not be 18 years of age by the next general election, or
- (5) That a person has been adjudged guilty of a felony and is ineligible to vote under G.S. 163-55(2), or
- (6), (7) Repealed by Session Laws 1985, c. 563, ss. 11.1, 11.2.
- (7a) That a person is dead, or
- (8) That a person is not a citizen of the United States, or
- (9) With respect to municipal registration only, that a person is not a resident of the municipality in which the person is registered, or
- (10) That the person is not who he or she represents himself or herself to be."

SECTION 19. The introductory language of G.S. 163-182 reads as rewritten:

"In addition to the definitions stated below, the definitions set forth in ~~Article 13A~~-Article 14A of Chapter 163 of the General Statutes also apply to this Article. As used in this Article, the following definitions apply:"

SECTION 20. The introductory language of Section 1 of S.L. 2009-129 reads as rewritten:

"**SECTION 1.** ~~G.S. 120-29(2)~~-G.S. 120-129(2) reads as rewritten:"

SECTION 21. Due to the amendment to G.S. 143-345.18 by Section 1(b) of S.L. 2009-446, designating the Department of Commerce as the lead State agency in matters pertaining to energy efficiency in place of the Department of Administration, the Revisor of Statutes is authorized to recodify Part 3 of Article 36 of Chapter 143 of the General Statutes to a more suitable location.

SECTION 22. The Revisor of Statutes may cause to be printed all explanatory comments of the drafters of S.L. 2009-222, 2009-267, and 2009-318 as the Revisor deems appropriate.

PART II. OTHER CHANGES

SECTION 23. G.S. 1-242 reads as rewritten:

"§ 1-242. Credits upon judgments.

If payment is made on a judgment docketed in the office of the clerk of the superior court and no entry is made on the judgment docket, or if a docketed judgment is reversed or modified on appeal and no entry is made on the judgment docket, any interested person may move in the cause before the clerk, upon affidavit after notice to all interested persons, to have the credit, reversal, or modification entered. A hearing on the motion before the clerk may be on affidavit, oral testimony, deposition, and any other competent evidence. The clerk shall render judgment, from which any party may appeal in the same manner as in appeals in ~~special proceedings-civil actions, in accordance with G.S. 1-301.1.~~ On appeal, any party may demand a jury trial of any issue of fact. If a final judgment orders the credit, reversal, or modification, a transcript of the final judgment shall be sent by the clerk of the superior court to each county in which the original judgment is docketed, and the clerk of each county shall enter the transcript on the judgment docket of that county opposite the original judgment and file the transcript. No final process may issue on the original judgment after affidavit filed in the cause until there is a final disposition of the motion for credit, reversal, or modification."

SECTION 24.(a) G.S. 1-305(a) reads as rewritten:

"(a) Subject to the provisions of G.S. 1A-1 (Rule 62) and subsection (b) below, the clerk of superior court shall issue executions on all unsatisfied judgments ~~rendered-entered~~ in ~~his-the~~ clerk's court, which are in full force and effect, upon the request of any party or person entitled thereto and upon payment of the necessary fees; provided, however, that the clerks of the superior court shall issue executions on all judgments ~~rendered-entered~~ in their respective courts on forfeiture of bonds in criminal cases within six weeks of the ~~rendition-entry~~ of the judgment, without any request or any advance payment of fees. Every clerk who fails to comply with the requirements of this section is liable to be amerced in the sum of one hundred dollars (\$100.00) for the benefit of the party aggrieved, under the same rules that are provided by law for amercing sheriffs, and is further liable to the party injured by suit upon ~~his-the~~ clerk's bond."

SECTION 24.(b) G.S. 1-306 reads as rewritten:

"§ 1-306. Enforcement as of course.

The party in whose favor judgment is given, and in case of ~~his-the~~ party's death, ~~his-the~~ party's personal representatives duly appointed, may at any time after the entry of judgment proceed to enforce it by execution, as provided in this ~~Article; provided, however, that Article.~~ However, no execution upon any judgment which requires the payment of money or the recovery of personal property may be issued at any time after ten years from the date of the ~~rendition-entry~~ thereof; but this proviso shall not apply to any execution issued solely for the purpose of enforcing the lien of a judgment upon any homestead, which has or shall hereafter be allotted within the ten years from the date of ~~rendition-entry~~ of the judgment, or any judgment directing the payment of alimony. Further, no execution upon any judgment which requires the recovery of personal property may be issued at any time after 10 years from the date of the entry of the judgment."

SECTION 24.(c) G.S. 1-361 reads as rewritten:

"§ 1-361. Where proceedings instituted and defendant examined.

Proceedings supplemental to execution must be instituted in the county in which the judgment was ~~rendered-entered~~; but the place designated where the defendant must appear and answer must be within the county where he resides."

SECTION 25.(a) G.S. 1-608(b) reads as rewritten:

"(b) Actions by Private Persons. – A person may bring a civil action for a violation of G.S. 1-607 ~~or under G.S. 108A-70.12~~ for the person and for the State, as follows:

- (1) The action shall be brought in the name of the State, and the person bringing the action shall be referred to as the qui tam plaintiff. Once filed, the action may be dismissed voluntarily by the person bringing the action only if the court and Attorney General have given written consent to the dismissal.
- (2) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the Attorney General pursuant to applicable rules of the North Carolina Rules of Civil Procedure. The complaint shall be filed in camera, shall remain under seal for at least 120 days, and shall not be served on the defendant until the court so orders. The State may elect to intervene and proceed with the action within 120 days after it receives both the complaint and the material evidence and information.
- (3) The State may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under subdivision (2) of this subsection. Any such motions may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any complaint filed under this section until 30 days after the complaint is unsealed and served upon the defendant pursuant to the North Carolina Rules of Civil Procedure.
- (4) Before the expiration of the 120-day period or any extensions obtained under subdivision (3) of this subsection, the State shall:
 - a. Proceed with the action, in which case the action shall be conducted by the State; or
 - b. Notify the court that it declines to take over the action, in which case the person bringing the action shall have the right to conduct the action.
- (5) When a person brings an action under this subsection, the federal False Claims Act, 31 U.S.C. § 3729 et seq., or any similar provision of law in any other state, no person other than the State may intervene or bring a related action based on the facts underlying the pending action; provided, however, that nothing in this subdivision prohibits a person from amending a pending action in another jurisdiction to allege a claim under this subsection."

SECTION 25.(b) G.S. 1-611(d) reads as rewritten:

"(d) No court shall have jurisdiction over an action under ~~G.S. 108A-70.12~~G.S. 1-608(b) based upon the public disclosure of allegations or transactions (i) in a criminal, civil, or administrative hearing at the State or federal level, (ii) in a congressional, legislative, administrative, General Accounting Office, or State Auditor's report, hearing, audit, or investigation, or (iii) from the news media, unless the action is brought by the Attorney General, or the person bringing the action is an original source of the information. For purposes of this section, "original source" means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the State before filing an action under ~~G.S. 108A-70.12~~G.S. 1-608(b) that is based on the information."

SECTION 26.(a) G.S. 7A-271(f) reads as rewritten:

"(f) The superior court has exclusive jurisdiction over all hearings to revoke probation pursuant to G.S. 15A-1345(e) where the district court is supervising a drug treatment court or therapeutic court probation judgment under G.S. 7A-272(e), except that the district court has jurisdiction to conduct the revocation proceedings when the chief district court judge and the senior resident superior court judge agree that it is in the interest of justice that the proceedings be conducted by the district court. If the district court exercises jurisdiction under this subsection to revoke probation, appeal of an order revoking probation is to the appellate division."

SECTION 26.(b) G.S. 7A-272(e) reads as rewritten:

"(e) With the consent of the chief district court judge and the senior resident superior court judge, the district court has jurisdiction to preside over the supervision of a probation judgment entered in superior court in which the defendant is required to participate in a drug treatment court program pursuant to G.S. 15A-1343(b1)(2b) or a therapeutic court as defined in subsection (f) of this section, or is participating in the drug treatment court pursuant to a deferred prosecution agreement under G.S. 15A-1341(a2). The district court may modify or extend the probation judgment, but jurisdiction to revoke probation supervised under this subsection is as provided in G.S. 7A-271(f)."

SECTION 26.(c) G.S. 15A-1344(a1) reads as rewritten:

"(a1) Authority to Supervise Probation in Drug Treatment Court. – Jurisdiction to ~~supervise~~ supervise, modify, and revoke probation imposed in cases in which the offender is required to participate in a drug treatment court or a therapeutic court is as provided in G.S. 7A-272(e) and G.S. 7A-271(f). Proceedings to modify or revoke probation in these cases must be held in the county in which the drug treatment ~~court~~ court or therapeutic court is located."

SECTION 27. G.S. 7A-498.7(b) reads as rewritten:

"(b) For each new term, and to fill any vacancy, public defenders shall be appointed from a list of not less than two and not more than three names nominated by written ballot of the attorneys resident in the defender district who are licensed to practice law in North Carolina. The balloting shall be conducted pursuant to rules adopted by the Commission on Indigent Defense Services. The appointment shall be made by the senior resident superior court judge of the superior court district or set of districts as defined in ~~G.S. 7A-44.1~~ G.S. 7A-41.1 that includes the county or counties of the defender district for which the public defender is being appointed."

SECTION 28.(a) G.S. 15A-1343(b1)(6) reads as rewritten:

"(6) Perform community or reparation service under the supervision of the Division of Community Corrections and pay the fee required by ~~G.S. 143B-262~~ G.S. 143B-262.4."

SECTION 28.(b) G.S. 15A-1343(b4)(1) reads as rewritten:

"(1) If required in the discretion of the defendant's probation officer, perform community service under the supervision of the Division of Community Corrections and pay the fee required by ~~G.S. 143B-262~~ G.S. 143B-262.4."

SECTION 28.(c) G.S. 143B-262.4(b) reads as rewritten:

"(b) A fee of two hundred fifty dollars (\$250.00) shall be paid by all persons who participate in the program or receive services from the program staff. Only one fee may be assessed for each sentencing transaction, even if the person is assigned to the program on more than one occasion, or while on deferred prosecution, or while serving a sentence for the offense. A sentencing transaction shall include all offenses considered and adjudicated during the same term of court. Fees collected pursuant to this subsection shall be deposited in the General Fund. If the person is convicted in a court in this State, the fee shall be paid to the clerk of court in the county in which the person is convicted, regardless of whether the person is participating in the program as a condition of ~~parole, of probation imposed by the court~~ parole, of probation imposed by the court, or pursuant to the exercise of authority delegated to the probation officer pursuant to G.S. 15A-1343.2(e) or (f). If the person is participating in the program as a result of a deferred prosecution or similar program, the fee shall be paid to the clerk of court in the county in which the agreement is filed. ~~If the person is participating in the program as a condition of parole, the fee shall be paid to the clerk of the county in which the person is released on parole.~~ Persons participating in the program for any other reason shall pay the fee to the clerk of court in the county in which the services are provided by the program staff. The fee shall be paid in full before the person may participate in the community service program, except that:

- (1) A person convicted in a court in this State may be given an extension of time or allowed to begin the community service before the person pays the fee by the court in which the person is convicted; or
- (2) A person performing community service pursuant to a deferred prosecution or similar agreement may be given an extension of time or allowed to begin community service before the fee is paid by the official or agency representing the State in the agreement.
- (3) A person performing community service as a condition of parole may be given an extension of time to pay the fee by the Post-Release Supervision and Parole Commission. No person shall be required to pay the fee before beginning the community service unless the Commission orders the person to do so in writing.
- (4) A person performing community service as ordered by a probation officer pursuant to authority delegated by G.S. 15A-1343.2 may be given an extension of time to pay the fee by the probation officer exercising the delegated authority."

SECTION 29. G.S. 58-76-5 reads as rewritten:

"§ 58-76-5. Liability and right of action on official bonds.

Every person injured by the neglect, misconduct, or misbehavior in office of any ~~clerk of the superior court~~, register, surveyor, sheriff, coroner, county treasurer, or other officer, may institute a suit or suits against said officer or any of them and their sureties upon their respective bonds for the due performance of their duties in office in the name of the State, without any assignment thereof; and no such bond shall become void upon the first recovery, or if judgment is given for the defendant, but may be put in suit and prosecuted from time to time until the whole penalty is recovered; and every such officer and the sureties on ~~his~~ the officer's official bond shall be liable to the person injured for all acts done by said officer by virtue or under color of ~~his~~ that officer's office."

SECTION 30. G.S. 110-129(9) reads as rewritten:

- "(9) "Initiating party" means the party, the attorney for a party, a child support enforcement ~~agency, or the clerk of superior court agency~~ who initiates an action, proceeding, or procedure as allowed or required by law for the establishment or enforcement of a child support obligation."

SECTION 31. G.S. 115C-296.4(d) reads as rewritten:

"(d) Members appointed prior to September 1, 1995, shall serve until June 30, 1997, except that the terms of members appointed pursuant to subdivisions (6) and (7) of subsection ~~(d)~~(c) of this section shall expire June 30, 1995. Subsequent appointments shall be for four-year terms, except that two of the members appointed by the 1995 General Assembly pursuant to subdivision (6) of subsection ~~(d)~~(c) of this section and two of the members appointed by the 1995 General Assembly pursuant to subdivision (7) of subsection ~~(d)~~(c) of this section shall serve for two-year terms. The two new members under subdivision (c)(12) of this section shall serve initial terms beginning January 1, 2007, and ending June 30, 2010. The additional member appointed under subdivision (c)(8) of this section shall serve a term beginning January 1, 2007, and ending June 30, 2010. The designation of two deans serving under subdivision (c)(5) of this section shall expire December 31, 2006, and the Governor shall make a new appointment under that subdivision for a term beginning January 1, 2007, and ending June 30, 2010.

Members may serve two consecutive four-year terms.

Legislative appointments shall be made in accordance with G.S. 120-121. A vacancy in a legislative appointment shall be filled in accordance with G.S. 120-122.

The Board of Trustees shall elect a new chair every two years from its membership. The chair may serve two consecutive two-year terms as chair."

SECTION 32. G.S. 120-182(1) reads as rewritten:

"(1) The Secretary of the Department of Health and Human Services or his, the Secretary's, ~~delegate~~ Services, or the Secretary's designee, shall serve ex officio as a non-voting member;"

SECTION 33. G.S. 135-45.8(13) reads as rewritten:

"(13) Charges for routine eye examinations, eyeglasses or other corrective lenses (except for cataract lenses certified as medically necessary for aphakia persons) and, except as authorized under ~~G.S. 58-3-280~~, G.S. 58-3-285, hearing aids or examinations for the prescription or fitting thereof."

SECTION 34. G.S. 159D-53 reads as rewritten:

"§ **159D-53. Annual report.**

The agency shall, promptly following the close of each fiscal year, submit an annual report of its activities under this Article for the preceding year to the Governor, the State Auditor, the General Assembly, ~~the Advisory Budget Commission~~ and the Local Government Commission. The agency shall cause an audit of its books and accounts relating to its activities under this Article to be made at least once in each year by an independent certified public accountant and the cost of the audit may be paid from any available moneys of the agency."

SECTION 35. G.S. 163-182 reads as rewritten:

"§ **163-182. Definitions.**

In addition to the definitions stated below, the definitions set forth in Article ~~13A~~14A of Chapter 163 of the General Statutes also apply to this Article. As used in this Article, the following definitions apply:

- (1) "Abstract" means a document signed by the members of the board of elections showing the votes for each candidate and ballot proposal on the official ballot in the election. The abstract shall show a total number of votes for each candidate in each precinct and a total for each candidate in the county. It shall also show the number of votes for each candidate among the absentee official ballots, among the provisional official ballots, and in any other category of official ballots that is not otherwise reported.
- (2) "Certificate of election" means a document prepared by the official or body with the legal authority to do so, conferring upon a candidate the right to assume an elective office as a result of being elected to it.
- (3) "Composite abstract" means a document signed by the members of the State Board of Elections showing the total number of votes for each candidate and ballot proposal and the number of votes in each county. A composite abstract does not include precinct returns.
- (4) "Protest" means a complaint concerning the conduct of an election which, if supported by sufficient evidence, may require remedy by one or more of the following:
 - a. A correction in the returns.
 - b. A discretionary recount as provided in G.S. 163-182.7.
 - c. A new election as provided in G.S. 163-182.13."

SECTION 36. G.S. 163-278.67(b) reads as rewritten:

"(b) Limit on Matching Funds Before Date of Primary. – Total matching funds to a certified candidate before the date of the primary shall be limited to an amount equal to two times the maximum qualifying contributions for the office sought. Matching funds are available to a certified candidate with an opponent in the primary or to a certified candidate who is clearly referred to in expenditures reportable under ~~G.S. 163-278.99A~~ 163-278.65 made in opposition to that candidate."

SECTION 37. Section 47.4 of S.L. 2009-574 reads as rewritten:

"**SECTION 47.4.** The Commission shall make an interim report to the 2010 Regular Session of the 2009 General Assembly prior to its convening, and shall make a final report to the ~~2010-2011~~ Regular Session of the 2011 General Assembly. The report shall include any proposed legislation."

SECTION 38. If House Bill 76, 2009 Regular Session, becomes law, the lead-in language for Section 3 of that bill is amended by deleting the citation "G.S. 90-210.63(3a)" and replacing it with the citation "G.S. 90-210.60(3a)".

SECTION 39.(a) If House Bill 382, 2009 Regular Session, becomes law, G.S. 108A-70.29(b)(2)b. reads as rewritten:

"b. ~~Timely review~~ Review, in a timely manner, their files and other applicable information relevant to the review of the decision."

SECTION 39.(b) This section becomes effective July 1, 2010, and applies to reviews of Health Choice Program enrollment, eligibility, or health services decisions requested by Health Choice Program applicants or recipients on or after that date.

SECTION 40.(a) If House Bill 1729, 2009 Regular Session, becomes law, then G.S. 20-63(g), as amended by Section 3 of that bill, reads as rewritten:

"(g) Alteration, Disguise, or Concealment of Numbers. – Any operator of a motor vehicle who shall willfully mutilate, bend, twist, cover or cause to be covered or partially covered by any bumper, light, spare tire, tire rack, strap, or other device, or who shall paint, enamel, emboss, stamp, print, perforate, or alter or add to or cut off any part or portion of a registration plate or the figures or letters thereon, or who shall place or deposit or cause to be placed or deposited any oil, grease, or other substance upon such registration plates for the purpose of making dust adhere thereto, or who shall deface, disfigure, change, or attempt to change any letter or figure thereon, or who shall display a number plate in other than a horizontal upright position, shall be guilty of a Class 2 misdemeanor. Any operator of a motor vehicle who shall willfully cover or cause to be covered any part or portion of a registration plate or the figures or letters thereon by any device designed or intended to prevent or interfere with the taking of a clear photograph of a registration plate by a traffic control or toll collection system using cameras commits an infraction and shall be penalized under G.S. 14-3.1. Any operator of a motor vehicle who shall otherwise intentionally cover any number or registration renewal sticker on a registration plate with any material that makes the number or registration renewal sticker illegible commits an infraction and shall be penalized under G.S. 14-3.1. Any operator of a motor vehicle who covers any registration plate with any frame or ~~transparent clear~~ transparent, clear, or color-tinted cover that makes a number or letter ~~on the plate,~~ included in the vehicle's registration, the State name on the plate, or a number or month on the registration renewal sticker on the plate illegible commits an infraction and shall be penalized under G.S. 14-3.1."

SECTION 40.(b) This section becomes effective December 1, 2010, and applies to offenses committed on or after that date.

SECTION 40.3. If House Bill 1973, 2009 Regular Session, becomes law, the read-in language for Section 3.4 of that bill is amended by deleting the citation "G.S. 150-129.52" and replacing it with "G.S. 105-129.52".

SECTION 40.7. If House Bill 2066, 2009 Regular Session, becomes law, Section 6.1 of that act reads as rewritten:

~~"SECTION 6.1(a) If House Bill 2054, 2009 Regular Session becomes law, Sections 9(a), 9(b), 10(a) and 10(b) of that act are repealed. Effective January 1, 2011, Section 9(a) and 9(b) of S.L. 2010-72 are repealed."~~

SECTION 6.1(b). Effective July 1, 2010, Section 10(a) and 10(b) of S.L. 2010-72 are repealed.

SECTION 6.1(c). This section is effective when it becomes law."

SECTION 41. If Senate Bill 1177, 2009 Regular Session, becomes law, the lead-in language for Section 16 of that bill is amended by deleting the citation "G.S. 105-277.1C(b)(1)" and replacing it with the citation "G.S. 105-277.1C(b)".

SECTION 41.3. If Senate Bill 1242, 2009 Regular Session, becomes law, G.S. 143-340(1) reads as rewritten:

"(1) To establish the State Employee ~~Incentive~~ Bonus ~~Suggestion~~ Program pursuant to Article 36A of this Chapter, with the authority to adopt all rules

necessary to implement the program. The Secretary shall serve ex officio on all program committees and shall designate an executive secretary to administer the program."

SECTION 41.7. The whereas clause of Senate Resolution 1177, 2005 Regular Session, adopted on July 13, 2005, which reads:

"Whereas, R.C. Soles, Jr. has served 19 consecutive terms in the North Carolina General Assembly, serving four terms in the House of Representatives from 1969 to 1976 and serving 15 terms in the Senate from 1977 to the present; and"

is rewritten to read:

"Whereas, R.C. Soles, Jr. has served 21 consecutive terms in the North Carolina General Assembly, serving four terms in the House of Representatives from 1969 to 1976 and serving 17 terms in the Senate from 1977 to the present; and"

SECTION 42. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of July, 2010. Became law upon approval of the Governor at 3:07 p.m. on the 20th day of July, 2010.

Session Law 2010-97

S.B. 1242

AN ACT TO MAKE VARIOUS CLARIFYING CHANGES TO THE GENERAL STATUTES AND THE SESSION LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 1-398 reads as rewritten:

"§ 1-398. **Filing time enlarged.**

The time for filing the complaint, petition, or any pleading may be enlarged by the court for good cause ~~shown by affidavit, shown,~~ but may not be enlarged by more than 10 additional ~~days, days or 30 additional days for partitions,~~ nor more than once, unless the default was occasioned by accident over which the party applying had no control, or by the fraud of the opposing party."

SECTION 2. G.S. 20-179(p) reads as rewritten:

"(p) **Limit on Amelioration of Punishment.** – For active terms of imprisonment imposed under this section:

- (1) The judge may not give credit to the defendant for the first 24 hours of time spent in incarceration pending trial.
- (2) The defendant shall serve the mandatory minimum period of imprisonment and good or gain time credit may not be used to reduce that mandatory minimum period.
- (3) The defendant may not be released on parole unless he is otherwise eligible, has served the mandatory minimum period of imprisonment, and has obtained a substance abuse assessment and completed any recommended treatment or training ~~program-program~~ or is paroled into a residential treatment program.

With respect to the minimum or specific term of imprisonment imposed as a condition of special probation under this section, the judge may not give credit to the defendant for the first 24 hours of time spent in incarceration pending trial."

SECTION 3. G.S. 20-183.4C reads as rewritten:

"§ 20-183.4C. **When a vehicle must be inspected; ~~three-day~~10-day trip permit.**

(a) **Inspection.** – A vehicle that is subject to a safety inspection, an emissions inspection, or both must be inspected as follows:

- (1) A new vehicle must be inspected before it is sold at retail in this State. Upon purchase, a receipt approved by the Division must be provided to the new owner certifying compliance.
 - (1a) A new motor vehicle dealer who is also licensed pursuant to this Article may, notwithstanding subdivision (1) of this section, examine the safety and emissions control devices on a new motor vehicle and perform such services necessary to ensure the motor vehicle conforms to the required specifications established by the manufacturer and contained in its predelivery check list. The completion of the predelivery inspection procedure required or recommended by the manufacturer on a new motor vehicle shall constitute the inspection required by subdivision (1) of this section. For the purposes of this subdivision, the date of inspection shall be deemed to be the date of the sale of the motor vehicle to a purchaser.
 - (2) A used vehicle must be inspected before it is offered for sale at retail in this State by a dealer. Upon purchase, a receipt approved by the Division must be provided to the new owner certifying compliance.
 - (3) Repealed by Session Law 2007-503, s. 5, effective October 1, 2008.
 - (4) Except as authorized by the Commissioner for a single period of time not to exceed 12 months from the initial date of registration, a new or used vehicle acquired by a resident of this State from outside the State must be inspected before the vehicle is registered with the Division.
 - (5) Except as authorized by the Commissioner for a single period of time not to exceed 12 months from the initial date of registration, a vehicle owned by a new resident of this State who transfers the registration of the vehicle from the resident's former home state to this State must be inspected before the vehicle is registered with the Division.
 - (5a) Repealed by Session Law 2007-503, s. 5, effective October 1, 2008.
 - (6) A vehicle that has been inspected in accordance with this Part must be inspected by the last day of the month in which the registration on the vehicle expires.
 - (7) A vehicle that is required to be inspected in accordance with this Part may be inspected 90 days prior to midnight of the last day of the month as designated by the vehicle registration sticker.
 - (8) A new or used vehicle acquired from a retailer or a private sale in this State and registered with the Division with a new registration or a transferred registration must be inspected in accordance with this Part when the current registration ~~expires~~ expires unless it has received a passing inspection within the previous 12 months.
 - (9) ~~A used vehicle acquired from a private sale in this State must be inspected in accordance with this Part before the vehicle is registered with the Division unless it has received a passing inspection within the previous 12 months.~~
 - (10) An unregistered vehicle ~~must be inspected before the vehicle is~~ may be registered with the Division unless it has received a passing inspection within the previous 12 months, in accordance with G.S. 20-50(b) for a period not to exceed 10 days prior to the vehicle receiving a passing inspection in accordance with this Part.
 - (11) A person who owns a vehicle located outside of this State when its emissions inspection becomes due may obtain an emissions inspection in the jurisdiction where the vehicle is located, in lieu of a North Carolina emissions inspection, as long as the inspection meets the requirements of 40 C.F.R. § 51.
- (b) Permit. – The Division may issue a ~~three-day~~ 10-day trip permit to a person that authorizes the person to drive a vehicle whose inspection authorization or registration has

expired. The permit may only be issued when the person has furnished proof of financial responsibility. The permit must describe the vehicle whose inspection authorization or registration has expired. The permit authorizes the person to drive the described vehicle for a period not to exceed 10 days from the date of issuance, only from the place the vehicle is parked to an inspection station, repair shop, or Division or contract agent registration office.

~~The Division may issue a 10-day temporary permit to a person that authorizes the person to drive a vehicle that failed to pass the emissions inspection. The permit must describe the vehicle that failed to pass inspection and the date that it failed to pass inspection.~~

(c) Exemption. – The Division may issue a temporary exemption from the inspection requirements of this Article for any vehicle that has been determined by the Division to be principally garaged, as defined under G.S. 58-37-1(11), in this State and is primarily operated outside a county subject to emissions inspection requirements or outside of this State."

SECTION 4. G.S. 20-382(c) reads as rewritten:

"(c) Trip Permit. – A motor carrier that is not registered as required by this section may obtain an emergency trip permit ~~by filing an application for it with the Division permit.~~ An emergency trip permit allows the motor carrier to operate a for-hire motor vehicle in this State for a period not to exceed 10 days."

SECTION 5.(a) G.S. 36C-4-401.2 reads as rewritten:

"§ 36C-4-401.2. Trust pursuant to 46 U.S.C § 1396p(d)(4).Creation of trust by a court.

~~Any interested party may petition the court, in accordance with the provisions of this Chapter, to establish a trust pursuant to section 1396p(d)(4) of Title 42 of the United States Code. This section is not the exclusive method of establishing a trust pursuant to section 1396p(d)(4) of Title 42 of the United States Code; and the court shall maintain its authority to create or establish any trust, including a trust pursuant to section 1396p(d)(4) of Title 42 of the United States Code, by means of judgment, order, or decree in any matter properly before the court.~~A court may create or establish a trust by judgment or decree, including a trust pursuant to section 1396p(d)(4) of Title 42 of the United States Code, upon petition of an interested party in accordance with the provisions of this Chapter or in any other matter properly before the court."

SECTION 5.(b) G.S. 36C-8-816.1(c)(7) reads as rewritten:

"(7) ~~If the power to distribute principal or income in the original trust is subject to an ascertainable standard,~~If a trustee of an original trust exercises a power to distribute principal or income that is subject to an ascertainable standard by appointing property to a second trust, then the power to distribute income or principal in the second trust must be subject to the same ascertainable standard as in the original trust and must be exercisable in favor of the same current beneficiaries ~~as to whom such distribution could be made~~ in the original trust."

SECTION 6.(a) G.S. 42-42(7) reads as rewritten:

"(7) Provide a minimum of one operable carbon monoxide detector per rental unit per level, either battery-operated or electrical, that is listed by a nationally recognized testing laboratory that is OSHA-approved to test and certify to American National Standards Institute/Underwriters Laboratories Standards ANSI/UL2034 or ANSI/UL2075, and install the carbon monoxide detectors in accordance with either the standards of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the landlord shall retain or provide as proof of compliance. A landlord that installs one carbon monoxide detector per rental unit per level shall be deemed to be in compliance with standards under this subdivision covering the location and number of detectors. The landlord shall replace or repair the carbon monoxide detectors within 15 days of receipt of notification if the landlord is notified of needed replacement or repairs in writing by the tenant. The landlord shall ensure

that a carbon monoxide detector is operable and in good repair at the beginning of each tenancy. Unless the landlord and the tenant have a written agreement to the contrary, the landlord shall place new batteries in a battery-operated carbon monoxide detector at the beginning of a tenancy, and the tenant shall replace the batteries as needed during the tenancy. Failure of the tenant to replace the batteries as needed shall not be considered as negligence on the part of the tenant or the landlord. A carbon monoxide detector may be combined with smoke detectors if the combined detector does both of the following: (i) complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide alarms and ANSI/UL217 for smoke detectors; and (ii) emits an alarm in a manner that clearly differentiates between detecting the presence of carbon monoxide and the presence of smoke. This subdivision applies only to dwelling units having a fossil-fuel burning ~~heater or heater~~, appliance, or fireplace, ~~or and in any dwelling unit having an attached garage~~. Any operable carbon monoxide detector installed before January 1, 2010, shall be deemed to be in compliance with this subdivision."

SECTION 6.(b) G.S. 143-138(b2) reads as rewritten:

"(b2) The Code may contain provisions requiring the installation of either battery-operated or electrical carbon monoxide detectors in every dwelling unit having a fossil-fuel burning ~~heater or heater~~, appliance, or fireplace, ~~or and in any dwelling unit having an attached garage~~. Carbon monoxide detectors shall be those listed by a nationally recognized testing laboratory that is OSHA-approved to test and certify to American National Standards Institute/Underwriters Laboratories Standards ANSI/UL2034 or ANSI/UL2075 and shall be installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the property owner shall retain or provide as proof of compliance. A carbon monoxide detector may be combined with smoke detectors if the combined detector does both of the following: (i) complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide alarms and ANSI/UL217 for smoke detectors; and (ii) emits an alarm in a manner that clearly differentiates between detecting the presence of carbon monoxide and the presence of smoke."

SECTION 7. G.S. 58-3-285(a) reads as rewritten:

"(a) Every health benefit plan, including the State Health Plan for Teachers and State Employees, shall provide coverage for one hearing aid per hearing-impaired ear up to two thousand five hundred dollars (\$2,500) per hearing aid every 36 months for covered individuals under the age of 22 years subject to subsection (b) of this section. The coverage shall include all medically necessary hearing aids and services that are ordered by a physician or an audiologist licensed in this State. Only those persons authorized by law to fit hearing aids, including individuals licensed under Chapter 93D of the General Statutes, are eligible to fit a hearing aid under this section. Coverage shall be as follows:

- (1) Initial hearing aids and replacement hearing aids not more frequently than every 36 months.
- (2) A new hearing aid when alterations to the existing hearing aid cannot adequately meet the needs of the covered individual.
- (3) Services, including the initial hearing aid evaluation, fitting, and adjustments, and supplies, including ear molds."

SECTION 8. G.S. 93B-9 reads as rewritten:

"§ 93B-9. Age requirements.

~~Any other provision notwithstanding, no~~ No occupational licensing board may require that an individual be more than 18 years of age as a requirement for receiving a license. license with the following exceptions: the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards

Commission may establish a higher age as a requirement for holding certification through either Commission."

SECTION 9. G.S. 95-25.5(n) reads as rewritten:

"(n) Nothing in this section prohibits qualified youths under 18 years of age from participating in training through their fire department, the Office of State Fire Marshal, or the North Carolina Community College System. As used in this subsection, the term "qualified youth under 18 years of age" means an uncompensated fire department or rescue squad member who is ~~over~~ at least the age of 15 and under the age of 18 and who is a member of a bona fide fire department, as that term is defined in G.S. 58-86-25, or of a rescue squad described in G.S. 58-86-30."

SECTION 10. G.S. 116B-62(f) reads as rewritten:

"(f) Notwithstanding the provisions of Chapter 132 of the General Statutes, ~~the any~~ supporting data and data, including aging reports, or lists of apparent owners of unclaimed property held by a clerk of superior court or any other office of State or local government may be confidential but shall be disclosed to the Treasurer in accordance with the reporting of escheated and abandoned property. The supporting data and lists of apparent owners of escheated and abandoned property held by the Treasurer may be confidential until ~~six~~ 12 months after the list to the clerks of superior court required by subsection (b) of this section has been distributed. This subsection shall not apply to owners of reported property making inquiries about their property to the Escheat Fund."

SECTION 11. Article 36A of Chapter 143 of the General Statutes reads as rewritten:

"Article 36A.

"State Employee ~~Incentive Bonus~~ Suggestion Program (NC-Thinks).

"§ 143-345.20. **Definitions.**

The following definitions apply in this Article:

- (1) Baseline reversion. – The two-year historical average of reversions by a State department, agency, or institution.
- (2) Repealed by Session Laws 2001-424, s. 7.2(b).
- (2a) Participating agency. – Any State department, agency, or institution, or any local school administrative unit that employs State employees eligible to participate in ~~the State Employee Incentive Bonus Program~~ NC-Thinks. The term includes the North Carolina Community Colleges System, The University of North Carolina and its constituent institutions, and charter schools. The term does not include federal or local government agencies.
- (2b) ~~SEIBP~~ NC-Thinks. – ~~Aeronym for the~~ The State Employee ~~Incentive Bonus~~ Suggestion Program.
- (3) State employee. – Any of the following:
 - a. A person who is a contributing member of the Teachers' and State Employees' Retirement System of North Carolina, the Consolidated Judicial Retirement System of North Carolina, or the Optional Program.
 - b. A person who receives wages from the State as a part-time or temporary worker, but is not otherwise a contributing member of one of the retirement programs listed in sub-subdivision a. of this subdivision.

"§ 143-345.21. **State employee ~~incentive bonus~~ suggestion program.**

(a) A State employee or team of State employees may receive an incentive bonus or bonuses in reward for suggestions or innovations resulting in monetary savings to the State, increased revenues to the State, or improved quality of services delivered to the public.

(b) Repealed by Session Laws 2001-424, s. 7.2(c).

(b1) The amount of savings generated by suggestions and innovations shall be determined after a 12-month period of implementation. No incentive bonus shall be paid prior

to the expiration of 12 months, and payment may be delayed further as reasonably required to ensure that a complete cost implementation cycle is evaluated fully.

(c) Any savings are to be calculated using the actual expenditures for a program, activity, or service compared to the budgeted amount for the same, if an amount has been budgeted for the program, activity, or service. The savings calculation shall include the amount of any reversions in excess of the baseline reversion. Any savings realized through ~~the State Employee Incentive Bonus Program~~ NC-Thinks shall be weighed against continued service to the public and the assurance that there is not a negative impact on State programs.

(d) If a suggestion or innovation affects a program, activity, or service for which no separate budgeted amount has been made, the State Coordinator, in conjunction with the agency evaluator or agency fiscal officer, or both for that suggestion or innovation, shall determine the budgetary impact of the suggestion or innovation.

(e) Federal and local government funds and corporate and foundation grant funds are excluded from ~~the SEIBP~~ NC-Thinks.

(f) The Department of Administration shall establish the ~~SEIBP~~ NC-Thinks reserve fund in which all savings for all suggestions shall be deposited as earned. Each participating agency shall be responsible for transferring savings to the ~~SEIBP~~ NC-Thinks reserve fund. The funds may be encumbered as needed to ensure payment to the General Fund, to the suggester, and for distribution as required by G.S. 143-345.22. The Department of Administration shall provide the ~~SEIBP~~ NC-Thinks reserve fund summary at the close of each fiscal year to the Office of State Budget and Management and to the participating agencies. The Office of State Budget and Management shall have oversight responsibility for ensuring that the required reversions and transfers are made to the General Fund, and that all encumbered funds are accounted for and paid as required by law.

(g) No distribution of suggester awards shall occur until reversion requirements to the General Fund are met and distributions as required by G.S. 143-345.22 are satisfied and verified by the Office of State Budget and Management. When all of the requirements of G.S. 143-345.22 are fulfilled, the Department of Administration shall transfer to the suggester's agency funds required to award the suggester. The suggester's agency shall make the suggestion award and ensure that all taxes and withholding requirements are met.

(h) Implementation costs may be prorated over a maximum of three years for suggestions or innovations that are capital intensive, involve leading-edge technology, or involve unconventional processes that require longer than 12 months for implementation. The amount of the average annual savings minus the average annual implementation cost shall be used as the basis for the agency to recommend a suggester award. The State Suggestion Review Committee shall consult the Office of State Budget and Management to make the final award determination in these cases.

(i) There is established in the Department of Administration a nonreverting fund to be administered by the Office of State Personnel for the training and education of permanent State employees to address specific mission critical needs and objectives. Funds shall be credited from ~~the SEIBP~~ NC-Thinks to the fund as provided by this Article.

"§ 143-345.22. Allocation of incentive bonus funds; nonmonetary recognition.

(a) If a State employee's suggestion or innovation results in a monetary savings or increased revenue to the State, the funds saved or increased shall be distributed according to the following scale or subject to guidelines as set forth by the funding source:

- (1) Twenty percent (20%) of the annualized savings or increased revenues, up to a maximum of twenty thousand dollars (\$20,000) for any one State employee, to constitute gainsharing. If a team of State employees is the suggester, the bonus provided in this subdivision shall be divided equally among the team members, except that no team member shall receive in excess of twenty thousand dollars (\$20,000), nor shall the team receive an aggregate amount in excess of one hundred thousand dollars (\$100,000). These funds shall not revert.

- (2) Thirty percent (30%) allocated as follows:
- a. Ten percent (10%) to the implementing agency for nonrecurring budget items to be used (i) by the implementing agency to provide equipment, supplies, training, and limited but appropriate recognition for the division, section, or group responsible for the implementation of the cost-saving measure and (ii) to meet other similar needs within the agency.
 - b. Ten percent (10%) to the Department of Administration for augmenting funding for the management and administration of ~~the SEIBP-NC-Thinks~~. These funds shall not revert.
 - c. Ten percent (10%) to the State employee education and training fund administered by the Office of State Personnel under G.S. 143-342.21(i). These funds shall not revert.
- (3) The remainder to the General Fund for nonrecurring budget items.

(a1) Of the pool of funds identified in subsection (a) of this section, only the General Fund appropriations shall be subject to reversion, except during declared budget emergencies. Under nonemergency budget conditions, ~~SEIBP-NC-Thinks~~ funds arising from savings at The University of North Carolina, the North Carolina Community Colleges System, the Highway Trust Fund, enterprise funds, and receipt-supported organizations shall be exempt from the General Fund reversion requirements.

(b) The budget of a State agency shall not be reduced in the following fiscal year by an amount similar to the monetary savings or increased revenues realized by ~~the State Employee Incentive Bonus Program-NC-Thinks~~. The agency budget shall be reduced in subsequent years only if structural or organizational changes are made that warrant the reductions, including the transfer of responsibility for an activity or service to another agency or the elimination of some function of State government.

(c) If a suggestion or innovation results in improved quality of services to the public or to other State agencies, departments, and institutions, but not in monetary savings to the State, the suggester shall receive a nonmonetary award in the form of a certificate, leave with pay, or other similar recognition.

"§ 143-345.23. Suggestion and review process; role of agency coordinator and agency evaluator.

(a) The process for a State employee or team of State employees to submit a cost-saving or revenue-increasing proposal shall begin with the employee or team of employees submitting the suggestion or innovation to an agency coordinator. The agency coordinator, in conjunction with an agency evaluator, shall review the suggestion or innovation for submission to the State Review Committee established in G.S. 143-345.24.

(b) An agency coordinator shall be appointed by the head of each participating agency to serve as liaison between the agency, the suggester, the agency evaluator, and the ~~SEIBP NC-Thinks~~ office. The duties of the agency coordinator shall include:

- (1) Serving as an information source and maintaining sufficient forms necessary to submit suggestions.
- (2) Presenting, in conjunction with the agency evaluator, the recommendation for an award to the State Suggestion Review Committee.
- (3) Working in conjunction with the agency evaluator to process a particular suggestion or innovation within 180 days, except when there are extenuating circumstances.

An agency may have more than one coordinator if required to provide sufficient services to State employees.

(c) An agency evaluator shall be designated by the management of the implementing agency to evaluate one or more suggestions. The duties of an agency evaluator shall include:

- (1) Receiving from the agency coordinator and reviewing within 90 days, when possible, the feasibility and effectiveness of cost-saving or revenue-increasing measures suggested by State employees.
- (2) Being knowledgeable of the subject program, activity, or service.
- (3) Determining, in conjunction with the agency fiscal officer, the budgetary impact of a suggestion or innovation.
- (4) Judging impartially both the positive and negative effects of a suggestion or innovation on the current functions of the subject program, activity, or service.

(d) The executive secretary shall be responsible for general oversight and coordination of ~~the State Employee Incentive Bonus Program-NC-Thinks~~. The State coordinator shall be an employee of the Department of Administration. The State coordinator shall be responsible for day-to-day ~~SEIBP-NC-Thinks~~ program management and administration of the technical aspects of the program. The State coordinator shall be an ex officio voting member of the State Suggestion Review Committee.

"§ 143-345.24. ~~Incentive Bonus~~State Suggestion Review Committee.

(a) The ~~Incentive Bonus~~State Suggestion Review ~~Committee, hereinafter "State Review Committee"~~Committee shall consist of nine members, as follows:

- (1) The State Coordinator.
- (2) A representative of the Office of State Budget and Management.
- (3) A representative of the Office of State Personnel.
- (4) A representative of The University of North Carolina.
- (5) A representative of the Department of Justice.
- (6) A representative of the Department of Labor.
- (7) One State employee appointed by the Speaker of the House of Representatives.
- (8) One State employee appointed by the President Pro Tempore of the Senate.
- (9) One State employee appointed by the Governor upon the recommendation of the State Employees Association of North Carolina, Inc.

(b) The duties of the State Suggestion Review Committee shall include:

- (1) Receiving from the various agency coordinators recommendations on suggestions and innovations.
- (2) Determining the impact of a suggestion or innovation on State government services by judging the monetary savings, increased revenues, or improved quality of services generated by a suggestion or innovation.
- (3) Ensuring that the State employee incentive bonus process does not result in a negative impact on services provided to taxpayers by State government.

(c) All administrative, management, clerical, and other functions and services required by the State Review Committee shall be supplied by the Department of Administration. The Department of Administration and the State Review Committee shall report annually to the Joint Legislative Commission on Governmental Operations on the administration of ~~the State Employee Incentive Bonus Program-NC-Thinks~~.

"§ 143-345.25. Innovations deemed property of the State; effect of decisions regarding bonuses.

(a) All suggestions or innovations submitted by State employees pursuant to this Article are the property of the State, and all related intellectual property rights shall be assigned to the State. By January 1, 2002, the Office of State Personnel shall establish a policy regarding intellectual property rights that arise from ~~the SEIBP-NC-Thinks~~.

(b) Decisions regarding the award of bonuses by the agency coordinator and the State Suggestion Review Committee are final and are not subject to review under the contested case procedures of Chapter 150B of the General Statutes."

SECTION 12. G.S. 162-62 reads as rewritten:

"§ 162-62. Legal status of prisoners.

(a) When any person charged with a felony or an impaired driving offense is confined for any period in a county jail, local confinement facility, district confinement facility, or satellite jail/work release unit, the administrator or other person in charge of the facility shall attempt to determine if the prisoner is a legal resident of the United States by an inquiry of the prisoner, or by examination of any relevant documents, or both.

(b) If the administrator or other person in charge of the facility is unable to determine if that prisoner is a legal resident or citizen of the United States or its territories, the administrator or other person in charge of the facility holding the prisoner, where possible, shall make a query ~~through the Division of Criminal Information (DCI) system to the Law Enforcement Support Center (LESC)~~ of Immigration and Customs Enforcement of the United States Department of Homeland Security. ~~If the LESOC determines that the prisoner has not been lawfully admitted to the United States, the United States Department of Homeland Security will have been notified of the prisoner's status and confinement at the facility by its receipt of the DCI-query from the facility.~~

(c) Nothing in this section shall be construed to deny bond to a prisoner or to prevent a prisoner from being released from confinement when that prisoner is otherwise eligible for release.

~~(d) The administrator or other person in charge of the facility shall annually report the number of queries performed under subsection (b) of this section and the results of those queries to the Governor's Crime Commission of the Department of Crime Control and Public Safety. The Governor's Crime Commission shall make the reports available to the public."~~

SECTION 13. Section 12 of S.L. 2009-516 reads as rewritten:

"**SECTION 12.** Sections 7(a), 8(a), 9, and 10(a) of this act become effective December 1, 2009, and apply to probation judgments entered or modified or deferred prosecution agreements executed on or after that date. The remainder of this act is effective when it becomes law."

SECTION 14. If House Bill 1734, 2009 Regular Session, becomes law, G.S. 136-18(2) reads as rewritten:

"(2) To take over and assume exclusive control for the benefit of the State of any existing county or township roads, and to locate and acquire rights-of-way for any new roads that may be necessary for a State highway system, and subject to the provisions of G.S. 136-19.5(a) and (b) also 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 telephone, telegraph, distributed antenna systems (DAS), ~~(DAS)~~ ~~as permitted by local zoning~~, broadband communications, electric and other lines, as well as gas, water, sewerage, 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, with full power to widen, relocate, change or alter the grade or location thereof, or alter the location or configuration of such lines or systems above or below ground, and to change or relocate any existing roads that the Department of Transportation may now own or may acquire; to acquire by gift, purchase, or otherwise, any road or highway, or tract of land or other property whatsoever that may be necessary for a State transportation system and adjacent utility rights-of-way: 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: 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."

SECTION 15.(a) If Senate Bill 1015, 2009 Regular Session, becomes law, then G.S. 75-122, as enacted by Section 2 of Senate Bill 1015, reads as rewritten:

"§ 75-122. Remedies.

A violation of G.S. 75-121 is an unfair trade practice under G.S. 75-1.1. A homeowner may bring an action for the recovery of damages, to void a prohibited foreclosure rescue transaction, as well as for declaratory or equitable relief for a violation of this Article. The provisions of this section shall not be enforceable against a bona fide purchaser for value. The rights and remedies provided herein are cumulative to, and not a limitation of, any other rights and remedies provided by law or equity. Nothing in this Chapter shall be construed to subject an individual homeowner selling his or her primary residence to liability under G.S. 75-1.1."

SECTION 15.(b) This section becomes effective October 1, 2010, and applies to transactions entered on or after that date.

SECTION 16. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of July, 2010. Became law upon approval of the Governor at 3:08 p.m. on the 20th day of July, 2010.

Session Law 2010-98

S.B. 1210

AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF ATHLETIC TRAINER EXAMINERS TO INCREASE LICENSURE FEES UNDER THE ATHLETIC TRAINERS LICENSING ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-534(b) reads as rewritten:

"(b) The schedule of fees shall not exceed the following:

- (1) Issuance of a license..... \$~~100.00~~ 200.00
- (2) License renewal..... ~~50.00~~ 75.00
- (3) Reinstatement of lapsed license ~~75.00~~ 100.00
- (4) Reasonable charges for duplication services and material."

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

In the General Assembly read three times and ratified this the 7th day of July, 2010. Became law upon approval of the Governor at 3:12 p.m. on the 20th day of July, 2010.

Session Law 2010-99

H.B. 666

AN ACT TO PERMIT LOCAL GOVERNMENTS AND PUBLIC AUTHORITIES TO PAY BILLS, INVOICES, SALARIES, OR OTHER CLAIMS BY ELECTRONIC PAYMENT OR ELECTRONIC FUNDS TRANSFER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 159-28(d) reads as rewritten:

"(d) Payment. – A local government or public authority may not pay a bill, invoice, salary, or other claim except by a check or draft on an official ~~depository~~ or by depository, a bank wire transfer from an official ~~depository~~ depository, or an electronic payment or an electronic funds transfer originated by the local government or public authority through an

official depository. Except as provided in this subsection each check or draft on an official depository shall bear on its face a certificate signed by the finance officer or a deputy finance officer approved for this purpose by the governing board (or signed by the chairman or some other member of the board pursuant to subsection (c) of this section). The certificate shall take substantially the following form:

"This disbursement has been approved as required by the Local Government Budget and Fiscal Control Act.

(Signature of finance officer)."

An electronic payment or electronic funds transfer must be subjected to the pre-audit process. Execution of the electronic payment or electronic funds transfer shall indicate that the finance officer or duly appointed deputy finance officer has performed the pre-audit process as required by G.S. 159-28(a).

Certificates in the form prescribed by G.S. 153-131 or 160-411.1 as those sections read on June 30, 1973, or by G.S. 159-28(a) as that section read on June 30, 1975, are sufficient until supplies in existence on June 30, 1975, are exhausted.

No certificate is required on payroll checks or drafts on an imprest account in an official depository, if the check or draft depositing the funds in the imprest account carried a signed certificate.

As used in this subsection, the term "electronic payment" means payment by charge card, credit card, debit card, or by electronic funds transfer, and the term "electronic funds transfer" means a transfer of funds initiated by using an electronic terminal, a telephone, a computer, or magnetic tape to instruct or authorize a financial institution or its agent to credit or debit an account."

SECTION 2. This act becomes effective July 1, 2010.

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Became law upon approval of the Governor at 3:12 p.m. on the 20th day of July, 2010.

Session Law 2010-100

H.B. 1136

AN ACT TO PERMIT THE PERSONAL REPRESENTATIVE OF A DECEASED CANDIDATE WHO DID NOT FILE A WRITTEN DESIGNATION PRIOR TO DEATH TO FILE SUCH WRITTEN DESIGNATION WITHIN NINETY DAYS OF DEATH.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-278.16B(c) reads as rewritten:

"(c) Contributions made to a candidate or candidate campaign committee do not become a part of the personal estate of the individual candidate. The candidate may file with the board a written designation of those funds that directs to which of the permitted uses in subsection (a) of this section ~~they~~ those funds shall be paid in the event of the death or incapacity of the candidate. If the candidate fails to file the written designation before death, the personal representative of the estate may file the written designation within 90 days of the date of death, and may only direct those funds to donations under subdivision (a)(3) of this section. After the payment of permitted outstanding debts of the account, the candidate's filed written designation shall control. If the candidate files no such written designation, the funds after payment of permitted outstanding debts shall be distributed in accordance with subdivision (a)(8) of this section."

SECTION 2. This act is effective when it becomes law. For any candidate campaign committee that is in active status with the State Board of Elections as of the date this act becomes law, the personal representative of the estate may file the written designation within 90 days of the day this act receives preclearance under section 5 of the Voting Rights Act.

In the General Assembly read three times and ratified this the 9th day of July, 2010.
Became law upon approval of the Governor at 3:12 p.m. on the 20th day of July,
2010.

Session Law 2010-101**H.B. 1905**

AN ACT TO AMEND THE FIRE-SAFETY STANDARD AND FIREFIGHTER PROTECTION ACT, AS RECOMMENDED BY THE PUBLIC HEALTH STUDY COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-92-10 reads as rewritten:

"§ 58-92-10. Definitions.

For the purposes of this Article:

- (1) "Agent" means any person authorized by the Department of Revenue to pay the excise tax on packages of cigarettes.
- (1a) "Brand style" means a variety of cigarettes distinguished by the tobacco used, tar and nicotine content, flavoring used, size of the cigarette, filtration on the cigarette, or packaging.
- (2) "Cigarette" means any roll for smoking, whether made wholly or in part of tobacco or any other substance, irrespective of size or shape, and whether or not such tobacco or substance is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, other than leaf tobacco.
- (3) "Commissioner" means the Commissioner of Insurance.
- (4) "Consumer testing" means an assessment of cigarettes that is conducted by a manufacturer (or under the control and direction of a manufacturer), for the purpose of evaluating consumer acceptance of such cigarettes.
- (5) "Distributor" means any person other than a manufacturer who sells cigarettes or tobacco products to retail dealers or other persons for purposes of resale, any person who owns, operates, or maintains one or more cigarette or tobacco product vending machines in, at, or upon premises owned or occupied by any other person, or a distributor as defined in G.S. 105-113.4(3)a.
- (6) "Manufacturer" means:
 - a. Any entity ~~which~~that manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced anywhere that ~~such~~the manufacturer intends to be sold in this State, including cigarettes intended to be sold in the United States through an importer;
 - b. The first purchaser anywhere that intends to resell in the United States cigarettes manufactured anywhere that the original manufacturer or maker does not intend to be sold in the United States; or
 - c. Any entity that becomes a successor of an entity described in sub-subdivision a. or b. of this subdivision.
- (7) "Quality control and quality assurance program" means the laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors, and equipment-related problems do not affect the results of the testing. Such a program ensures that the testing repeatability remains within the required repeatability values stated in G.S. 58-92-15(g) for all test trials used to certify cigarettes in accordance with this Article.

- (8) "Repeatability" means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall ninety-five percent (95%) of the time.
- (9) "Retail dealer" means any person, other than a manufacturer or distributor, engaged in selling cigarettes or tobacco products.
- (10) "Sale" means any transfer of title or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means whatever or any agreement therefor. In addition to cash and credit sales, the giving of cigarettes as samples, prizes, or gifts, and the exchanging of cigarettes for any consideration other than money, are considered sales.
- (11) "Sell" means to sell, or to offer or agree to do the same."

SECTION 2. G.S. 58-92-20 reads as rewritten:

"§ 58-92-20. Certification and product change.

(a) Each manufacturer shall submit to the Commissioner a written certification attesting both of the following:

- (1) Each cigarette listed in the certification has been tested in accordance with G.S. 58-92-15.
- (2) Each cigarette listed in the certification meets the performance standard set forth in G.S. 58-92-15.

(b) Each cigarette listed in the certification shall be described with the following information:

- (1) Brand or trade name on the package.
- (2) ~~Style, such as light or ultralight.~~ Brand style, as defined in G.S. 58-92-10(1a).
- (3) Length in millimeters.
- (4) Circumference in millimeters.
- (5) Flavor, such as menthol or chocolate, if applicable.
- (6) Filter or nonfilter.
- (7) Package description, such as soft pack or box.
- (8) Marking pursuant to G.S. 58-92-25.
- (9) The name, address, and telephone number of the laboratory, if different than the manufacturer that conducted the test.
- (10) The date that the testing occurred.

(c) Certifications shall be made available to the Attorney General for purposes consistent with this Article and the Commissioner for the purposes of ensuring compliance with this section.

(d) Each cigarette certified under this section shall be recertified every three years.

(e) For each ~~certification form,~~ brand style listed in a certification, a manufacturer shall pay to the Commissioner a fee of two hundred fifty dollars (\$250.00). The Commissioner may annually adjust this fee to ensure it defrays the actual costs of the processing, testing, enforcement, and oversight activities required by this Article.

(f) There is established in the State treasury a separate, nonreverting fund to be known as the "Fire Safety Standard and Firefighter Protection Act Enforcement Fund." The fund shall consist of all certification fees submitted by manufacturers and shall, in addition to any other monies made available for such purpose, be available to the Commissioner solely to support processing, testing, enforcement, and oversight activities under this Article.

(g) If a manufacturer has certified a cigarette pursuant to this section, and thereafter makes any change to such cigarette that is likely to alter its compliance with the reduced cigarette ignition propensity standards required by this Article, that cigarette shall not be sold or offered for sale in this State until the manufacturer retests the cigarette in accordance with the testing standards set forth in G.S. 58-92-15 and maintains records of that retesting as required by G.S. 58-92-15. Any altered cigarette ~~which~~ that does not meet the performance standard set forth in G.S. 58-92-15 ~~may~~ shall not be sold in this State."

SECTION 3. This act becomes effective July 1, 2010.

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law upon approval of the Governor at 3:13 p.m. on the 20th day of July, 2010.

Session Law 2010-102

S.B. 18

AN ACT TO AMEND THE NORTH CAROLINA CEMETERY ACT BY REQUIRING PROOF OF A SUFFICIENT TRUST FUND OR SURETY BOND PRIOR TO APPROVING A CHANGE OF CONTROL OF A CEMETERY COMPANY, CHANGING THE INVESTMENTS OPTIONS FOR PERPETUAL CARE TRUST FUNDS, REQUIRING CEMETERY COMPANIES TO LIST THE COST OF OPENING AND CLOSING A GRAVE SPACE AS PART OF THE CONTRACT, PROHIBITING A CEMETERY COMPANY FROM REQUIRING A PURCHASER OF A GRAVE SPACE TO PURCHASE A VAULT FROM A PARTICULAR SELLER, INCREASING THE EXTENSION THAT MAY BE GIVEN TO A CEMETERY COMPANY FOR COMPLETION OF CONSTRUCTION OF MAUSOLEUMS, AND CREATING THE LEGISLATIVE STUDY COMMISSION ON THE NORTH CAROLINA CEMETERY ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 65-59 reads as rewritten:

"§ 65-59. **Application for a change of control; filing fee.**

A person who proposes to acquire control of an existing cemetery company, whether by purchasing the capital stock of the company, purchasing an owner's interest in the company, or otherwise acting to effectively change the control of the company, shall first make application on a form supplied by the Commission for a certificate of approval of the proposed change of control. The application shall contain the name and address of each proposed new owner. The Commission shall issue a certificate of approval only after it determines that the proposed new owners are qualified by character, experience, and financial responsibility to control and operate the cemetery company in a legal and proper manner, and that the interest of the public generally will not be jeopardized by the proposed change in control. An application for approval of a change of control must be completed and accompanied by a filing fee to be set by the Commission in an amount not to exceed one thousand six hundred dollars (\$1,600). The Commission shall not approve any change of control until the applicant has provided sufficient evidence that any trust account required under G.S. 65-66(b) and G.S. 65-70(b) is maintained and funded in the required amount. If the cemetery company posted a performance bond in lieu of any trust account required under G.S. 65-66(b) and G.S. 65-70(b), then the Commission shall not approve any change of control until the applicant has provided sufficient evidence that the performance bond is being appropriately maintained and in an amount sufficient to cover all payments made directly or indirectly by or on account of purchasers who have not received the purchased property and services."

SECTION 2. G.S. 65-60.1 reads as rewritten:

"§ 65-60.1. **Trustees; qualifications; examination of records; enforcement.**

(a) The term "corporate trustee" as used in this Article shall mean ~~either a bank or a~~ bank, credit union, or trust company authorized to do business in North Carolina under the supervision of the Commissioner of ~~Banks or Banks, Credit Union Administrator,~~ or any other corporate entity; provided that any corporate entity other than a ~~bank or bank,~~ bank, credit union, or trust company which acts as trustee under this Article shall first be approved by the Cemetery Commission and shall be subject to supervision by the Cemetery Commission as provided herein.

(b) Any corporate entity, other than a ~~bank or bank,~~ bank, credit union, or trust company, which desires to act as trustee for cemetery funds under this Article shall make application to the

Commission for approval. The Commission shall approve the trustee when it has become satisfied that:

- (1) The applicant employs and is directed by persons who are qualified by character, experience, and financial responsibility to care for and invest the funds of others.
- (2) The applicant will perform its duties in a proper and legal manner and the trust funds and interest of the public generally will not be jeopardized.
- (3) The applicant will act as trustee for cemetery funds which will exceed five hundred thousand dollars (\$500,000) in the aggregate.
- (4) The applicant is authorized to do business in North Carolina and has adequate facilities to perform its duties as trustee.

(c) Any trustee under this Article, other than a ~~bank~~bank, credit union, or trust company under the supervision of the Commissioner of Banks, shall maintain records relative to cemetery trust funds as the Commission may by regulation prescribe. The records shall be available at the trustee's place of business in North Carolina and shall be available at all reasonable times for examination by a representative of the Commission. The records shall be audited annually, within 90 days from the end of the trust fund's fiscal year, by an independent certified public accountant, and a copy of the audit report shall be promptly forwarded to the Commission.

(d) Whenever it appears that an officer, director, or employee of a trustee, other than a ~~bank~~bank, credit union, or trust company, is dishonest, incompetent, or reckless in the management of a cemetery trust fund, the Commission may bring an action in the courts to remove the trustee and to impound the property and business of the trustee as may be reasonably necessary to protect the trust funds.

(e) Any trustee shall invest and reinvest cemetery trust funds in the same manner as provided by law for the investment of trust funds by the clerk of the superior court; provided, however, that this subsection does not apply to a perpetual trust fund described in G.S. 65-64 or that cemetery trust funds held in a fund designated as Trust Fund "A" pursuant to G.S. 65-64(e)G.S. 65-64(e), which may be invested and reinvested in accordance with ~~G.S. 36A-2~~G.S. 32-71."

SECTION 3. G.S. 65-64 reads as rewritten:

"§ 65-64. Deposits to perpetual care fund.

(a) Deposits to the care and maintenance trust fund must be made by the cemetery company holding title to the subject cemetery lands on or before the last day of the calendar month following the calendar month in which final payment is received as provided herein; however the entire amount required to be deposited into the fund shall be paid within four years from the date of any contract requiring ~~such the~~ payment regardless of whether all amounts have been received by the cemetery company. If the cemetery company fails to make timely deposit, the Commission may levy and collect a late filing fee of one dollar (\$1.00) per day for each day the deposit is delinquent on each grave space, niche or mausoleum crypt sold. The care and maintenance trust fund shall be invested and reinvested by the trustee in accordance with G.S. 32-71. ~~the same manner as provided by law for the investment of other trust funds by the clerk of the superior court except that such investments may be made through means of a common trust fund as described in G.S. 36A-90; provided, further, that cemetery Investments may be made through means of a common trust fund as described in G.S. 53-163.5.~~ Cemetery trust funds held in a fund designated as Trust Fund "A" pursuant to G.S. 65-64(e) may be invested and reinvested in accordance with ~~G.S. 36A-2~~G.S. 32-71. The fees and other expenses of the trust fund shall be paid by the trustee from the net income thereof and may not be paid from the corpus. To the extent that the ~~said~~ net income is not sufficient to pay ~~such the~~ fees and other expenses, the same fees and other expenses shall be paid by the cemetery company.

(b) When a municipal, church-owned or fraternal cemetery converts to a private cemetery as defined in G.S. 65-48, then ~~said the~~ cemetery shall establish and maintain a care

and maintenance trust fund pursuant to this section; provided, however, the initial deposit for establishment of this trust fund shall be an amount equal to fifty dollars (\$50.00) per space for all spaces either previously sold or contracted for sale in ~~said the~~ cemetery at the time of conversion or fifty thousand dollars (\$50,000), whichever sum is greater.

(c) Repealed by 1991 (Regular Session, 1992), c. 1007, s. 35.

(d) In each sales contract, reservation or agreement wherein burial rights are priced separately, the purchase price of ~~said the~~ burial rights shall be the only item subject to care and maintenance trust fund deposits; but if the burial rights are not priced separately therein, the full amount of the contract, reservations or agreement shall be subject to care and maintenance trust fund deposits as provided herein, unless the purchase price of ~~said the~~ burial rights can be determined from the accounting records of the cemetery company.

(e) When the amount deposited in the perpetual care fund required by this Article of any cemetery company shall amount to one hundred fifty thousand dollars (\$150,000), anything in this Article to the contrary notwithstanding, the cemetery company may make all deposits thereafter either into the original perpetual care trust fund or into a separate fund established as an irrevocable trust, designated as Perpetual Care Trust Fund "A," and invested by the trustee, in accordance with ~~G.S. 36A-2, as directed by the cemetery company.~~ G.S. 32-71. Funds in a trust fund designated as Trust Fund "A" may not be invested in another cemetery company.

(f) For special endowments for a specific lot, grave, or a family mausoleum, memorial, marker, or monument, the cemetery may set aside the full amounts received for this individual special care in a separate trust or by a deposit to a savings account in a ~~bank~~ bank, credit union, or savings and loan association located within and authorized to do business in the State; provided, however, if the licensee does not set up a separate trust or savings account for the special endowment the full amount thereof shall be deposited in Perpetual Care Trust Fund 'A.'

SECTION 4. G.S. 65-66 reads as rewritten:

"§ 65-66. Receipts from sale of personal property or services; trust account; penalties.

(a) It shall be deemed contrary to public policy if any person or legal entity receives, holds, controls or manages funds or proceeds received from the sale of, or from a contract to sell, personal property or services which may be used in a cemetery in connection with the burial of or the commemoration of the memory of a deceased human being, where payments for the same are made either outright or on an installment basis prior to the demise of the person or persons so purchasing them or for whom they are so purchased, unless ~~such the~~ person or legal entity holds, controls or manages ~~said the~~ funds, subject to the limitations and regulations prescribed in this section. This section shall apply to all cemetery companies or other legal entities that offer for sale or sell personal property or services which may be used in a cemetery in connection with the burial of, or the commemoration of the memory of, a deceased human being, but shall exclude persons holding a license under Article 13D of Chapter 90 of the General Statutes.

(b) Any cemetery company or other entity entering into a contract for the sale of personal property or services, to be used in a cemetery in connection with disposing of, or commemorating the memory of a deceased human being wherein the use of the personal property or the furnishing of services is not immediately requested or required, shall comply with the following requirements and conditions:

- (1) The cemetery company or other entity shall deposit an amount equal to sixty percent (60%) of all proceeds received on ~~such the~~ contracts into a trust account, either in the form of an account governed by a trust agreement and handled by a corporate trustee or in the form of a passbook savings account, certificates of deposit for time certificates, ~~and/or~~ money-market certificates with a licensed and insured ~~bank~~ bank, credit union, or savings institution located in the State of North Carolina until the amount deposited equals sixty percent (60%) of the actual sale price of the property or services sold. ~~Such The~~ accounts and/or or deposits or both shall be in the name of the cemetery company or other entity in a form which will permit

withdrawals only with the participation and consent of the Cemetery Commission as required by subdivision (4) of this subsection.

- (2) All funds received on account of a contract for the sale of ~~such-the~~ personal property or services, whether the funds be received directly from the purchaser or from the sale or assignment of notes entered into by the purchase or otherwise, shall be deposited into the trust account as required by subdivision (1) of this ~~section-subsection~~.
- (3) All deposits required herein shall be made into the trust account so established on or before the last day of the month following receipt of the funds by the cemetery company or other entity.
- (4) Withdrawals from a trust account may be made by the depositor, but only with the written approval of the Commission or officer or employee of the Commission authorized to act for the Commission. Withdrawals may be made only upon delivery of the merchandise or services for which the funds were deposited, cancellation of a contract, the presence of excess funds in the trust account, or under other circumstances deemed appropriate by the Commission. The Commission shall promulgate rules and regulations governing withdrawals from trust accounts, including time and frequency of withdrawals, payments that will be made with the withdrawals, notice to the Commission prior to withdrawals, the number and identity of persons other than the owner who are authorized by the owner to make withdrawals, the officers and employees of the Commission authorized to approve withdrawals, and any other matters necessary to implement the provisions of this subdivision. Withdrawals will not be allowed if the amount remaining in the trust account would fall below sixty percent (60%) of all proceeds received on account of contracts for the sale of ~~such-the~~ personal property or services.
- (5) If for any reason a cemetery company or other entity who has entered into a contract for the sale of personal property or services cannot or does not provide the personal property or perform the services called for by the contract after request in writing to do so, the purchaser or his heirs or assigns or duly authorized representative shall be entitled to receive the entire amount paid on the contract and any income if any, earned thereon by the trust account.
- (6) Every year after September 1, 1975, the cemetery company, the trustee or other entity shall within 75 days after the end of the calendar year, file a financial report of the trust funds with the Commission, setting forth the principal thereof, the investments and payments made, the income earned and disbursed; provided, however, that the Commission may require the cemetery, trustee, or other entity to make ~~such-the~~ additional financial reports as it may deem advisable.

(c) Whenever a contract for the sale of personal property ~~and/or-or~~ services or both allocates payments to apply to one item at a time under a specific schedule, the contract shall be considered divisible. Title to each item of personal property or the right to each item of services shall pass to the purchaser upon full payment for that item regardless of the remaining balance on other items under the same contract.

(d) Any contract for the sale of personal property ~~and/or-or~~ services or both shall state separate costs for each item of personal property, for each act of installation required by the contract, for opening and closing each grave space, and for each other item of services included in the contract.

(e) All contracts for the sale of personal property ~~and/or-or~~ services or both must be printed in type size as required by the Truth in Lending Act, 15 U.S.C. § 1601 et seq., and regulations adopted pursuant to that act.

(f) In the event of prepayment, interest charged shall be no more than the interest earned on the unpaid balance computed on a percent per month basis for each month or part of a month up to the date of final payment. Any excess interest which has been paid by the purchaser must be refunded to him, his assigns, or his representative within 30 days after the final payment. No penalty or additional charge for prepayment may be required.

(g) In lieu of the deposits required under subsection (b) of this section, the cemetery company or other entity may post with the Commission a good and sufficient performance bond by surety company licensed to do business in North Carolina and in an amount sufficient to cover all payments made directly or indirectly by or on account of purchasers who have not received the purchased property and services. Money received from the sale or assignment of notes entered into by the purchasers, or otherwise, shall be treated as payments made by the purchasers.

(h) The Commission shall have the power and is required from time to time as it may deem necessary to examine the business of any cemetery company or other entity writing contracts for the sale of the property or services as herein contemplated. The written report of ~~such~~the examination shall be filed in the office of the Commission. Any person or entity being examined shall produce the records of the company needed for ~~such~~the examination.

(i) Any provision of any contract for the sale of the personal property or the performance of services herein contemplated under which the purchaser or beneficiary waives any of the provisions of this section shall be void.

(j) Repealed by Session Laws 1991, c. 653, s. 7.

(k) Nothing in this section shall apply to persons or legal entities holding licenses under Article 13D of Chapter 90 of the General Statutes when engaging in activities for which a license is required under that Article.

(l) If any report is not received within the time stipulated by the Commission or herein, the Commission may levy and collect a late filing fee of twenty-five dollars (\$25.00) per month for each month of delinquency.

(m) Within 30 days following the execution of a contract for the sale of personal property or performance of services, a purchaser may cancel his contract by giving written notice to the seller. The seller may cancel the contract, upon default by purchaser, by giving written notice to the purchaser. Within 30 days of notice of cancellation, the cemetery company or other entity shall refund to purchaser the principal amount on deposit in the trust account for his benefit on any undelivered merchandise or services. This amount (no other obligations owed the purchaser by the seller) shall constitute the purchaser's entire entitlements under the contract. The seller may not terminate the contract without complying with this subsection.

(n) A cemetery company shall not require the purchaser or consumer of a grave space, mausoleum, or mausoleum section to purchase a vault from the cemetery company or from any other particular seller of vaults as a condition to the purchase or use of a grave space, mausoleum, or mausoleum section but may require that a casket be enclosed within a vault. A cemetery company may charge a reasonable fee not to exceed twenty dollars (\$20.00) for delivery of vaults or inspection of vaults that are purchased from a person other than the cemetery company."

SECTION 5. G.S. 65-70 reads as rewritten:

"§ 65-70. Construction of mausoleums and belowground crypts; trust fund for receipts from sale of preconstruction crypts; compliance requirements.

(a) A cemetery company shall be required to start construction of that section of a mausoleum or bank of belowground crypts in which sales, contracts for sale, reservations for sales or agreements for sales are being made, within 48 months after the date of the first ~~such~~ sale. The construction of ~~such~~the mausoleum section or bank of belowground crypts shall be completed within five years after the date of the first sale made; provided, however, extensions for completion, not to exceed ~~one year~~three years, may be granted by the Commission for good reasons shown.

(b) A cemetery company which plans to offer for sale space in a section of a mausoleum or bank of underground crypts prior to its construction shall establish a preconstruction trust account. The trust account shall be administered and operated in the same manner as the merchandise trust account provided for in G.S. 65-66 and shall be exclusive of the merchandise trust account or ~~such the~~ other trust accounts or funds that may be required by law. The personal representative of any purchaser of ~~such the~~ space who dies before completion of construction shall be entitled to a refund of all moneys paid for ~~such the~~ space including any income earned thereon.

(c) Before a sale, contract for sale, reservation for sale or agreement for sale in the first mausoleum section or bank of underground crypts in each cemetery may be made the funds (one hundred twenty percent (120%) of construction cost) to be deposited to the preconstruction trust account shall be computed as to ~~said the~~ section or bank of crypts and ~~such the~~ trust account payments must be made on or before the last day of the calendar month following receipt by the cemetery company or its agent of each payment. The trust account portion of each ~~such~~ payment shall be computed by dividing the cost of the project plus twenty percent (20%) of ~~said the~~ cost, as computed by a licensed contractor, engineer or architect by the number of crypts in the section or bank of crypts to ascertain the cost per unit. The unit cost shall be divided by the contract sales price of each unit to obtain a percentage which shall be multiplied by the amount of each payment. The formula shall be computed as follows:

Cost plus twenty percent (20%) divided by number of crypts = cost per unit

Cost per unit divided by contract sales price = percentage

Percentage x payment received = deposit required to preconstruction trust account.

(d) The cemetery company shall be entitled to withdraw the funds from ~~said the~~ preconstruction trust account only after the Commission has become satisfied that construction has been completed; provided, however, that during construction of the mausoleum or bank of belowground crypts the Commission may, in its discretion, authorize a specific percentage of the funds to be withdrawn when it appears that at least an equivalent percentage of construction has been completed.

(e) If a mausoleum section or bank of underground crypts is not completed within the time limits set out in this section the corporate trustee, if any, shall contract for and cause ~~said the~~ project to be completed and paid therefor from the trust account funds deposited to the project's account paying any balance, less cost and expenses, to the cemetery company. In the event there is no corporate trustee, the Commission shall appoint a committee to serve as trustees to contract for and cause ~~said the~~ project to be completed and paid therefor from the trust account funds deposited to the project's account paying any balance, less cost and expenses, to the cemetery company.

(f) In lieu of the payments outlined hereunder to the preconstruction trust account the cemetery company may deliver to the Commission a good and sufficient completion or performance bond in an amount and by surety companies acceptable to the Commission."

SECTION 6. G.S. 90-210.60(2) reads as rewritten:

"(2) "Financial institution" means a ~~bank, bank, credit union,~~ trust company, savings bank, or savings and loan association authorized by law to do business in this State;"

SECTION 7.(a) There is created the Legislative Study Commission on the North Carolina Cemetery Act to study issues related to the regulation of cemeteries under the Act.

SECTION 7.(b) The Commission shall consist of 11 members as follows:

- (1) Five members appointed by the Speaker of the House of Representatives. At least one of the appointees shall represent the interests of consumers and shall have no vested interest in the death care industry. At least one of the appointees shall be a person who resides in Western North Carolina.
- (2) Five members appointed by the President Pro Tempore of the Senate. At least one of the appointees shall represent the interests of consumers and

shall have no vested interest in the death care industry. At least one of the appointees shall be a person who resides in Eastern North Carolina.

(3) The Attorney General or the Attorney General's designee.

SECTION 7.(c) The President Pro Tempore of the Senate shall designate one senator as cochair and the Speaker of the House of Representatives shall designate one representative as cochair. Vacancies on the Commission shall be filled by the same appointing authority that made the initial appointment.

SECTION 7.(d) The Commission shall study the following issues relating to the North Carolina Cemetery Act:

- (1) Membership of the Cemetery Commission.
- (2) Powers and duties of the Cemetery Commission, including:
 - a. The Commission's authority to investigate and address consumer complaints.
 - b. The Commission's authority and responsibilities with regard to approval of a proposed change of control pursuant to G.S. 65-59.
- (3) Qualifications of trustees for cemetery funds.
- (4) Security of trust accounts maintained by cemetery companies.
- (5) Adequacy of trust accounts maintained by cemetery companies, the adequacy of bonds posted in lieu thereof, and whether there should be any additional options in lieu of maintaining trust accounts.
- (6) Bond requirements.
- (7) Qualified bond companies.
- (8) Ways to ensure proper maintenance and funding of trust accounts and performance bonds as a condition for approval of a change of control under G.S. 65-59.
- (9) Protection for consumers who die before final payment is collected on a preneed contract.
- (10) Establishment of a consumer recovery fund to protect consumers from cemetery insolvency and/or fraud.
- (11) Establishing trust accounts in the names of individual consumers.
- (12) Any other matters the Commission deems appropriate.

SECTION 7.(e) The Executive Director of the Cemetery Commission and the Executive Director of the N.C. Board of Funeral Service shall assist the Commission in its work. The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet at any time upon the joint call of the cochairs. The Commission may meet in the Legislative Building or the Legislative Office Building.

The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Commission in its work. The Senate's and the House of Representatives' Directors of Legislative Assistants shall assign clerical staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02. If the Commission hires a consultant, the consultant shall not be a State employee or a person currently under contract with the State to provide services.

All State departments and agencies and local governments and their subdivisions shall furnish the Commission with any information in their possession or available to them.

SECTION 7.(f) The Commission shall report the results of its study and its recommendations to the 2011 General Assembly upon its convening, and the Commission shall terminate upon the filing of its report.

SECTION 8. Sections 1 through 6 of this act become effective October 1, 2010. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8th day of July, 2010.
Became law upon approval of the Governor at 3:14 p.m. on the 20th day of July, 2010.

Session Law 2010-103**H.B. 80**

AN ACT TO BAN THE USE OF ELECTRONIC MACHINES AND DEVICES FOR SWEEPSTAKES PURPOSES.

The General Assembly of North Carolina enacts:

Whereas, the 1791 General Assembly determined that "all public gaming-tables are destructive of the morality of the inhabitants of this State, and tend greatly to the encouragement of vice and dissipation" (Law of 1791, Chapter 5); and

Whereas, the State of North Carolina has continuously prohibited public gaming in North Carolina since 1791; and

Whereas, the State of North Carolina specifically prohibited the use of slot machines in 1937; and

Whereas, the State of North Carolina specifically prohibited the use of video poker machines in 2000 and again in 2006; and

Whereas, the State of North Carolina has previously determined that such purpose should be carried out to prevent the operation of bingo by professionals for profit, prevent commercialized gambling, prevent the disguise of bingo and other game forms or promotional schemes, and prevent participation by criminal and other undesirable elements; and

Whereas, any federally recognized Indian tribe may conduct such video poker games in accordance with an approved Class III Tribal-State Gaming Compact applicable to that tribe as provided in G.S. 147-12(14) and G.S. 71A-8; and

Whereas, the State of North Carolina has previously determined that no video poker machine may be utilized for play under Chapter 18C of the General Statutes; and

Whereas, since 2006, companies have developed electronic machines and devices to gamble through pretextual sweepstakes relationships with Internet service, telephone cards, and office supplies, among other products; and

Whereas, companies using electronic machines and devices for sweepstakes have sought, and received, declaratory relief from the courts; and

Whereas, such electronic sweepstakes systems utilizing video poker machines and other similar simulated game play create the same encouragement of vice and dissipation as other forms of gambling, in particular video poker, by encouraging repeated play, even when allegedly used as a marketing technique; and

"Whereas, it hath appeared to this General Assembly that the before recited acts hath not that good effect which was intended" (Laws of 1799, Chapter 12); Now, therefore, The General Assembly of North Carolina enacts:

SECTION 1. Article 37 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-306.4. Electronic machines and devices for sweepstakes prohibited.

(a) Definitions. – For the purposes of this section, the following definitions apply:

(1) "Electronic machine or device" means a mechanically, electrically or electronically operated machine or device, that is owned, leased or otherwise possessed by a sweepstakes sponsor or promoter, or any of the sweepstakes sponsor's or promoter's partners, affiliates, subsidiaries or contractors, that is intended to be used by a sweepstakes entrant, that uses energy, and that is capable of displaying information on a screen or other mechanism. This section is applicable to an electronic machine or device whether or not:

a. It is server-based.

- b. It uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries.
 - c. It utilizes software such that the simulated game influences or determines the winning or value of the prize.
 - d. It selects prizes from a predetermined finite pool of entries.
 - e. It utilizes a mechanism that reveals the content of a predetermined sweepstakes entry.
 - f. It predetermines the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed.
 - g. It utilizes software to create a game result.
 - h. It requires deposit of any money, coin, or token, or the use of any credit card, debit card, prepaid card, or any other method of payment to activate the electronic machine or device.
 - i. It requires direct payment into the electronic machine or device, or remote activation of the electronic machine or device.
 - j. It requires purchase of a related product.
 - k. The related product, if any, has legitimate value.
 - l. It reveals the prize incrementally, even though it may not influence if a prize is awarded or the value of any prize awarded.
 - m. It determines and associates the prize with an entry or entries at the time the sweepstakes is entered.
 - n. It is a slot machine or other form of electrical, mechanical, or computer game.
- (2) "Enter" or "entry" means the act or process by which a person becomes eligible to receive any prize offered in a sweepstakes.
- (3) "Entertaining display" means visual information, capable of being seen by a sweepstakes entrant, that takes the form of actual game play, or simulated game play, such as, by way of illustration and not exclusion:
- a. A video poker game or any other kind of video playing card game.
 - b. A video bingo game.
 - c. A video craps game.
 - d. A video keno game.
 - e. A video lotto game.
 - f. Eight liner.
 - g. Pot-of-gold.
 - h. A video game based on or involving the random or chance matching of different pictures, words, numbers, or symbols not dependent on the skill or dexterity of the player.
 - i. Any other video game not dependent on skill or dexterity that is played while revealing a prize as the result of an entry into a sweepstakes.
- (4) "Prize" means any gift, award, gratuity, good, service, credit, or anything else of value, which may be transferred to a person, whether possession of the prize is actually transferred, or placed on an account or other record as evidence of the intent to transfer the prize.
- (5) "Sweepstakes" means any game, advertising scheme or plan, or other promotion, which, with or without payment of any consideration, a person may enter to win or become eligible to receive any prize, the determination of which is based upon chance.

(b) Notwithstanding any other provision of this Part, it shall be unlawful for any person to operate, or place into operation, an electronic machine or device to do either of the following:

- (1) Conduct a sweepstakes through the use of an entertaining display, including the entry process or the reveal of a prize.
- (2) Promote a sweepstakes that is conducted through the use of an entertaining display, including the entry process or the reveal of a prize.
- (c) It is the intent of this section to prohibit any mechanism that seeks to avoid application of this section through the use of any subterfuge or pretense whatsoever.
- (d) Nothing in this section shall be construed to make illegal any activity which is lawfully conducted on Indian lands pursuant to, and in accordance with, an approved Tribal-State Gaming Compact applicable to that Tribe as provided in G.S. 147-12(14) and G.S. 71A-8.
- (e) Each violation of this section shall be considered a separate offense.
- (f) Any person who violates this section is guilty of a Class 1 misdemeanor for the first offense and is guilty of a Class H felony for a second offense and a Class G felony for a third or subsequent offense."

SECTION 2. G.S. 14-298 reads as rewritten:

"§ 14-298. Seizure of illegal gaming items.

Upon a determination that probable cause exists to believe that any gaming table prohibited to be used by G.S. 14-289 through G.S. 14-300, any illegal punchboard or illegal slot machine, ~~or any video game machine prohibited to be used by G.S. 14-306 or G.S. 14-306.1A, or any game terminal described in G.S. 14-306.3(b)~~ G.S. 14-306.3(b), or any electronic machine or device using an entertaining display in violation of G.S. 14-306.4 is in the illegal possession or use of any person within the limits of their jurisdiction, all sheriffs and law enforcement officers are authorized to seize the items in accordance with applicable State law. Any law enforcement agency in possession of that item shall retain the item pending a disposition order from a district or superior court judge. Upon application by the law enforcement agency, district attorney, or owner, and after notice and opportunity to be heard by all parties, if the court determines that the item is unlawful to possess, it shall enter an order releasing the item to the law enforcement agency for destruction or for training purposes. If the court determines that the item is not unlawful to possess and will not be used in violation of the law, the item shall be ordered released to its owner upon satisfactory proof of ownership. The foregoing procedures for release shall not apply, however, with respect to an item seized for use as evidence in any criminal action or proceeding until after entry of final judgment."

SECTION 3. G.S. 14-306(a) reads as rewritten:

"(a) Any machine, apparatus or device is a slot machine or device within the provisions of G.S. 14-296 through 14-309, if it is one that is adapted, or may be readily converted into one that is adapted, for use in such a way that, as a result of the ~~insertion~~ payment of any piece of money or coin or ~~token or other object, or any credit card, debit card, prepaid card, or any other method that requires payment to activate play, whether directly into the slot machine or device or resulting in remote activation,~~ such machine or device is caused to operate or may be operated in such manner that the user may receive or become entitled to receive any piece of money, credit, allowance or thing of value, or any check, slug, token or memorandum, whether of value or otherwise, or which may be exchanged for any money, credit, allowance or any thing of value, or which may be given in trade, or the user may secure additional chances or rights to use such machine, apparatus or device; or any other machine or device designed and manufactured primarily for use in connection with gambling and which machine or device is classified by the United States as requiring a federal gaming device tax stamp under applicable provisions of the Internal Revenue Code. This definition is intended to embrace all slot machines and similar devices except slot machines in which is kept any article to be purchased by depositing any coin or thing of value, and for which may be had any article of merchandise which makes the same return or returns of equal value each and every time it is operated, or any machine wherein may be seen any pictures or heard any music by depositing therein any coin or thing of value, or any slot weighing machine or any machine for making stencils by the use of contrivances operated by depositing in the machine any coin or thing of value, or any

lock operated by slot wherein money or thing of value is to be deposited, where such slot machines make the same return or returns of equal value each and every time the same is operated and does not at any time it is operated offer the user or operator any additional money, credit, allowance, or thing of value, or check, slug, token or memorandum, whether of value or otherwise, which may be exchanged for money, credit, allowance or thing of value or which may be given in trade or by which the user may secure additional chances or rights to use such machine, apparatus, or device, or in the playing of which the operator does not have a chance to make varying scores or tallies."

SECTION 4. G.S. 14-306.1A(b) reads as rewritten:

"(b) Definitions. – As used in this section, a video gaming machine means a slot machine as defined in G.S. 14-306(a) and other forms of electrical, mechanical, or computer games such as, by way of ~~illustration~~ illustration and not exclusion:

- (1) A video poker game or any other kind of video playing card game.
- (2) A video bingo game.
- (3) A video craps game.
- (4) A video keno game.
- (5) A video lotto game.
- (6) Eight liner.
- (7) Pot-of-gold.
- (8) A video game based on or involving the random or chance matching of different pictures, words, numbers, or symbols not dependent on the skill or dexterity of the player.
- (9) Any other video game not dependent on skill or dexterity that is played while revealing a prize as the result of an entry into a sweepstakes.

For the purpose of this section, a video gaming machine is a video machine which requires deposit of any coin or token, or use of any credit card, debit card, prepaid card, or any other method that requires ~~payment~~ payment, whether directly into the video gaming machine or resulting in remote activation, to activate play of any of the games listed in this subsection.

For the purpose of this section, a video gaming machine includes those that are within the scope of the exclusion provided in G.S. 14-306(b)(2) unless conducted in accordance with an approved Class III Tribal-State Compact applicable to that tribe as provided in G.S. 147-12(14) and G.S. 71A-8. For the purpose of this section, a video gaming machine does not include those that are within the scope of the exclusion provided in G.S. 14-306(b)(1)."

SECTION 5. Nothing in this act shall be construed to make lawful any machine or device that is unlawful under any other provision of law. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

SECTION 6. This act becomes effective December 1, 2010, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Became law upon approval of the Governor at 3:14 p.m. on the 20th day of July, 2010.

Session Law 2010-104

H.B. 859

AN ACT TO EXEMPT CERTAIN RETIRED PROBATION AND PAROLE CERTIFIED OFFICERS FROM THE FIREARM SAFETY AND TRAINING COURSE REQUIREMENT FOR PURPOSES OF THE CONCEALED HANDGUN PERMIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-415.10 is amended by adding a new subdivision to read:

"(4b) Qualified retired probation or parole certified officer. – An individual who retired from service as a State probation or parole certified officer, other than

for reasons of mental disability, who has been retired as a probation or parole certified officer two years or less from the date of the permit application and who meets all of the following criteria:

- a. Immediately before retirement, the individual met firearms training standards of the Department of Correction and was authorized by the Department of Correction to carry a handgun in the course of duty.
- b. The individual retired in good standing and was never a subject of a disciplinary action by the Department of Correction that would have prevented the individual from carrying a handgun.
- c. The individual has a vested right to benefits under the Teachers' and State Employees' Retirement System of North Carolina established under Article 1 of Chapter 135 of the General Statutes.
- d. The individual is not prohibited by State or federal law from receiving a firearm."

SECTION 2. G.S. 14-415.12A(a) reads as rewritten:

"(a) A person who is a qualified sworn law enforcement ~~officer~~ ~~or officer~~, a qualified former sworn law enforcement ~~officer~~ ~~officer~~, or a qualified retired probation or parole certified officer is deemed to have satisfied the requirement under G.S. 14-415.12(a)(4) that an applicant successfully complete an approved firearms safety and training course."

SECTION 3. This act becomes effective December 1, 2010, and applies to probation and parole officers who retired before, on, or after December 1, 2010.

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law upon approval of the Governor at 3:15 p.m. on the 20th day of July, 2010.

Session Law 2010-105

H.B. 1398

AN ACT TO CHANGE THE METHOD FOR DETERMINING THE SENIOR RESIDENT SUPERIOR COURT JUDGE FOR A DISTRICT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-41.1(b) reads as rewritten:

"(b) There shall be one and only one senior resident superior court judge for each district or set of districts as defined in subsection (a) of this section, who shall be:

- (1) Where there is only one regular resident superior court judge for the district, that judge; and
- (2) Where there are two or more regular resident superior court judges for the district or set of districts, ~~the judge who, from among all the regular resident superior court judges of the district or set of districts, has the most continuous service as a regular resident superior court judge; provided if two or more judges are of equal seniority, the oldest of those judges shall be the senior regular resident superior court judge.~~ the Chief Justice of the Supreme Court shall designate one of the judges as senior resident superior court judge to serve in that capacity at the pleasure of the Chief Justice. In exercising the authority to appoint senior resident superior court judges pursuant to this subdivision, the Chief Judge shall consider the seniority, experience, and management competence of the regular resident superior court judges. In addition, the Chief Justice shall consult with the regular resident superior court judges, the chief district court judges, the members of the district bar, the clerks of court, district attorneys, and public defenders within the district."

SECTION 2. This act becomes effective October 1, 2010, but each senior resident superior court judge seated on that date in a multi-judge district shall continue to serve as senior resident superior court judge until that judge vacates the seat.

In the General Assembly read three times and ratified this the 10th day of July, 2010.

Became law upon approval of the Governor at 3:15 p.m. on the 20th day of July, 2010.

Session Law 2010-106

H.B. 1762

AN ACT TO REQUEST THAT THE NORTH CAROLINA SUPREME COURT ESTABLISH MINIMUM STANDARDS OF DOMESTIC VIOLENCE EDUCATION AND TRAINING FOR DISTRICT COURT JUDGES, AND TO ENCOURAGE THE UNIVERSITY OF NORTH CAROLINA SCHOOL OF GOVERNMENT TO PROVIDE DOMESTIC VIOLENCE EDUCATION AND TRAINING FOR JUDGES AND MAGISTRATES, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMITTEE ON DOMESTIC VIOLENCE.

The General Assembly of North Carolina enacts:

SECTION 1. The North Carolina Supreme Court is respectfully requested to adopt rules establishing minimum standards of education and training for district court judges in handling civil and criminal domestic violence cases.

SECTION 2. The University of North Carolina School of Government is encouraged to provide education and training opportunities for district court judges and magistrates in the handling of civil and criminal domestic violence cases.

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

In the General Assembly read three times and ratified this the 7th day of July, 2010.

Became law upon approval of the Governor at 3:16 p.m. on the 20th day of July, 2010.

Session Law 2010-107

H.B. 1115

AN ACT TO AUTHORIZE ELECTRONIC NOTIFICATION TO THE MEDIA WHENEVER THE POST-RELEASE SUPERVISION AND PAROLE COMMISSION IS CONSIDERING PAROLE FOR A PERSON SERVING A LIFE SENTENCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-1371(b)(3) reads as rewritten:

"(3) Whenever the Post-Release Supervision and Parole Commission will be considering for parole a prisoner serving a sentence of life imprisonment the Commission must notify, at least 30 days in advance of considering the parole, by first class mail at the last known address:

- a. The prisoner;
- b. The district attorney of the district where the prisoner was convicted;
- c. The head of the law enforcement agency that arrested the prisoner and the sheriff of the county where the crime occurred;
- d. Any of the victim's immediate family members who have requested in writing to be notified; and
- e. Repealed by Session Laws 1993, c. 538, s. 22.
- f. As many newspapers of general circulation and other media in the county where the defendant was convicted and if different, in the county where the prisoner was charged, as reasonable. The Commission may elect to use electronic means rather than the mail to

notify the media under this sub-subdivision if such notification would be more timely and cost-effective.

The Post-Release Supervision and Parole Commission must consider any information provided by any such parties before consideration of parole. The Commission must also give the district attorney, the head of the law enforcement agency who has requested in writing to be notified, the victim, any member of the victim's immediate family who has requested to be notified, and as many newspapers of general circulation and other media in the county or counties designated in sub-subdivision f. of this section as reasonable, written notice of its decision within 10 days of that decision. The Commission may elect to use electronic means rather than the mail to notify the media under this paragraph if such notification would be more timely and cost-effective. The Parole Commission shall not, however, include the name of any victim in its notification to the newspapers and other media."

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

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law upon approval of the Governor at 3:17 p.m. on the 20th day of July,

2010.

Session Law 2010-108

H.B. 1260

AN ACT TO PROVIDE THAT A PERSON CONVICTED ONLY OF A SINGLE NONVIOLENT FELONY AND NO VIOLENT MISDEMEANORS AND WHOSE CITIZENSHIP RIGHTS HAVE BEEN RESTORED FOR A PERIOD OF AT LEAST TWENTY YEARS MAY PETITION THE COURT TO RESTORE THE PERSON'S FIREARMS RIGHTS IN THIS STATE SO THAT THE DISENTITLEMENT UNDER THE FELONY FIREARMS ACT DOES NOT APPLY AND ALSO TO AMEND THE FELONY FIREARMS ACT TO ALLOW EXCEPTIONS FOR CERTAIN WHITE COLLAR CRIME CONVICTIONS THAT ARE SIMILAR TO THE EXCEPTIONS ALLOWED UNDER FEDERAL LAW.

The General Assembly of North Carolina enacts:

SECTION 1. Article 54A of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-415.4. Restoration of firearms rights.

(a) Definitions. – The following definitions apply in this section:

(1) Firearms rights. – The legal right in this State of a person to purchase, own, possess, or have in the person's custody, care, or control any firearm or any weapon of mass death and destruction as those terms are defined in G.S. 14-415.1 and G.S. 14-288.8(c). The term does not include any weapon defined in G.S. 14-409(a).

(2) Nonviolent felony. – The term nonviolent felony does not include any felony that is a Class A, Class B1, or Class B2 felony. Also, the term nonviolent felony does not include any Class C through Class I felony that is one of the following:

a. An offense that includes assault as an essential element of the offense.

b. An offense that includes the possession or use of a firearm or other deadly weapon as an essential or nonessential element of the offense, or the offender was in possession of a firearm or other deadly weapon at the time of the commission of the offense.

c. An offense for which the offender was armed with or used a firearm or other deadly weapon.

d. An offense for which the offender must register under Article 27A of Chapter 14 of the General Statutes.

(b) Purpose. – It is the purpose of this section to establish a procedure that allows a North Carolina resident who was convicted of a single nonviolent felony and whose citizenship rights have been restored pursuant to Chapter 13 of the General Statutes to petition the court to remove the petitioner's disenfranchisement under G.S. 14-415.1 and to restore the person's firearms rights in this State. If the single nonviolent felony conviction was an out-of-state conviction or a federal conviction, then the North Carolina resident shall show proof of the restoration of his or her civil rights and the right to possess a firearm in the jurisdiction where the conviction occurred. Restoration of a person's firearms rights under this section means that the person may purchase, own, possess, or have in the person's custody, care, or control any firearm or any weapon of mass death and destruction as those terms are defined in G.S. 14-415.1 and G.S. 14-288.8(c) without being in violation of G.S. 14-415.1, if otherwise qualified.

(c) Petition for Restoration of Firearms Rights. – A person who was convicted of a nonviolent felony in North Carolina but whose civil rights have been restored pursuant to Chapter 13 of the General Statutes for a period of at least 20 years may petition the district court in the district where the person resides to restore the person's firearms rights pursuant to this section. A person who was convicted of a nonviolent felony in a jurisdiction other than North Carolina may petition the district court in the district where the person resides to restore the person's firearms rights pursuant to this section only if the person's civil rights, including the right to possess a firearm, have been restored, pursuant to the law of the jurisdiction where the conviction occurred, for a period of at least 20 years. The court may restore a petitioner's firearms rights after a hearing in court if the court determines that the petitioner meets the criteria set out in this section and is not otherwise disqualified to have that right restored.

(d) Criteria. – The court may grant a petition to restore a person's firearms rights under this section if the petitioner satisfies all of the following criteria and is not otherwise disqualified to have that right restored:

- (1) The petitioner is a resident of North Carolina and has been a resident of the State for one year or longer immediately preceding the filing of the petition.
- (2) The petitioner has only one felony conviction and that conviction is for a nonviolent felony. For purposes of this subdivision, multiple felony convictions arising out of the same event and consolidated for sentencing shall count as one felony only.
- (3) The petitioner's rights of citizenship have been restored pursuant to Chapter 13 of the General Statutes or, if the conviction was in a jurisdiction other than North Carolina, have been restored, pursuant to the laws of the jurisdiction where the conviction occurred, for a period of at least 20 years before the date of the filing of the petition.
- (4) The petitioner has not been convicted under the laws of the United States, the laws of this State, or the laws of any other state of any misdemeanor as described in subdivision (6) of subsection (e) of this section since the conviction of the nonviolent felony.
- (5) The petitioner submits his or her fingerprints to the sheriff of the county in which the petitioner resides for a criminal background check pursuant to G.S. 114-19.28.
- (6) The petitioner is not disqualified under subsection (e) of this section.

(e) Disqualifiers Requiring Denial of Petition. – The court shall deny the petition to restore the firearms rights of any petitioner if the court finds any of the following:

- (1) The petitioner is ineligible to purchase, own, possess, or have in the person's custody, care, or control a firearm under the provisions of any law in North Carolina other than G.S. 14-415.1.
- (2) The petitioner is under indictment for a felony or a finding of probable cause exists against the petitioner for a felony.

- (3) The petitioner is a fugitive from justice.
- (4) The petitioner is an unlawful user of, or addicted to, marijuana, alcohol, or any depressant, stimulant, or narcotic drug, or any other controlled substance as defined in 21 U.S.C. § 802.
- (5) The petitioner is or has been dishonorably discharged from the armed forces.
- (6) The petitioner is or has been adjudicated guilty of or received a prayer for judgment continued or suspended sentence for one or more crimes of violence constituting a misdemeanor, including a misdemeanor under Article 8 of Chapter 14 of the General Statutes, or a misdemeanor under G.S. 14-225.2, 14-226.1, 14-258.1, 14-269.2, 14-269.3, 14-269.4, 14-269.6, 14-276.1, 14-277, 14-277.1, 14-277.2, 14-277.3, 14-281.1, 14-283, 14-288.2, 14-288.4(a)(1) or (2), 14-288.6, 14-288.9, 14-288.12, 14-288.13, 14-288.14, 14-318.2, 14-415.21(b), or 14-415.26(d), or a substantially similar out-of-state or federal offense.
- (7) The petitioner has had entry of a prayer for judgment continued for a felony, in addition to the nonviolent felony conviction.
- (8) The petitioner is free on bond or personal recognizance pending trial, appeal, or sentencing for a crime which would prohibit the person from having his or her firearms rights restored under this section.
- (9) An emergency order, ex parte order, or protective order has been issued pursuant to Chapter 50 B of the General Statutes or a similar out-of-state or federal order has been issued against the petitioner and the court order issued is still in effect.
- (10) A civil no-contact order has been issued pursuant to Chapter 50C of the General Statutes or a similar out-of-state or federal order has been issued against the petitioner and the court order issued is still in effect.

(f) Notice of Hearing and Hearing Procedure. – The clerk of court shall provide notice of the hearing to the district attorney in the district in which the petition is filed at least four weeks before the hearing on the matter. The petitioner may present evidence in support of the petition, and the district attorney may present evidence in opposition to the requested restoration of firearms rights or may otherwise demonstrate the reasons why the petition should be denied. The burden is on the petitioner to establish by a preponderance of the evidence that the petitioner is qualified to receive the restoration under subsection (d) of this section and that the petitioner is not disqualified under subsection (e) of this section.

(g) Right to Petition Again Upon Denial of Petition. – If the court denies the petition, the person may again petition the court for restoration of his or her firearms rights in accordance with this section one year from the date of the denial of the original petition. However, if the sole basis for the denial of the petition are the grounds set out under G.S. 14-415.4(e)(9) or (10), then the person does not have to wait for one year from the date of denial of the original petition but may petition again upon the expiration of the order.

(h) Certified Copies of Order Granting Petition to Sheriff. – Department of Justice, and national instant background check system index. – If the court grants the petition to restore the petitioner's firearms rights, the clerk of court shall forward within 10 days of the entry of the order a certified copy of the order to the sheriff of the county in which the petitioner resides, the North Carolina Department of Justice, and the denied person's file of the national instant criminal background check system index.

(i) Restoration is Not an Expunction or Pardon. – A restoration of firearms rights under this section does not result in the expunction of any criminal history record information nor does it constitute a pardon.

(j) Automatic Revocation Upon Conviction of a Subsequent Felony. – If a person's firearms rights are restored under this section and the person is convicted of a second or subsequent felony, then the person's firearms rights are automatically revoked and shall not be restored under this section.

(k) Fee. – A person who files a petition for restoration of firearms rights under this section shall pay the clerk of court a fee of two hundred dollars (\$200.00) at the time the petition is filed. Fees collected under this subsection shall be deposited in the General Fund. This subsection does not apply to petitions filed by an indigent.

(l) Criminal Offense to Submit False Information. – A person who knowingly and willfully submits false information under this section is guilty of a Class 1 misdemeanor. In addition, a person who is convicted of an offense under this subsection is permanently prohibited from petitioning to restore his or her firearms rights under this section."

SECTION 2. Chapter 114 of the General Statutes is amended by adding a new section to read:

"§ 114-19.28. Criminal record checks of petitioners for restoration of firearms rights.

(a) A person who petitions the court to have the person's firearms rights restored shall submit a full set of the petitioner's fingerprints, to be administered by the sheriff. The petitioner shall also submit to the sheriff a form signed by the petitioner consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the State Bureau of Investigation or the Federal Bureau of Investigation. The sheriff shall forward the set of fingerprints and the signed consent form to the State Bureau of Investigation for a records check of State and national databases.

(b) Upon receipt of the fingerprints and consent form forwarded by the sheriff pursuant to subsection (a) of this section, the State Bureau of Investigation shall conduct a search of the State criminal history record file and shall forward a set of the fingerprints and a copy of the signed consent form to the Federal Bureau of Investigation for a national criminal history record check.

(c) The State Bureau of Investigation shall provide a copy of the information obtained pursuant to this section to the clerk of superior court to be placed in a separate confidential court file for the petition for restoration of firearms rights.

(d) The Department of Justice may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information."

SECTION 3. G.S. 14-415.1 is amended by adding the following new subsections to read:

"(d) This section does not apply to a person whose firearms rights have been restored under G.S. 14-415.4, unless the person is convicted of a subsequent felony after the petition to restore the person's firearms rights is granted.

(e) This section does not apply and there is no disentanglement under this section if the felony conviction is a violation under the laws of North Carolina, another state, or the United States that pertains to antitrust violations, unfair trade practices, or restraints of trade."

SECTION 4. G.S. 14-404(c) reads as rewritten:

"(c) A permit may not be issued to the following persons:

- (1) One who is under an indictment or information for or has been convicted in any state, or in any court of the United States, of a felony (other than an offense pertaining to antitrust violations, unfair trade practices, or restraints of trade). However, a person who has been convicted of a felony in a court of any state or in a court of the United States and (i) who is later pardoned, or (ii) whose firearms rights have been restored pursuant to G.S. 14-415.4, may obtain a permit, if the purchase or receipt of a pistol or crossbow permitted in this Article does not violate a condition of the ~~pardon~~-pardon or restoration of firearms rights.
- (2) One who is a fugitive from justice.
- (3) One who is an unlawful user of or addicted to marijuana or any depressant, stimulant, or narcotic drug (as defined in 21 U.S.C. § 802).

- (4) One who has been adjudicated mentally incompetent or has been committed to any mental institution.
- (5) One who is an alien illegally or unlawfully in the United States.
- (6) One who has been discharged from the armed forces under dishonorable conditions.
- (7) One who, having been a citizen of the United States, has renounced his or her citizenship.
- (8) One who is subject to a court order that:
 - a. Was issued after a hearing of which the person received actual notice, and at which the person had an opportunity to participate;
 - b. Restrains the person from harassing, stalking, or threatening an intimate partner of the person or child of the intimate partner of the person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and
 - c. Includes a finding that the person represents a credible threat to the physical safety of the intimate partner or child; or by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against the intimate partner or child that would reasonably be expected to cause bodily injury."

SECTION 5. G.S. 14-415.12(b) reads as rewritten:

"(b) The sheriff shall deny a permit to an applicant who:

- (1) Is ineligible to own, possess, or receive a firearm under the provisions of State or federal law.
- (2) Is under indictment or against whom a finding of probable cause exists for a felony.
- (3) Has been adjudicated guilty in any court of a ~~felony~~ felony, unless: (i) the felony is an offense that pertains to antitrust violations, unfair trade practices, or restraints of trade, or (ii) the person's firearms rights have been restored pursuant to G.S. 14-415.4.
- (4) Is a fugitive from justice.
- (5) Is an unlawful user of, or addicted to marijuana, alcohol, or any depressant, stimulant, or narcotic drug, or any other controlled substance as defined in 21 U.S.C. § 802.
- (6) Is currently, or has been previously adjudicated by a court or administratively determined by a governmental agency whose decisions are subject to judicial review to be, lacking mental capacity or mentally ill. Receipt of previous consultative services or outpatient treatment alone shall not disqualify an applicant under this subdivision.
- (7) Is or has been discharged from the armed forces under conditions other than honorable.
- (8) Is or has been adjudicated guilty of or received a prayer for judgment continued or suspended sentence for one or more crimes of violence constituting a misdemeanor, including but not limited to, a violation of a misdemeanor under Article 8 of Chapter 14 of the General Statutes, or a violation of a misdemeanor under G.S. 14-225.2, 14-226.1, 14-258.1, 14-269.2, 14-269.3, 14-269.4, 14-269.6, 14-276.1, 14-277, 14-277.1, 14-277.2, 14-277.3A, 14-281.1, 14-283, 14-288.2, 14-288.4(a)(1) or (2), 14-288.6, 14-288.9, 14-288.12, 14-288.13, 14-288.14, 14-318.2, 14-415.21(b), 14-415.26(d), or former G.S. 14-277.3.
- (9) Has had entry of a prayer for judgment continued for a criminal offense which would disqualify the person from obtaining a concealed handgun permit.

- (10) Is free on bond or personal recognizance pending trial, appeal, or sentencing for a crime which would disqualify him from obtaining a concealed handgun permit.
- (11) Has been convicted of an impaired driving offense under G.S. 20-138.1, 20-138.2, or 20-138.3 within three years prior to the date on which the application is submitted."

SECTION 6. The Attorney General shall send a copy of this act to the United States Attorney General, the United States Department of Justice, and the federal Bureau of Alcohol, Tobacco, and Firearms for review and shall ask for a determination of the following: (i) whether a person who has his or her firearms rights restored pursuant to this act can legally purchase and possess a firearm under federal law, and (ii) whether a person who falls under the exception to the State Felony Firearms Act regarding antitrust violations, unfair trade practices, or restraints of trade as enacted by this act can legally purchase and possess a firearm under federal law. The Attorney General shall report the response to the Joint Legislative Corrections, Crime Control and Juvenile Justice Oversight Committee.

SECTION 7. Sec. 6 of this act is effective when it becomes law. The remainder of the act becomes effective February 1, 2011, and applies to offenses committed on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

In the General Assembly read three times and ratified this the 6th day of July, 2010.

Became law upon approval of the Governor at 3:17 p.m. on the 20th day of July, 2010.

Session Law 2010-109

S.B. 1323

AN ACT TO AMEND THE NUMBER AND COMPOSITION OF THE MEMBERSHIP OF THE BOARD OF DIRECTORS OF THE STATE EDUCATION ASSISTANCE AUTHORITY, AS RECOMMENDED BY THE JOINT SELECT COMMITTEE ON STATE-FUNDED STUDENT FINANCIAL AID.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116-203 reads as rewritten:

"§ 116-203. Authority created as subdivision of State; appointment, terms and removal of board of directors; officers; quorum; expenses and compensation of directors.

(a) Authority Created. – There is hereby created and constituted a political subdivision of the State to be known as the "State Education Assistance Authority." The exercise by the Authority of the powers conferred by this Article shall be deemed and held to be the performance of an essential governmental function.

~~The Authority shall be governed by a board of directors consisting of seven members, each of whom shall be appointed by the Governor. Two of the first members of the board appointed by the Governor shall be appointed for terms of one year, two for terms of two years, two for terms of three years, and one for a term of four years from the date of their appointment; and thereafter the members of the board shall be appointed for terms of four years. Vacancies in the membership of the board shall be filled by appointment of the Governor for the unexpired portion of the term. Members of the board shall be subject to removal from office in like manner as are State, county, town and district officers. Immediately after such appointment, the directors shall enter upon the performance of their duties. The board shall annually elect one of its members as chairman and another as vice chairman, and shall also elect annually a secretary, or a secretary treasurer, who may or may not be a member of the board. The chairman, or in his absence, the vice chairman, shall preside at all meetings of the board. In the absence of both the chairman and vice chairman, the board shall appoint a chairman pro tempore, who shall preside at such meetings. Four directors shall constitute a quorum for the~~

~~transaction of the business of the Authority, and no vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority. The favorable vote of at least a majority of the members of the board present at any meeting is required for the adoption of any resolution or motion or for other official action. The members of the board are entitled to the travel expenses, subsistence allowances and compensation provided in G.S. 138-5. These expenses and compensation shall be paid from funds provided under this Article, or as otherwise provided.~~

(b) Membership. – The Authority shall be governed by a board of directors consisting of nine members, seven of whom shall be appointed by the Governor and two of whom shall be ex officio. The members shall be as follows:

- (1) Seven members appointed by the Governor, three of whom shall have expertise in secondary or higher education, two of whom shall have expertise in finance, one of whom shall be a member of the public at large with an interest in higher education, and one of whom shall be a chief financial officer from a college or university that is a member of North Carolina Independent Colleges and Universities, Inc., appointed upon the recommendation of North Carolina Independent Colleges and Universities, Inc.
- (2) The chief financial officer of The University of North Carolina shall serve as an ex officio member.
- (3) The chief financial officer of the North Carolina Community College System shall serve as an ex officio member.

(c) Terms. – Members appointed by the Governor shall serve for a term of four years and until their successors are appointed and duly qualified. Immediately after appointment, the directors shall enter upon the performance of their duties.

(d) Vacancies. – A vacancy in an appointment made by the Governor shall be filled by the Governor in the same manner as the original appointment for the remainder of the unexpired term.

(e) Removal. – The Governor may remove any member of the board of directors appointed by the Governor for misfeasance, malfeasance, or nonfeasance.

(f) Officers. – The board shall annually elect one of its members as chair and another as vice-chair and shall also elect annually a secretary, or a secretary-treasurer, who may or may not be a member of the board. The chair, or in the chair's absence, the vice-chair, shall preside at all meetings of the board. In the absence of both the chair and vice-chair, the board shall appoint a chair pro tempore, who shall preside at such meetings.

(g) Quorum. – Five directors shall constitute a quorum for the transaction of the business of the Authority, and no vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority. The favorable vote of at least a majority of the members of the board present at any meeting is required for the adoption of any resolution or motion or for other official action.

(h) Expenses. – The members of the board shall receive per diem and allowances as provided in G.S. 138-5 and G.S. 138-6. These expenses and compensation shall be paid from funds provided under this Article, or as otherwise provided."

SECTION 2. Notwithstanding G.S. 116-203, as enacted by Section 1 of this act, members serving on the board of directors of the North Carolina State Education Assistance Authority on the effective date of this act may complete the terms for which they were appointed. When the term of any of the seven members appointed by the Governor expires, the vacancy shall be filled as follows:

- (1) Of the members appointed by the Governor whose terms expired on January 15, 2010, the Governor shall appoint one member who has expertise in secondary or higher education and one member who is a chief financial officer from a college or university that is a member of the North Carolina Independent Colleges and Universities, Inc., upon the recommendation of

that organization. The terms of these two members shall be deemed to have begun on January 15, 2010.

- (2) Of the members appointed by the Governor whose terms expire on January 15, 2011, the Governor shall appoint one member who has expertise in secondary or higher education and one member from the public at large who has an interest in higher education.
- (3) Of the members appointed by the Governor whose terms expire on January 15, 2012, the Governor shall appoint one member who has expertise in secondary or higher education and one member who has expertise in finance.
- (4) When the member appointed by the Governor whose term expires on January 15, 2013, completes that term, the Governor shall appoint a member who has expertise in finance.

Members described in this section shall serve for the terms for which they were appointed and until their successors are appointed and qualified.

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

In the General Assembly read three times and ratified this the 1st day of July, 2010.

Became law upon approval of the Governor at 3:18 p.m. on the 20th day of July, 2010.

Session Law 2010-110

H.B. 1669

AN ACT TO REQUIRE SCHOOL IMPROVEMENT TEAMS TO USE EVAAS OR A COMPATIBLE AND COMPARABLE SYSTEM APPROVED BY THE STATE BOARD OF EDUCATION TO COLLECT DIAGNOSTIC INFORMATION ON STUDENTS AND TO USE THAT INFORMATION TO IMPROVE STUDENT ACHIEVEMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-105.27(a) reads as rewritten:

"§ **115C-105.27. Development and approval of school improvement plans.**

(a) In order to improve student performance, each school shall develop a school improvement plan that takes into consideration the annual performance goal for that school that is set by the State Board under G.S. 115C-105.35 and the goals set out in the mission statement for the public schools adopted by the State Board of Education. The principal of each school, representatives of the assistant principals, instructional personnel, instructional support personnel, and teacher assistants assigned to the school building, and parents of children enrolled in the school shall constitute a school improvement team to develop a school improvement plan to improve student performance. Representatives of the assistant principals, instructional personnel, instructional support personnel, and teacher assistants shall be elected by their respective groups by secret ballot. Unless the local board of education has adopted an election policy, parents shall be elected by parents of children enrolled in the school in an election conducted by the parent and teacher organization of the school or, if none exists, by the largest organization of parents formed for this purpose. Parents serving on school improvement teams shall reflect the racial and socioeconomic composition of the students enrolled in that school and shall not be members of the building-level staff. Parental involvement is a critical component of school success and positive student achievement; therefore, it is the intent of the General Assembly that parents, along with teachers, have a substantial role in developing school improvement plans. To this end, school improvement team meetings shall be held at a convenient time to assure substantial parent participation.

All school improvement plans shall be, to the greatest extent possible, data-driven. School improvement teams shall use the Education Value Added Assessment System (EVAAS) or a compatible and comparable system approved by the State Board of Education, to analyze student data to identify root causes for problems and to determine actions to address them.

School improvement plans shall contain clear, unambiguous targets, explicit indicators and actual measures, and expeditious time frames for meeting the measurement standards."

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

In the General Assembly read three times and ratified this the 1st day of July, 2010.

Became law upon approval of the Governor at 3:18 p.m. on the 20th day of July, 2010.

Session Law 2010-111

S.B. 1246

AN ACT TO DIRECT THE STATE BOARD OF EDUCATION TO DEVELOP A GROWTH MODEL FOR ESTABLISHING SHORT-TERM ANNUAL GOALS FOR IMPROVING THE FOUR-YEAR COHORT GRADUATION RATE, TO ESTABLISH A LONG-TERM GOAL OF INCREASING THE STATEWIDE FOUR-YEAR COHORT GRADUATION RATE, AND TO ALLOW MILITARY DEPENDANTS WHOSE PARENTS ARE DEPLOYED TO ATTEND SCHOOL BEFORE THE AGE OF FIVE IN NORTH CAROLINA IF ELIGIBLE IN THE STATE WHERE THE CHILD'S PARENT IS PERMANENTLY STATIONED.

The General Assembly of North Carolina enacts:

SECTION 1. Prior to the 2010-2011 school year, the State Board of Education shall:

- (1) Develop a growth model establishing annual goals for continuous and substantial improvement in the four-year cohort graduation rate by local school administrative units.
- (2) Establish as a short-term goal that local school administrative units meet the annual growth model goals for improvement in the four-year cohort graduation rate beginning with the graduating class of 2011 and continuing annually thereafter.
- (3) Establish as long-term minimum goals statewide four-year cohort graduation rates of seventy-four percent (74%) by 2014; eighty percent (80%) by 2016; and ninety percent (90%) by 2018.
- (4) Establish as a long-term goal with benchmarks and recommendations to reach a statewide four-year cohort graduation rate of one hundred percent (100%).

The State Board of Education shall report to the Joint Legislative Education Oversight Committee by November 15, 2010, and annually thereafter on the goals, benchmarks, and recommendations described in this section. Such goals, benchmarks, and recommendations shall appropriately differentiate for students with disabilities and other specially identified subcategories within each four-year cohort. The report shall include goals and benchmarks by local school administrative unit, the strategies and recommendations for achieving the goals and benchmarks, any evidence or data supporting the strategies and recommendations, and the identity of the persons employed by the State Board of Education who are responsible for oversight of local school administrative units in achieving the goals and benchmarks.

SECTION 2. G.S. 115C-364(a) is amended by adding a new subdivision to read:

"(a) A child who is presented for enrollment at any time during the first 120 days of a school year is entitled to initial entry into the public schools if:

- (1) The child reaches or reached the age of five on or before August 31 of that school year; or
- (2) The child did not reach the age of five on or before August 31 of that school year, but has been attending school during that school year in another state in accordance with the laws or rules of that state before the child moved to and became a resident of North Carolina.

- (3) The child did not reach the age of five on or before August 31 of that school year, but would be eligible to attend school during that school year in another state in accordance with the laws or rules of that state, if all of the following apply:
- a. The child's parent is a legal resident of North Carolina who is an active member of the uniformed services assigned to a permanent duty station in another state.
 - b. The child's parent is the sole legal custodian of the child.
 - c. The child's parent is deployed for duty away from the permanent duty station.
 - d. The child resides with an adult who is a domiciliary of a local school administrative unit in North Carolina as a result of the parent's deployment away from the permanent duty station."

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

In the General Assembly read three times and ratified this the 7th day of July, 2010.

Became law upon approval of the Governor at 3:19 p.m. on the 20th day of July, 2010.

Session Law 2010-112

H.B. 357

AN ACT TO DIRECT THE STATE BOARD OF EDUCATION, THE STATE BOARD OF COMMUNITY COLLEGES, AND THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA TO ADOPT RULES OR POLICIES PERTAINING TO RELIGIOUS HOLIDAYS AND THE ACADEMIC WORK MISSED BECAUSE OF THE OBSERVANCE OF THOSE HOLIDAYS AND TO DIRECT PUBLIC SCHOOLS TO INSTRUCT STUDENTS ON THE SIGNIFICANCE OF MEMORIAL DAY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-379 reads as rewritten:

"§ **115C-379. Method of enforcement.**

It shall be the duty of the State Board of Education to formulate the rules that may be necessary for the proper enforcement of the provisions of this Part. The Board shall prescribe (i) what shall constitute unlawful absence, (ii) what causes may constitute legitimate excuses for temporary nonattendance due to a student's physical or mental inability to attend or a student's participation in a valid educational opportunity such as service as a legislative page or a Governor's page, and (iii) under what circumstances teachers, principals, or superintendents may excuse pupils for nonattendance due to immediate demands of the farm or the home in certain seasons of the year in the several sections of the State.

The rules shall require school principals to authorize a minimum of two excused absences each academic year for religious observances required by the faith of a student or the student's parents. The rules may require that the student's parents give the principal written notice of the request for an excused absence a reasonable time prior to the religious observance. The student shall be given the opportunity to make up any tests or other work missed due to an excused absence for a religious observance.

It shall be the duty of all school officials to carry out such instructions from the State Board of Education, and any school official failing to carry out such instructions shall be guilty of a Class 3 misdemeanor: Provided, that the compulsory attendance law herein prescribed shall not be in force in any local school administrative unit that has a higher compulsory attendance feature than that provided herein."

SECTION 2. G.S. 115D-5 is amended by adding a new subsection to read:

"(u) The State Board of Community Colleges shall direct each community college to adopt a policy that authorizes a minimum of two excused absences each academic year for

religious observances required by the faith of a student. The policy may require that the student provide written notice of the request for an excused absence a reasonable time prior to the religious observance. The policy shall also provide that the student shall be given the opportunity to make up any tests or other work missed due to an excused absence for a religious observance."

SECTION 3. G.S. 116-11 is amended by adding a new subdivision to read:

"(3a) The Board of Governors shall direct each constituent institution to adopt a policy that authorizes a minimum of two excused absences each academic year for religious observances required by the faith of a student. The policy may require that the student provide written notice of the request for an excused absence a reasonable time prior to the religious observance. The policy shall also provide that the student shall be given the opportunity to make up any tests or other work missed due to an excused absence for a religious observance."

SECTION 4.(a) G.S. 115C-12(33) reads as rewritten:

"(33) Duty to Develop Recommended Programs for Use in Schools on Memorial Day. – The State Board of Education shall develop recommended instructional programs that enable students to gain a better understanding of the meaning and importance of Memorial Day. All schools, especially schools that hold school on Memorial Day, shall ~~recognize~~ instruct students on the significance of Memorial Day."

SECTION 4.(b) The State Board of Education shall report to the Joint Legislative Education Oversight Committee by January 15, 2011, on the instructional programs developed in accordance with G.S. 115C-12(33), as rewritten by subsection (a) of this section.

SECTION 5. This act is effective when it becomes law and applies beginning with the 2010-2011 academic year.

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law upon approval of the Governor at 3:19 p.m. on the 20th day of July, 2010.

Session Law 2010-113

S.B. 740

AN ACT TO GIVE COMMUNITY COLLEGE BOARDS ADDITIONAL FLEXIBILITY IN SETTING THE SALARY OF COMMUNITY COLLEGE PRESIDENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-5(a) reads as rewritten:

"(a) The State Board of Community Colleges may adopt and execute such policies, regulations and standards concerning the establishment, administration, and operation of institutions as the State Board may deem necessary to insure the quality of educational programs, to promote the systematic meeting of educational needs of the State, and to provide for the equitable distribution of State and federal funds to the several institutions.

The State Board of Community Colleges shall establish standards and scales for salaries and allotments paid from funds administered by the State Board, and all employees of the institutions shall be exempt from the provisions of the State Personnel Act. Any and all salary caps set by the State Board for community college presidents shall apply only to the State-paid portion of the salary. Except as otherwise provided by law, the employer contribution rate on the local-paid portion of the salary, to be paid from local funds, shall be set by the State Treasurer based on actuarial recommendations. The State Board shall have authority with respect to individual institutions: to approve sites, capital improvement projects, budgets; to approve the selection of the chief administrative officer; to establish and administer standards for professional personnel, curricula, admissions, and graduation; to regulate the awarding of degrees, diplomas, and certificates; to establish and regulate student tuition and fees within

policies for tuition and fees established by the General Assembly; and to establish and regulate financial accounting procedures.

The State Board of Community Colleges shall require all community colleges to meet the faculty credential requirements of the Southern Association of Colleges and Schools for all community college programs."

SECTION 1.1. For the 2010-2011 fiscal year, the employer contribution rate on the local paid portion of the salary under G.S. 115D-5(a) is twelve and twenty-nine hundredths percent (12.29%).

SECTION 2. This act becomes effective July 1, 2010.

In the General Assembly read three times and ratified this the 7th day of July, 2010.

Became law upon approval of the Governor at 3:21 p.m. on the 20th day of July, 2010.

Session Law 2010-114

H.B. 593

AN ACT TO MODIFY THE SCHOOL CALENDAR LAW REGARDING WAIVERS FOR GOOD CAUSE DUE TO INCLEMENT WEATHER OR EMERGENCY CONDITIONS, AND TO LIMIT THE USE OF PUBLIC FUNDS BY COUNTIES, MUNICIPALITIES, AND LOCAL BOARDS OF EDUCATION TO ENDORSE OR OPPOSE A REFERENDUM, ELECTION, OR CANDIDATE FOR OFFICE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-84.2(d) reads as rewritten:

"(d) Opening and Closing Dates. – Local boards of education shall determine the dates of opening and closing the public schools under subdivision (a)(1) of this section. Except for year-round schools, the opening date for students shall not be before August 25, and the closing date for students shall not be after June 10. On a showing of good cause, the State Board of Education may waive this requirement to the extent that school calendars are able to provide sufficient days to accommodate anticipated makeup days due to school closings. A local board may revise the scheduled closing date if necessary in order to comply with the minimum requirements for instructional days or instructional time. For purposes of this subsection, the term "good cause" means either that:

- (1) schools in any local school administrative unit in a county have been closed eight days per year during any four of the last 10 years because of severe weather conditions, energy shortages, power failures, or other emergency ~~situations~~ situations; or
- (2) schools in any local school administrative unit in a county have been closed for all or part of eight days per year during any four of the last 10 years because of severe weather conditions. For purposes of this subdivision, a school shall be deemed to be closed for part of a day if it is closed for two or more hours.

The State Board also may waive this requirement for an educational purpose. The term "educational purpose" means a local school administrative unit establishes a need to adopt a different calendar for (i) a specific school to accommodate a special program offered generally to the student body of that school, (ii) a school that primarily serves a special population of students, or (iii) a defined program within a school. The State Board may grant the waiver for an educational purpose for that specific school or defined program to the extent that the State Board finds that the educational purpose is reasonable, the accommodation is necessary to accomplish the educational purpose, and the request is not an attempt to circumvent the opening and closing dates set forth in this subsection. The waiver requests for educational purposes shall not be used to accommodate system-wide class scheduling preferences.

The required opening and closing dates under this subsection shall not apply to any school that a local board designated as having a modified calendar for the 2003-2004 school year or to

any school that was part of a planned program in the 2003-2004 school year for a system of modified calendar schools, so long as the school operates under a modified calendar."

SECTION 1.5.(a) Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-456. Limitation on the use of public funds.

A county shall not use public funds to endorse or oppose a referendum, election or a particular candidate for elective office."

SECTION 1.5.(b) Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-499.3. Limitation on the use of public funds.

A municipality shall not use public funds to endorse or oppose a referendum, election or a particular candidate for elective office."

SECTION 1.5.(c) Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-46.1. Limitation on the use of public funds.

A local board of education shall not use public funds to endorse or oppose a referendum, election or a particular candidate for elective office."

SECTION 2. This act is effective when it becomes law and applies beginning with the 2010-2011 school year.

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law upon approval of the Governor at 3:21 p.m. on the 20th day of July, 2010.

Session Law 2010-115

S.B. 1152

AN ACT AUTHORIZING THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE TO DIRECT THE PROGRAM EVALUATION DIVISION TO STUDY INDIRECT COSTS UNDER CHILD NUTRITION PROGRAMS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Joint Legislative Program Evaluation Oversight Committee shall include in the 2010 Work Plan for the Program Evaluation Division of the General Assembly a study of the operation of the Child Nutrition Program. The Division shall examine (i) the guidelines for assessing direct and indirect operating costs to local child nutrition programs in local school administrative units, including rent, costs assessed on a square footage basis, maintenance, utilities, and any other costs charged or allocated to food services; (ii) discrepancies in how local school administrative units calculate and report indirect costs for child nutrition programs, the impact of these discrepancies on child nutrition programs, and whether local school administrative units are charging these indirect costs to incorrect budget items; (iii) federal guidelines on minimum fund balances for child nutrition programs and whether all local child nutrition programs in local school administrative units are in compliance with these guidelines; (iv) practices in other states regarding the operation of child nutrition programs, including procedures for assessment of indirect costs and guidelines for fund balances; (v) funding requirements necessary for elementary, middle, and high schools to implement the nutrition standards implemented by S.L. 2005-457, as amended by Section 7.36A of S.L. 2007-323 and Section 7.25 of S.L. 2008-107; and (vi) any other issues the Division deems relevant to this study.

SECTION 1.(b) The Program Evaluation Division shall submit its findings and recommendations to the Joint Legislative Program Evaluation Oversight Committee, the Joint Legislative Commission on Governmental Operations, the Legislative Task Force on Childhood Obesity, and the Fiscal Research Division at a date to be determined by the Joint Legislative Program Evaluation Oversight Committee.

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

In the General Assembly read three times and ratified this the 8th day of July, 2010.
Became law upon approval of the Governor at 3:22 p.m. on the 20th day of July, 2010.

Session Law 2010-116**H.B. 1463**

AN ACT ALLOWING ADULT BIOLOGICAL SIBLINGS OF ADULT ADOPTEES, ADULT BIOLOGICAL HALF SIBLINGS OF ADULT ADOPTEES, ADULT FAMILY MEMBERS OF DECEASED ADOPTEES, AND ADULT FAMILY MEMBERS OF DECEASED BIOLOGICAL PARENTS TO HAVE ACCESS TO CONFIDENTIAL INTERMEDIARY SERVICES UPON THE CONSENT OF THE PARTIES, AND ALLOWING AN AGENCY ACTING AS A CONFIDENTIAL INTERMEDIARY TO OBTAIN A COPY OF A DEATH CERTIFICATE OF THE PERSON WHO IS THE SUBJECT OF THE SEARCH AND DELIVER IT TO THE PERSON REQUESTING SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 48-1-101 reads as rewritten:

"§ 48-1-101. Definitions.

...
(5a) "Confidential intermediary" means ~~a licensed adoption agency staff person who an agency that may act as a third party to facilitate contact between an adult adoptee or the adult lineal descendant of a deceased adoptee and the biological parent.~~ the sharing of information authorized by G.S. 48-9-104.

...
(9a) ~~"Lineal descendant of a deceased adoptee" means any person who descends from the direct line of the adoptee.~~

...."

SECTION 2. G.S. 48-9-101 reads as rewritten:

"§ 48-9-101. ~~Certain terms~~ Records defined.

(a) For purposes of this Article, "records" means any petition, affidavit, consent or relinquishment, transcript or notes of testimony, deposition, power of attorney, report, decree, order, judgment, correspondence, document, invoice, receipt, certificate, or other printed, written, microfilmed or microfiched, video-taped or tape-recorded material or electronic data processing records regardless of physical form or characteristics pertaining to a proceeding for adoption under this Chapter.

(b) ~~Notwithstanding G.S. 48-1-101, for purposes of this Article, "adult" means an individual who has attained 21 years of age.~~

SECTION 3. G.S. 48-9-104 reads as rewritten:

"§ 48-9-104. Release of identifying ~~information~~ information; confidential intermediary services.

(a) Except as provided in this section or in G.S. 48-9-109(2) or (3), no person or entity shall release from any records retained and sealed under this Article the name, address, or other information that reasonably could be expected to lead directly to the identity of an adoptee, an adoptive parent of an adoptee, an adoptee's parent at birth, or an individual who, but for the adoption, would be the adoptee's sibling or grandparent, except upon order of the court for cause pursuant to G.S. 48-9-105.

(b) A child placing agency licensed by the Department or a county department of social services may agree to act as a confidential intermediary for ~~a biological parent or adult adoptee or adult lineal descendant of a deceased adoptee, without appointment by the court pursuant to G.S. 48-9-105, in order to obtain and share nonidentifying birth family health information or facilitate contact or share identifying information with adult adoptees, adult lineal descendants~~

~~of deceased adoptees, and biological parents with the written consent of all parties to the contact or the sharing of information. any of the following:~~

- (1) A biological parent.
- (2) An adult adoptee.
- (3) An adult biological sibling of an adult adoptee.
- (4) An adult biological half sibling of an adult adoptee.
- (5) An adult family member of a deceased biological parent.
- (6) An adult family member of a deceased adoptee.

In order to obtain and share nonidentifying birth family health information, to facilitate contact, or to share identifying information with any person listed in subdivisions (1) through (6) of this subsection, an agency may act as a confidential intermediary without appointment by the court pursuant to G.S. 48-9-105 and with the written consent of all parties to the contact or the sharing of information. Written consent of the biological parent is required if the biological parent is living at the time any party described in subdivisions (2) through (6) of this subsection seeks to contact or share identifying information with any other party described in subdivisions (2) through (6) of this subsection. Further, a child placing agency licensed by the Department or a county department of social services an agency may agree to act as a confidential intermediary for the adoptive parents of a minor adoptee or the guardian of a minor adoptee, without appointment by the court pursuant to G.S. 48-9-105, to obtain and share nonidentifying birth family health information. An agency providing confidential intermediary services shall contact individuals in a manner reasonably calculated to prevent incidental disclosure of confidential information. An agency that agrees to provide confidential intermediary services may charge a reasonable fee for doing so, which fee must be pursuant to written agreement signed by the individual to be charged. The Division shall establish guidelines for confidential intermediary services.

(c) For purposes of this section only, the term 'family member' means a spouse, child, stepchild, parent, stepparent, grandparent, or grandchild.

(d) If an agency providing confidential intermediary services determines that the person who is the subject of the search is deceased, the agency may obtain a copy of the death certificate pursuant to G.S. 130A-93 and deliver it to the person who requested the services."

SECTION 4. G.S. 130A-93 is amended by adding a new subsection to read:

"(c2) An agency acting as a confidential intermediary in accordance with G.S. 48-9-104 shall be entitled to a certified copy of a death certificate upon request."

SECTION 5. This act becomes effective October 1, 2010.

In the General Assembly read three times and ratified this the 7th day of July, 2010.

Became law upon approval of the Governor at 3:23 p.m. on the 20th day of July, 2010.

Session Law 2010-117

H.B. 1726

AN ACT TO REQUIRE THE CHILD CARE COMMISSION, IN CONSULTATION WITH THE DIVISION OF CHILD DEVELOPMENT OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, TO DEVELOP IMPROVED NUTRITION STANDARDS FOR CHILD CARE FACILITIES, TO DIRECT THE DIVISION OF CHILD DEVELOPMENT TO STUDY AND RECOMMEND GUIDELINES FOR INCREASED LEVELS OF PHYSICAL ACTIVITY IN CHILD CARE FACILITIES, AND TO DIRECT THE DIVISION OF PUBLIC HEALTH TO WORK WITH OTHER ENTITIES TO EXAMINE AND MAKE RECOMMENDATIONS FOR IMPROVING NUTRITION STANDARDS IN CHILD CARE FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 110-91(2) reads as rewritten:

- "(2) Health-Related Activities. – The Commission shall adopt rules for child care facilities to ensure that all children receive nutritious food and beverages according to their developmental needs. ~~After consultation with the State Health Director,~~ The Commission shall consult with the Division of Child Development of the Department of Health and Human Services to develop nutrition standards shall to provide for requirements appropriate for children of different ages. In developing nutrition standards, the Commission shall consider the following recommendations:
- a. Limiting or prohibiting the serving of sweetened beverages, other than 100% fruit juice, to children of any age.
 - b. Limiting or prohibiting the serving of whole milk to children two years of age or older or flavored milk to children of any age.
 - c. Limiting or prohibiting the serving of more than six ounces of juice per day to children of any age.
 - d. Limiting or prohibiting the serving of juice from a bottle.
 - e. Creating an exception from the rules for parents of children who have medical needs, special diets, or food allergies.
 - f. Creating an exception from the rules to allow a parent or guardian, or to allow the center upon the request of a parent or guardian, to provide to a child food and beverages that may not meet the nutrition standards.

Each child care facility shall have a rest period for each child in care after lunch or at some other appropriate time and arrange for each child in care to be out-of-doors each day if weather conditions permit."

SECTION 2. The Department of Health and Human Services, Division of Child Development, shall examine the current levels of physical activity children receive in child care facilities and review model physical activity guidelines. Not later than September 1, 2011, the Division shall report its findings and recommendations for increasing physical activity levels in child care facilities, with a goal of reaching model guidelines, to the Legislative Task Force on Childhood Obesity, if reestablished, to the Public Health Study Commission, and to the Fiscal Research Division.

SECTION 3. The Department of Health and Human Services, Division of Public Health, in conjunction with the Division of Child Development, nutritionists, pediatricians, and child care providers, shall examine the current nutrition standards for children in child care facilities. This examination shall be conducted in consideration of any potential changes in the federal guidelines related to the Child and Adult Care Food Program. Not later than December 1, 2010, the Division of Public Health shall report its findings and recommendations for improving nutrition standards in child care facilities to the Legislative Task Force on Childhood Obesity, if reestablished, to the Public Health Study Commission, and to the Fiscal Research Division.

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

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law upon approval of the Governor at 3:23 p.m. on the 20th day of July, 2010.

Session Law 2010-118

S.B. 765

AN ACT TO AMEND THE GENERAL STATUTES WITH RESPECT TO COMMUNITY THIRD PARTY TRUSTS AND MEDICAID POOLED TRUSTS, AND TO PROVIDE FOR MEDICAID REIMBURSEMENT IN CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 36D of the General Statutes reads as rewritten:

"Chapter 36D.**North Carolina Community Third Party Trusts, Pooled Trusts, Trust for Persons with Severe Chronic Disabilities.****"§ 36D-1. Title; findings.**

(a) This ~~Article~~ Chapter shall be known and may be cited as the "North Carolina Community Third Party Trusts, Pooled Trusts Act."~~Trust for Persons With Severe Chronic Disabilities Act".~~

(b) The General Assembly finds that it is in the public interest to encourage activities by voluntary associations and private citizens that will supplement and augment those services provided by local, State, and federal government agencies in discharge of their responsibilities toward individuals with severe chronic disabilities. The General Assembly further finds that, as a result of changing social, economic, and demographic trends, families of persons with severe chronic disabilities are increasingly aware of the need for a vehicle by which they can assure ongoing individualized personal concern for a ~~severely disabled~~ family member with a disability who may survive ~~that disabled person's~~ his or her parents or other family members, and provide for the efficient management of ~~small legacies or~~ trust funds to be used for the benefit of that ~~person with a disability~~ disabled person. In a number of other states, voluntary associations have established foundations or trusts intended to be responsive to these concerns. Therefore, the General Assembly finds that North Carolina will benefit by the enactment of enabling legislation expressly authorizing the formation of ~~community trusts~~ Community Third Party Trusts and Pooled Trusts in accordance with 42 U.S.C. § 1396p(d)(4) and criteria set forth by statute and administered by the Secretary of ~~State~~ State under Chapter 55A of the General Statutes. ~~These community trusts permit the pooling of resources contributed by families or persons with philanthropic intent, along with the reservation of portions of these funds for the use and benefit of designated beneficiaries.~~

(c) This ~~Article~~ Chapter shall be liberally construed and applied to promote its underlying purposes and policies, which are, among others, to:

- (1) ~~Encourage the orderly establishment of community trusts for the benefit of persons with severe chronic disabilities;~~
- (2) Ensure that ~~community trusts~~ Community Third Party or Pooled Trusts for the benefit of persons with severe chronic disabilities are established and administered properly and that the managing boards of the trusts are free from conflicts of ~~interest~~ interest.
- (3) Facilitate sound administration of trust funds for persons with severe chronic disabilities by allowing family ~~members~~ members, persons with disabilities, and others to pool resources in order to make professional management investment more ~~efficient~~ efficient.
- (4) Provide parents of persons with severe chronic disabilities peace of mind in knowing that a means exists to ensure that the interests of their children who have severe chronic disabilities are properly looked after and managed after the parents die or become ~~incapacitated~~ incapacitated.
- (5) ~~Help make~~ Assist in making guardians available for persons with severe chronic disabilities who are incompetent, when no other family member is available for this ~~purpose~~ purpose.
- (6) Encourage the availability of private resources to purchase for persons with severe chronic disabilities goods and services that are not available through any governmental or charitable program and to conserve these resources by limiting purchases to those that are not available from other ~~sources~~ sources.
- (7) Encourage the inclusion, as beneficiaries of ~~community~~ Community Third Party or Pooled Trusts, ~~trusts,~~ of persons who lack resources and whose families are indigent, in a way that does not diminish the resources available to other beneficiaries whose families have contributed to the ~~trust~~ trust, ~~and~~

- (8) Remove the disincentives that discourage parents and others from setting aside funds for the future protection of persons with severe chronic disabilities by ensuring that the interest of beneficiaries ~~in community of trusts~~ that meet the rules set forth by the Department are not considered assets or income that would disqualify them from any governmental or charitable entitlement program with an economic means test.
- (9) Require, pursuant to 42 U.S.C. § 1396p(d)(4), the payback of monies from Pooled Trusts up to an amount equal to the total amount of assistance paid for by the Department on behalf of or to the beneficiary from any funds remaining in the beneficiary's individual trust account upon the death of the individual or the termination of the individual trust account.

(d) Nothing in this Chapter shall affect the establishment, interpretation, or construction of Pooled Trust instruments which do not conform with the provisions of this Chapter, nor shall this Chapter impair the State's authority to be paid from or seek reimbursement from any Pooled Trust which does not conform with the provisions of this Chapter or to deem the principal or income of any nonconforming 36D Trust an available resource under any program of government benefits or assistance.

"§ 36D-2. Definitions.

As used in this ~~Article, Chapter,~~ unless the context clearly requires otherwise:

- (1) ~~"Beneficiary" means~~ Beneficiary. – Any of the following persons:
- a. Any person of any age ~~any person~~ with a severe chronic disability who has qualified as a member of the Community Third Party Trust, funded with assets of a third party or by will.
 - b. Any person who meets the definition of disability as defined in 42 U.S.C. § 1382c(a)(3) on whose behalf an individual Medicaid Pooled Trust subaccount was established by the parent, grandparent, or legal guardian of the individual, by the individual, or by a court. ~~community trust program and who has the right to receive those services and benefits vested with the management of the business and affairs of a corporation, formed for the purpose of managing a community trust, irrespective of the name by which the group is designated.~~
- (2) "Community trust" means a Community Third Party Trust. – A trust funded with the assets of a third party for the benefit of a person of any age with severe chronic disabilities, that is administered by a nonprofit organization corporation that offers the following services:
- a. Administration of ~~special~~ trust funds for persons with severe chronic disabilities; ~~disabilities.~~
 - b. Follow along ~~services;~~ services.
 - c. Guardianship for persons with severe chronic disabilities who are incompetent, when no other family member or immediate friend is available for this ~~purpose; and~~ purpose.
 - d. ~~Advice and counsel;~~ Information and referral services to persons who have been appointed as individual guardians of the persons or estates of persons with severe chronic disabilities.
- (2a) Department. – The Department of Health and Human Services.
- (2b) Family members. – Persons who are related by blood or marriage within the sixth degree to the beneficiary.
- (3) ~~"Follow-along services"~~ Follow-along services. – Includes the following: ~~means~~ (i) those services offered by ~~community trusts~~ Community Third Party or Pooled Trusts that are designed to ensure that the needs of each beneficiary are being met for as long as may be required and may include periodic visits to the beneficiary and to the places where the beneficiary

- receives services, (ii) participation in the development of individualized plans being made by service providers for the beneficiary, and (iii) other similar services consistent with the purposes of this ~~Article~~ Chapter.
- (3a) Medicaid Pooled Trust, pooled trust, or umbrella pooled trust. – A trust pursuant to 42 U.S.C. § 1396p(d)(4)(C) and the rules set forth for pooled trusts by the Department that meets all of the following requirements:
- a. The trust is irrevocable.
 - b. The trust contains a separate subaccount for each beneficiary of the trust, but the funds in the accounts are pooled for the purpose of investment and management of funds. Investment of funds pursuant to this subdivision shall be in accord with G.S. 32-71, the Prudent Person rule.
 - c. The beneficiary is disabled as defined by 42 U.S.C. § 1382c(a)(3).
 - d. The trust is established solely for the benefit of the beneficiary by a parent, grandparent, legal guardian, by the beneficiary, or by a court.
 - e. The trust was created on or after April 1, 1994.
 - f. The trust provides that upon the death of the beneficiary the State will receive all amounts remaining in the beneficiary's account up to the total amount of medical assistance paid on behalf of the beneficiary as set forth in G.S. 36D-6.
 - g. Trust language governing each Medicaid Pooled Trust shall be approved by the Department.
 - h. A Medicaid Pooled Trust shall be established by a nonprofit corporation that offers any of the following:
 1. Administration of trust funds for persons with a disability as defined in 42 U.S.C. § 1382c(a)(3).
 2. Follow-along services.
 3. Guardianship for individuals with a disability pursuant to 42 U.S.C. § 1382c(a)(3) who are incompetent, when no other family member or immediate friend is available for this purpose.
 4. Information and referral services to persons who have been appointed as individual guardians of the persons or estates of persons with a disability pursuant to 42 U.S.C. § 1382c(a)(3).
- (4) ~~"Severe chronic disability" means~~ Severe chronic disability. – A disability which impairs one or more areas of independent functioning, a physical or mental impairment that is expected to give rise to a long term need for specialized health, social, and other services, and that makes the person with the disability dependent upon others for assistance to secure these services.
- (5) ~~"Surplus trust funds" means funds accumulated in the trust from contributions made on behalf of an individual beneficiary that, after the death of the beneficiary, are determined by the board to be in excess of the actual cost of providing services during the beneficiary's lifetime, including the beneficiary's share of administrative costs.~~
- (6) ~~"Trustee" means any member of the board of a corporation, formed for the purpose of managing a community trust, whether that member is designated as a trustee, director, manager, governor, or by any other title.~~
- (7) Sole benefit. – No individual other than the beneficiary benefits from the trust, either directly or indirectly.
- (8) Surplus trust funds. – All funds remaining in the trust upon termination of the trust, whether by death of the beneficiary or otherwise.

- (9) Trustee. – An original, additional, or successor trustee, and a cotrustee, whether or not appointed or confirmed by a court. The term does not include trustees in mortgages and deeds of trust.
- (10) 36D Trust. – Any trust governed by this Chapter.

"§ 36D-3. Scope.

This ~~Article~~ Chapter applies to every ~~community trust~~ Community Third Party Trust or Medicaid Pooled Trust established in this State. In addition to meeting the other requirements of this ~~Article, Chapter,~~ every board that administers a Community Third Party Trust or Medicaid Pooled Trust ~~community trust~~ shall incorporate as a nonprofit corporation under Chapter 55A of the General Statutes. Except as otherwise provided in this Chapter, Chapter 55A of the General Statutes applies to ~~community trusts~~ all trusts governed by this Chapter. Article 9 of Chapter 36C of the General Statutes, the Uniform Trust Code, applies to 36D Trusts in the same manner that it applies to trusts under the Uniform Trust Code, with the exception of the following: the trustee of a pooled trust is liable to the Department to the extent the trustee administers the trust in a way that is not for the sole benefit of the beneficiary, regardless of the terms of the trust. The terms of the trust shall not contradict the meaning of "sole benefit" as defined in G.S. 36D-2(7).

"§ 36D-4. Administration of Community Third Party and Pooled Trusts; powers and duties.

(a) Every ~~community trust~~ Community Third Party or Pooled Trust shall be administered by a board. The board shall be comprised of no less than nine and no more than 21 members, at least one-third of whom are parents or relatives of persons with severe chronic disabilities. No board member shall be a provider of habilitative, health, social, or educational services to persons with severe chronic disabilities or an employee of such a service provider. The board may, however, allow service providers to serve on the board in an advisory capacity. Board members shall be selected, to the maximum extent possible, from geographic areas throughout the area served by the trust.

The certificate of incorporation filed with the Secretary of State under Chapter 55A of the General Statutes shall, in addition to the requirements set forth in that Chapter, demonstrate that the requirements of this section have been met.

(b) Notwithstanding any other law, no trustee may be compensated for services provided as a member of the board of a Community Third Party or Pooled Trust. ~~community trust.~~ No fees or commissions shall be paid to these trustees; however, a trustee may be paid for necessary expenses incurred by the trustee and may receive indemnification as permitted under Chapter 55A of the General Statutes. Statutes as it applies to nonprofit organizations.

(c) For every Community Third Party or Pooled Trust ~~community trust~~ incorporated under this ~~Article, Chapter,~~ the corporation itself is considered the trustee of any funds administered by it. No individual board member is considered to be trustee of any fund deposited on behalf of any individual beneficiary with severe chronic disabilities.

(d) The board shall adopt bylaws that include a declaration delineating the primary geographic area serviced by the trust and the principal services to be provided. The board shall file the bylaws with the Secretary of State.

(e) The board may retain paid staff as it considers necessary to provide follow along services to the extent required by each beneficiary.

(e1) The Community Third Party or Pooled Trust ~~community trust~~ may authorize the expenditure of funds for any goods or services, including recreational services, which ~~the board, in its sole discretion, determines~~ will promote the well-being of ~~and is for the sole benefit of the~~ any beneficiary. The Community Third Party or Pooled Trust ~~community trust~~ may pay for the reasonable burial expenses of any beneficiary. however, if the beneficiary receives SSI benefits, burial expenses may be paid for only as allowed by Social Security Administration regulations. The Community Third Party or Pooled Trust ~~community trust~~, however, may not expend funds for any goods or services of comparable quality to those available to any particular beneficiary through any governmental or charitable program,

insurance, or other sources. The Community Third Party or Pooled Trust ~~community trust~~ may expend funds to meet the reasonable costs of administering the Community Third Party or Pooled Trust ~~community trust~~.

(f) The Community Third Party or Pooled Trust ~~community trust~~ is not required to provide services to a beneficiary who is a competent adult and who has refused to accept the services. Further, the Community Third Party or Pooled Trust ~~community trust~~ shall not provide services of a nature or in a manner that would be contrary to the public policy of this State at the time the services are to be provided. In either case, the Community Third Party or Pooled Trust ~~community trust~~ may offer alternate services that are consistent with the purposes of this ~~Article~~ Chapter and in keeping with the best interests of the beneficiary.

(g) The Community Third Party or Pooled Trust ~~community trust~~ may accept appointment as guardian of the person, guardian of the estate, or guardian of both on behalf of any beneficiary. If the Community Third Party or Pooled Trust ~~community trust~~ accepts appointment as guardian of the person of an individual, it shall assign a staff member to carry out its responsibilities as the guardian. The Community Third Party or Pooled Trust ~~community trust~~ may, upon request, offer consultative and professional assistance to an individual, private or public guardian of any of its beneficiaries.

(h) The Community Third Party or Pooled Trust ~~community trust~~ may accept contributions, bequests, and designations under life insurance policies to the Community Third Party or Pooled Trust ~~community trust~~ on behalf of individuals with severe chronic disabilities for the purpose of qualifying them as beneficiaries.

(i) At the time a contribution, bequest, or assignment of insurance proceeds is ~~made~~ made to a Community Third Party Trust, or to a beneficiary of a Pooled Trust, the trustor shall receive a written statement of the services to be provided to the beneficiary. The statement shall include a starting date for the delivery of services or the condition precedent, such as the death of the trustor, which shall determine the starting date. The statement shall describe the frequency with which services shall be provided and their duration, and the criteria or procedures for modifying the program of services from time to time in the best interests of the beneficiary. In addition, there shall be a properly executed trust agreement between the Community Third Party or Pooled Trust and the trustor.

(j) No trustee, board member, or paid staff member of a Community Third Party or Pooled Trust shall undertake legal representation or other professional services on behalf of the trust or its beneficiaries.

(k) The Department shall be given a minimum of 30 days notice if there is to be a change in trustee.

"§ 36D-5. Community Third Party and Pooled Trust Accountability ~~accountability~~.

(a) Along with the annual report filed with the Secretary of State under Chapter 55A of the General Statutes, the Community Third Party or Pooled Trust ~~community trust~~ shall file an itemized statement that shows the funds collected for the year, income earned, salaries, other expenses incurred, and the opening and final trust balances. A copy of ~~this statement~~ the annual individual accounting statement of each beneficiary's subaccount shall be ~~available~~ available by the trustee, upon request, to the Department, any beneficiary, guardian, trustor, or designee of the trustor. In addition, once annually, each trustor or the trustor's designee shall receive a detailed individual statement of the services provided to the trustor's beneficiary during the previous 12 months and the services to be provided during the following 12 months. The Community Third Party or Pooled Trust ~~community trust~~ shall make a copy of the individual statement available to any beneficiary, upon request.

(b) The Department or its agents may perform annual audits of any Community Third Party or Pooled Trusts existing in the State.

"§ 36D-6. Gifts, Community Third Party or Pooled Trust surplus trust funds.

(a) Community Third Party and Pooled Trusts may accept gifts and use surplus trust funds to meet reasonable start-up costs and reduce the charges to the trust for the cost of administration and for the purpose of qualifying as beneficiary any indigent person whose

family members lack the resources to make a full contribution on that person's behalf. A maximum of fifty percent (50%) of the surplus trust funds may be retained in the Community Third Party or Pooled Trust account for this purpose as well as to cover administrative costs. Gifts made to the Community Third Party or Pooled Trust for an unspecified purpose shall be used by the trust either to qualify indigent persons whose families lack the means to qualify them as beneficiaries of the trust or to meet any reasonable start-up or administrative costs that the trust incurs.

(b) For Community Third Party Trusts, remaining surplus trust funds may be distributed to additional beneficiaries as specified in the Trust Agreement.

(c) For Medicaid Pooled Trusts, upon termination of an individual trust account, the surplus trust funds remaining in the individual account shall be used to satisfy any claims or liens of the Department, up to an amount equal to the total medical assistance paid on behalf of or to the disabled individual by the Department. The amount retained by the trust shall be determined on a sliding scale calculation, based upon the number of years the disabled individual received services from the nonprofit corporation, but in no instance shall the trust retain more than fifty percent (50%) of the surplus trust funds, unless the claims or liens of the Department are less than fifty percent (50%) of the surplus trust funds.

(d) A Medicaid Pooled Trust may not distribute surplus trust funds to any remaindermen identified in the trust document unless there are funds remaining after all claims or liens of the Department have been satisfied, nor shall it use surplus trust funds to make any charitable contribution on behalf of any beneficiary or any group or class of beneficiaries. The community trust may accept gifts and use surplus trust funds for the purpose of qualifying as beneficiary any indigent person whose family members lack the resources to make a full contribution on that person's behalf. The extent and character of the services and selection of beneficiaries are at the discretion of the community trust. The community trust may not use surplus trust funds to make any charitable contribution on behalf of any beneficiary or any group or class of beneficiaries. The community trust may accept gifts to meet start-up costs, reduce the charges to the trust for the cost of administration, and for any other purpose that is consistent with this Article. Gifts made to the trust for an unspecified purpose shall be used by the community trust either to qualify indigent persons whose families lack the means to qualify them as beneficiaries of the trust or to meet any start-up costs that the trust incurs.

"§ 36D-7. Special requests on behalf of beneficiary.

The community trust Community Third Party Trust may agree to fulfill any special requests made on behalf of a beneficiary as long as the requests are consistent with this Article Chapter and provided that an adequate contribution has been made for this purpose on behalf of a beneficiary. The Medicaid Pooled Trust may only disburse subaccount trust funds if such disbursement is in the sole benefit of the beneficiary. The community trust may agree to serve as trustee for any individual trust created on behalf of a beneficiary, regardless of whether the trust is revocable or irrevocable, has one or more remaindermen or contingent beneficiaries, or any other condition, so long as the individual trust is consistent with the purposes of this Article.

"§ 36D-8. Irrevocability; impossibility of fulfillment.

A community trust for persons with severe chronic disabilities is irrevocable, but the trustees in their sole discretion may provide compensation for any contribution to the trust to any trustor who, upon good cause, withdraws a beneficiary designated by the trustor from the trust, or if it becomes impossible to fulfill the conditions of the trust with regard to an individual beneficiary for reasons other than the death of the beneficiary.

"§ 36D-9. Beneficiary's interest in trust not asset for income eligibility determination.

Notwithstanding any provisions of Chapter 108A of the General Statutes, the beneficiary's interest in any community trust 36D Trust is not considered to be an asset for the purpose of determining income eligibility for any publicly operated program, nor shall that interest be reached in satisfaction of a claim for support and maintenance of the beneficiary. The Department shall not reduce the benefits or services available to any individual because

that person is the beneficiary of a 36D Trust. The Department may authorize termination of an individual's eligibility for medical assistance or impose sanctions as necessary for failure of a purported 36D Trust to comply with the requirements of this Chapter and any rules adopted by the Department pursuant to this Chapter. The Department may authorize termination of an individual's eligibility for medical assistance or impose sanctions as necessary for failure of the trustee to administer the 36D Trust in a manner consistent with this Chapter, the rules adopted by the Department pursuant to this Chapter, and federal law and policy. No agency shall reduce the benefits of services available to any individual because that person is the beneficiary of a community trust.

"§ 36D-10. Trust not subject to law against perpetuities; restraints on alienation.

~~A community trust~~36D Trust shall not be subject to or held to be in violation of any principle of law against perpetuities or restraints on alienation or perpetual accumulations of trusts.

"§ 36D-11. Settlement; trustee limitations.

~~The community trust shall settle a community trust by filing a final accounting in the superior court. In addition, at~~

(a) The trustee of a Medicaid Pooled Trust shall provide a final disbursement and accounting for an individual Pooled Trust subaccount to the Division of Medical Assistance, Third Party Recovery Section, within 30 days of the receipt of an accounting of charges from Medicaid, after the death of the beneficiary or other termination of the trust. An individual Pooled Trust subaccount shall terminate upon the death of the beneficiary and the satisfaction of all outstanding charges.

(b) At any time before the settlement of the final account, the ~~community trust~~ Community Third Party or Pooled Trust, the Secretary of State, or the Attorney General may bring an action for the dissolution of a nonprofit corporation in the superior court for the purpose of terminating the trust or merging it with another charitable trust.

(c) No trustee or any private individual is entitled to share in the distribution of any of the trust assets upon dissolution, merger, or settlement of the Community Third Party or Pooled Trust. ~~community trust~~ Upon dissolution, merger, or settlement, the superior court shall distribute all of the remaining net assets of the Community Third Party or Pooled Trust ~~community trust~~ in a manner that is consistent with the purposes of this ~~Article~~ Chapter.

"§ 36D-12. Administrative rules.

The Department shall adopt rules pursuant to Chapter 150B of the General Statutes governing the eligibility of beneficiaries for State medical assistance and State-County Special Assistance, and to supplement and expand upon the general requirements set forth in this Chapter, including, but not limited to, rules that may be more restrictive than the general requirements of this Chapter. With respect to Medicaid Pooled Trusts, a subaccount is irrevocable. The State shall be paid an amount up to the total medical assistance paid on behalf of the beneficiary by the Department from funds remaining in the individual trust subaccount upon the death of the beneficiary or termination of the trust as described in this Chapter. If the pooled trust is to be funded with the proceeds of a settlement of a lawsuit against a third party, the settlement proceeds are subject to the Department's subrogated rights of recovery as set forth in G.S. 108A-57, and all such subrogated rights of recovery shall be satisfied in full prior to execution and judicial approval of the trust, or both."

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

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law upon approval of the Governor at 3:24 p.m. on the 20th day of July, 2010.

Session Law 2010-119

S.B. 1309

AN ACT TO AUTHORIZE THE SECRETARY OF HEALTH AND HUMAN SERVICES TO WAIVE TEMPORARILY CERTAIN REQUIREMENTS OF THE MENTAL HEALTH COMMITMENT STATUTES FOR PARTICIPANTS IN THE FIRST EVALUATION PILOT PROGRAM AND TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO STUDY CERTAIN ISSUES RELATING TO THE PROGRAM, AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. S.L. 2003-178, as amended by Section 10.27 of S.L. 2006-66, as amended by Section 1.1(a)(5) of S.L. 2007-504, and as further amended by Section 3 of S.L. 2009-340, reads as rewritten:

"SECTION 1. The Secretary of Health and Human Services may, upon request of an LME, waive temporarily the requirements of G.S. 122C-261 through G.S. 122C-263 and G.S. 122C-281 through G.S. 122C-283 pertaining to initial (first-level) examinations by a physician or eligible psychologist of individuals meeting the criteria of G.S. 122C-261(a) or G.S. 122C-281(a), as applicable, as follows:

- (1) The Secretary has received a request from an LME to substitute for a physician or eligible psychologist, a licensed clinical social worker, a masters level psychiatric nurse, or a masters level certified clinical addictions specialist to conduct the initial (first-level) examinations of individuals meeting the criteria of G.S. 122C-261(a) or G.S. 122C-281(a). The waiver shall be implemented on a pilot-program basis. The request from the LME shall specifically describe:
 - a. How the purpose of the statutory requirement would be better served by waiving the requirement and substituting the proposed change under the waiver.
 - b. How the waiver will enable the LME to improve the delivery or management of mental health, developmental disabilities, and substance abuse services.
 - c. How the services to be provided by the licensed clinical social worker, the masters level psychiatric nurse, or the masters level certified clinical addictions specialist under the waiver are within each of these professional's scope of practice.
 - d. How the health, safety, and welfare of individuals will continue to be at least as well protected under the waiver as under the statutory requirement.
- (2) The Secretary shall review the request and may approve it upon finding that:
 - a. The request meets the requirements of this section.
 - b. The request furthers the purposes of State policy under G.S. 122C-2 and mental health, developmental disabilities, and substance abuse services reform.
 - c. The request improves the delivery of mental health, developmental disabilities, and substance abuse services in the counties affected by the waiver and also protects the health, safety, and welfare of individuals receiving these services.
 - d. The duties and responsibilities performed by the licensed clinical social worker, the masters level psychiatric nurse, or the masters level certified clinical addictions specialist are within the individual's scope of practice.

- (3) The Secretary shall evaluate the effectiveness, quality, and efficiency of mental health, developmental disabilities, and substance abuse services and protection of health, safety, and welfare under the waiver. The Secretary shall send a report on the evaluation to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substances Abuse Services by October 1, 2009. The report shall include data gathered from all participating LMEs since the beginning of the pilot.
- (4) The waiver granted by the Secretary under this section shall be in effect until ~~October 1, 2010~~October 1, 2012.
- (5) The Secretary may grant a waiver under this section to up to ~~1520~~20 LMEs.
- (6) In no event shall the substitution of a licensed clinical social worker, masters level psychiatric nurse, or masters level certified clinical addictions specialist under a waiver granted under this section be construed as authorization to expand the scope of practice of the licensed clinical social worker, the masters level psychiatric nurse, or the masters level certified clinical addictions specialist.
- (7) The Department shall assure that staff performing the duties are trained and privileged to perform the functions identified in the waiver. The Department shall involve stakeholders including, but not limited to, the North Carolina Psychiatric Association, The North Carolina Nurses Association, National Association of Social Workers, The North Carolina Substance Abuse Professional Certification Board, North Carolina Psychological Association, The North Carolina Society for Clinical Social Work, and the North Carolina Medical Society in developing required staff competencies.
- (8) The LME shall assure that a physician is available at all times to provide backup support to include telephone consultation and face-to-face evaluation, if necessary.

"SECTION 2. This act becomes effective July 1, 2003, and expires ~~October 1, 2010~~October 1, 2012."

SECTION 2. The Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall expand its standardized certification training program to include refresher training for all certified providers and shall report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on the participation rate of licensed clinical social worker, the master's level psychiatric nurse, or the master's level certified clinical addictions specialist in the pilot program and whether the program should include other licensed or certified health care professionals.

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

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Became law upon approval of the Governor at 3:25 p.m. on the 20th day of July, 2010.

Session Law 2010-120

S.B. 1392

AN ACT TO ALLOW STATE EMPLOYEES TO ENROLL CHILDREN FOR WHICH THEY ARE COURT-APPOINTED GUARDIANS AS DEPENDENTS IN THE NORTH CAROLINA STATE HEALTH PLAN FOR TEACHERS AND STATE EMPLOYEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-45.1(10) reads as rewritten:

"§ 135-45.1. **General definitions.**

As used in this Article unless the context clearly requires otherwise, the following definitions apply:

...

- (10) Dependent child. – A natural, legally adopted, or foster child or children of the employee and or spouse, unmarried, up to the first of the month following his or her 19th birthday, whether or not the child is living with the employee, as long as the employee is legally responsible for such child's maintenance and support. Dependent child also includes a child for which an employee is a court-appointed guardian, as long as the employee is legally responsible for the child's maintenance and support. Dependent child also includes a stepchild of the member who is married to the stepchild's natural parent. To be eligible, the stepchild must have his or her primary residence with the member. Dependent child shall also include any child under age 19 who has reached his or her 18th birthday, provided the employee was legally responsible for such child's maintenance and support on his or her 18th birthday. Dependent children of firefighters, rescue squad workers, and members of the National Guard are subject to the same terms and conditions as are other dependent children covered by this subdivision. Eligibility of dependent children is subject to the requirements of G.S. 135-45.2(d). The Plan may require documentation from the member confirming a child's eligibility to be covered as the member's dependent."

SECTION 2. This act becomes effective July 1, 2010.

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Became law upon approval of the Governor at 3:26 p.m. on the 20th day of July,

2010.

Session Law 2010-121

H.B. 1705

AN ACT TO REQUIRE THE HEARING AID DEALERS AND FITTERS BOARD TO COORDINATE A TASK FORCE THAT WILL DEVELOP GUIDELINES FOR CONSUMERS TO USE WHEN PURCHASING A HEARING AID, AS RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Hearing Aid Dealers and Fitters Board shall coordinate a task force to develop recommended guidelines for consumers seeking information and assistance in the treatment of hearing loss and the purchase of a hearing aid. The task force shall include a licensed practicing fitter and seller of hearing aids, as recommended by the NC Hearing Aid Dealers and Fitters Board; a consumer of hearing aids, as recommended by the Division of Services for the Deaf and Hard of Hearing, Department of Health and Human Services; a practicing audiologist, as recommended by the NC Board of Examiners for Speech and Language Pathologists and Audiologists; a physician who treats patients with hearing loss, as recommended by the NC Medical Board; a representative of the Division of Services for the Deaf and Hard of Hearing, Department of Health and Human Services; a representative of the Consumer Protection Division, Office of the Attorney General; and may include other interested stakeholders.

SECTION 1.(b) The Hearing Aid Dealers and Fitters Board shall report the findings and recommendations of the task force, along with recommendations on methods to disseminate hearing aid purchasing guidelines, to the North Carolina Study Commission on Aging and the Joint Legislative Health Care Oversight Committee on or before November 15, 2010.

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

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law upon approval of the Governor at 3:35 p.m. on the 20th day of July,

2010.

Session Law 2010-122

H.B. 1717

AN ACT TO MODERNIZE THE NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL SYSTEM, TO ENSURE THE INTEGRITY OF THE THREE-TIER SYSTEM, TO REQUIRE MINIMUM AGE STANDARDS FOR LAW ENFORCEMENT, AND TO REQUIRE THAT THE CITY OF KANNAPOLIS, THE CITY OF SALISBURY, AND ROWAN COUNTY HAVE EQUAL REPRESENTATION ON THE ROWAN/KANNAPOLIS ABC BOARD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-101 reads as rewritten:

"§ 18B-101. Definitions.

As used in this Chapter, unless the context requires otherwise:

...

(6a) "Finance officer" means the local board employee, other than a general manager, who is responsible for keeping the accounts of the local board, receiving and depositing receipts, disbursing funds, and any other duties assigned by the local board or Commission.

(7) "Fortified wine" means any wine, of more than sixteen percent (16%) and no more than twenty-four percent (24%) alcohol by volume, made by fermentation from grapes, fruits, berries, rice, or honey; or by the addition of pure cane, beet, or dextrose sugar; or by the addition of pure brandy from the same type of grape, fruit, berry, rice, or honey that is contained in the base wine and produced in accordance with the regulations of the United States.

(7a) "General manager" means the local board employee who is responsible for the oversight of daily operations of the ABC system and any other duties assigned by the local board or Commission. The board may designate only one employee to be the general manager.

~~(7a)~~(7b) "Historic ABC establishment" means a restaurant or hotel that meets all of the following requirements:

- a. Is on the national register of historic places or located within a State historic district.
- b. Is a property designed to attract local, State, national, and international tourists located on a State Route (SR) and with a property line located within 1.5 miles of the intersection of a designated North Carolina scenic byway as defined in G.S. 136-18(31).
- c. Is located within 15 miles of a national scenic highway.
- d. Is located in a county in which the on-premises sale of malt beverages or unfortified wine is authorized in two or more cities in the county.

~~(7b)~~(7c) "Keg" means a portable container designed to hold and dispense 7.75 gallons or more of malt beverage.

...."

SECTION 2. G.S. 18B-201 reads as rewritten:

"§ 18B-201. Conflict of ~~interest~~; interest; gifts.

(a) Financial Interests Restricted. – No person shall be appointed to or employed by the Commission, a local board, or the ALE Division if that person or a member of that person's family related to that person by blood or marriage to the first degree has or controls, directly or indirectly, a financial interest in any commercial alcoholic beverage enterprise, including any business required to have an ABC permit. The Commission may exempt from this provision any person, other than a Commission member, when the financial interest in question is so insignificant or remote that it is unlikely to affect the person's official actions in any way.

Exemptions may be granted only to individuals, not to groups or classes of people, and each exemption shall be in writing, be available for public inspection, and contain a statement of the financial interest in question.

(b) Self-dealing. – The provisions of G.S. 14-234 shall apply to the Commission and local boards.

(c) Dealing for Family Members. – Neither the Commission nor any local board shall contract or otherwise deal in any business matter so that a member, member's spouse or any person related to ~~him~~ the member by blood to a degree of first cousin or closer in any way financially benefits, directly or indirectly, from the transaction unless:

- (1) The member who financially benefits from the transaction or whose spouse or relative financially benefits from the transaction abstains from participating in any way, including voting, in the decision;
- (2) The minutes of the meeting at which the final decision is reached specifically note the member who is financially benefited or whose spouse or relative is financially benefited and the amount involved in each transaction;
- (3) The next annual audit of the Commission or local board specifically notes the member and the amount involved in each transaction occurring during the year covered by the audit; and
- (4) If the transaction is by a local board, the Commission is notified at least two weeks before final board approval of the transaction.

(d) Gifts Generally. – The provisions of G.S. 133-32 shall apply to the Commission and local boards.

(e) Conflicts of Interest for the Commission. – The provisions of Article 4 of Chapter 138A of the General Statutes shall apply to the Commission.

(f) Conflicts of Interest for Local Boards. – Except as permitted under subsection (h) of this section, a local ABC board member shall not knowingly use the local ABC board member's position on the board in any way that will result in financial benefit to the local ABC board member, the local ABC board member's spouse, any person related to the local ABC board member by blood to a degree of first cousin or closer, or any business with which the local ABC board member is associated.

(g) For purposes of subsection (f) of this section, 'business with which associated' shall have the same meaning as in G.S. 138A-3(3). For purposes of this section, 'financial benefit' shall mean a direct pecuniary gain or loss, or a direct pecuniary loss to a business competitor.

(h) Notwithstanding subsection (f) of this section, a local ABC board member may participate in an action of the local ABC board under any of the following circumstances except as specifically limited:

- (1) The financial benefit that accrues to the local ABC board member, the local ABC board member's spouse or any person related to the local ABC board member by blood to a degree of first cousin or closer, or a business with which the local ABC board member is associated is one that is accrued as a member of a profession, occupation, or general class and is no greater than that which could reasonably be foreseen to accrue to all members of that profession, occupation, or general class.
- (2) The financial benefit derived by a local ABC board member, the local ABC board member's spouse or any person related to the local ABC board member by blood to a degree of first cousin or closer, or a business with which the local ABC board member is associated is one that would be enjoyed to an extent no greater than that which other citizens of the State would or could enjoy.
- (3) The financial benefit derived by a local ABC board member, the local ABC board member's spouse or any person related to the local ABC board member by blood to a degree of first cousin or closer, or a business with

which the local ABC board member is so remote, tenuous, insignificant, or speculative that a reasonable person would conclude under the circumstances that the local ABC board member's ability to protect the public interest and perform the local ABC board member's duties would not be compromised.

- (4) When an action affects or would affect the local ABC board member's compensation as a local ABC board member.
- (5) Before the local ABC board member participated in the action, the board member requested and received from the ABC Commission a written advisory opinion that authorized the participation. In authorizing the participation under this subdivision, the ABC Commission shall consider the need for the local ABC board member's particular contribution, such as special knowledge of the subject matter and the effective functioning of the local ABC board.
- (6) When action is ministerial only and does not require the exercise of discretion.
- (7) When the local ABC board records in its minutes that it cannot obtain a quorum in order to take the action because the local ABC board member is disqualified from acting, the local ABC board member may be counted for purposes of a quorum but shall otherwise abstain from taking any further action.

(i) Nothing in this section shall allow participation in an action prohibited by G.S. 14-234 or G.S. 133-32.

(j) A local board member shall not improperly use or improperly disclose any confidential information.

(k) A local board member shall have an affirmative duty to promptly disclose in writing to the local board any conflict of interest or potential conflict of interest."

SECTION 3. G.S. 18B-202 reads as rewritten:

"§ 18B-202. Discharge upon conviction.

In addition to imposing any other penalty authorized by law, a judge may remove from office or discharge from employment any Commission or local board member or employee, or any ALE agent, who is convicted of a violation of any provision of this Chapter or of any felony and may declare that person ineligible for membership or employment with the Commission, any local board, or the ALE Division, for a period of not longer than three years. Conviction of a crime under this Chapter or of any felony shall also be grounds for the Commission to remove from office or discharge from employment any local board member or employee. In addition to imposing any other penalty authorized by law, a judge may prohibit an individual convicted of a violation of this Chapter, or of any felony, from participating in any contract to enforce the ABC laws for a local board if that individual is a designated officer of an agency which holds a contract to enforce the ABC laws for a local board. A judge may also prohibit an individual convicted of a violation of this Chapter, or of any felony, from being designated as an officer that enforces the ABC law under a contract with any local board for a period of not longer than three years."

SECTION 4. G.S. 18B-203(a) is amended by adding new subdivisions to read:

"§ 18B-203. Powers and duties of the Commission.

(a) Powers. – The Commission shall have authority to:

- ...
- (20) Promulgate rules to establish performance standards for local boards. Performance standards established pursuant to this subdivision shall include, but not be limited to, standards that address enforcement of ABC laws, store appearance, operating efficiency, solvency, and customer service.
- (21) Promulgate rules to establish mandatory training requirements for local board members, finance officers, and general managers. If personal

attendance is required, the Commission shall not require more than four hours of training and shall provide up to two hours of training at convenient locations around the State in conjunction with ethics training.

- (22) Provide for the purchase of spirituous liquor from another ABC board by mixed beverage permittees when an ABC system becomes insolvent, closes, or is closed by the Commission and the county or municipality in which the system is located has approved the sale of mixed beverages."

SECTION 5. G.S. 18B-501(f) reads as rewritten:

"(f) **Contracts with Other Agencies.** – Instead of hiring local ABC officers, a local board may contract to pay its enforcement funds to a sheriff's department, city police department, or other local law-enforcement agency for enforcement of the ABC laws within the law-enforcement agency's territorial jurisdiction. Enforcement agreements may be made with more than one agency at the same time. When such a contract for enforcement exists, the designated officers of the contracting law-enforcement agency shall have the same authority to inspect under G.S. 18B-502 that an ABC officer employed by that local board would have. An agency contracted to provide ABC law enforcement shall designate no more than five officers to conduct inspections pursuant to this section and G.S. 18B-502. If a city located in two or more counties approves the sale of some type of alcoholic beverage pursuant to the provisions of G.S. 18B-600(e4), and there are no local ABC boards established in the city and one of the counties in which the city is located, the local ABC board of any county in which the city is located may enter into an enforcement agreement with the city's police department for enforcement of the ABC laws within the entire city, including that portion of the city located in the county of the ABC board entering into the enforcement agreement."

SECTION 6. G.S. 18B-501 is amended by adding a new subsection to read:

"(f1) **Accountability; Enforcement Reports.** – To ensure accountability to the appointing authority and the Commission, every local board's ABC officers and those law enforcement agencies subject to an enforcement agreement entered into pursuant to subsection (f) of this section shall report to the local board, by the fifth business day of each month, on a form developed by the Commission, the following:

- (1) The number of arrests made for ABC law, Controlled Substance Act, or other violations, by category, at ABC permitted outlets.
- (2) The number of arrests made for ABC law, Controlled Substance Act, or other violations, by category, at other locations.
- (3) The number of agencies assisted with ABC law or controlled substance related matters.
- (4) The number of alcohol education and responsible server programs presented.

The local board shall submit a copy of the enforcement report to the appointing authority and the Commission not later than five business days after receipt of the enforcement report by the local board. The Commission shall publish this information, by local board and enforcement agency, on a public Internet Web site maintained by the Commission."

SECTION 7.(a) G.S. 18B-501(g) reads as rewritten:

"(g) **Discharge.** – Local ABC officers and the designated officers of agencies which contract with local boards for enforcement of the ABC laws are subject to the discharge and ineligibility provisions of G.S. 18B-202."

SECTION 7.(b) G.S. 18B-600(d) reads as rewritten:

"(d) **City ABC Store Elections.** – A city may hold an ABC store election only if:

- (1) The city has at least ~~500~~ 1,000 registered voters; and
- (2) The county in which the city is located does not operate ABC stores."

SECTION 8. G.S. 18B-600(e) reads as rewritten:

"(e) **City Mixed Beverage Elections.** – A city may hold a mixed beverage election ~~only~~ if the city has at least 500 registered voters. Provided, that if a city that qualifies for an election under this subsection approves the sale of mixed beverages, mixed beverages

permittees in the city may purchase liquor from the ABC store designated by the local ABC board that has been approved by the Commission for this purpose.

- ~~(1) The city has at least 500 registered voters; and~~
- ~~(2) Either:~~
 - ~~a. The city already operates a city ABC store; or~~
 - ~~b. A city ABC store election is to be held at the same time as the mixed beverage election; or~~
 - ~~e. The city does not operate a city ABC store but:~~
 - ~~1. The county operates an ABC store;~~
 - ~~2. The county has already held a mixed beverage election; and~~
 - ~~3. The vote in the last county election was against the sale of mixed beverages."~~

SECTION 9. G.S. 18B-700(a) reads as rewritten:

"(a) Membership. – A local ABC board shall consist of three or five members appointed for three-year terms, unless a different membership or term is provided by a local act enacted before the effective date of this Chapter, or terms unless the board is a board for a merged ABC system under G.S. 18B-703 and a different size membership has been provided for as part of the negotiated merger. One If the board is a three-member board, one member of the initial board of a newly created ABC system shall be appointed for a three-year term, one member for a two-year term, and one member for a one-year term. If the board is a five-member board, one member of the initial board of a newly created ABC system shall be appointed for a three-year term, two members for two-year terms, and two members for one-year terms. As the terms of initial board members expire, their successors shall each be appointed for three-year terms. If a board is initially a three-member board and the appointing authority determines a five-member board is preferable, the terms of the two new members shall be for three years. If a local board has five members and the appointing authority determines a three-member board is preferable, the appointing authority shall not reduce the size of the board except upon the expiration of a member's term and only with the approval of the Commission. The appointing authority shall designate one member of the local board as chairman."

SECTION 10. G.S. 18B-700 is amended by adding a new subsection to read:

"(a1) Mission. – The mission of local ABC boards and their employees shall be to serve their localities responsibly by controlling the sale of spirituous liquor and promoting customer-friendly, modern, and efficient stores."

SECTION 11. G.S. 18B-700(g) reads as rewritten:

"(g) Salary/Compensation of Board Members. – A local board member may be compensated as determined by the appointing authority shall receive compensation in an amount not to exceed one hundred fifty dollars (\$150.00) per board meeting unless a different level of monetary compensation is approved by the appointing authority. If a different level is approved by the appointing authority, the appointing authority shall notify the Commission of the approved level of compensation in writing. Any change in compensation approved by the appointing authority shall be reported to the Commission in writing within 30 days of the effective date of the change. No local board member shall receive any nonmonetary compensation or benefits unless specifically authorized by this section."

SECTION 12. G.S. 18B-700 is amended by adding a new subsection to read:

"(g1) Compensation of General Managers of Local Boards. – The salary authorized for the general manager, as defined in G.S. 18B-101, of a local board shall not exceed the salary authorized by the General Assembly for the clerk of superior court of the county in which the appointing authority was originally incorporated unless such compensation is otherwise approved by the appointing authority. The local board shall provide the appointing authority's written confirmation of such approval to the Commission. Any change in compensation approved by the appointing authority shall be reported to the Commission in writing within 30 days of the effective date of the change. The general manager of a local board may receive any

other benefits to which all employees of the local board are entitled. The salary authorized for other employees of a local board may not exceed that of the general manager."

SECTION 13. G.S. 18B-700 is amended by adding a new subsection to read:

"(g2) Travel Allowance and Per Diem Rates. – Approved travel on official business by the members and employees of local boards shall be reimbursed pursuant to G.S. 138-6 unless the local board adopts a travel policy that conforms to the travel policy of the appointing authority and such policy is approved by the appointing authority. The local board shall annually provide the appointing authority's written confirmation of such approval to the Commission and a copy of the travel policy authorized by the appointing authority. Any excess expenses not covered by the local board's travel policy shall only be paid with the written authorization of the appointing authority's finance officer. A copy of the written authorization for excess expenses shall be submitted to the Commission by the local board within 30 days of approval."

SECTION 14. G.S. 18B-700(i) reads as rewritten:

"(i) Bond. – Each local board member and the employees designated as the general manager and finance officer of the local board shall be bonded in an amount not less than ~~five thousand dollars (\$5,000)~~, fifty thousand dollars (\$50,000) secured by a corporate surety, for the faithful performance of his duties. A public employees' blanket position bond in the required amount satisfies the requirements of this subsection. The bond shall be payable to the local board and shall be approved by the appointing authority for the local board. The appointing authority may ~~exempt from this bond requirement any board member who does not handle board funds~~, and it may also increase the amount of the bond required for any member or employee who ~~does handle~~ handles board funds."

SECTION 15. G.S. 18B-700 is amended by adding a new subsection to read:

"(k) Nepotism. – Members of an immediate family shall not be employed within the local board if such employment will result in one member of the immediate family supervising another member of the immediate family, or if one member of the immediate family will occupy a position which has influence over another member's employment, promotion, salary administration, or other related management or personnel considerations. This subsection applies to local board members and employees."

For the purpose of this subsection, the term 'immediate family' includes wife, husband, mother, father, brother, sister, son, daughter, grandmother, grandfather, grandson, and granddaughter. Also included are the step-, half-, and in-law relationships. It also includes other people living in the same household, who share a relationship comparable to immediate family members, if either occupies a position which requires influence over the other's employment, promotion, salary administration, or other related management or personnel considerations."

SECTION 16. G.S. 18B-700 is amended by adding a new subsection to read:

"(l) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards."

SECTION 17. G.S. 18B-701 reads as rewritten:

"§ 18B-701. Powers and duties of local ABC boards.

(a) Powers. – A local board shall have authority to:

- (1) Buy, sell, transport, and possess alcoholic beverages as necessary for the operation of its ABC stores;
- (2) Adopt rules for its ABC system, subject to the approval of the Commission;
- (3) Hire and fire employees for the ABC system;
- (4) Designate one employee as manager of the ABC system and determine his responsibilities;
- (5) Require bonds of employees as provided in the rules of the Commission;
- (6) Operate ABC stores as provided in Article 8;
- (7) Issue purchase-transportation permits as provided in Article 4;
- (8) Employ local ABC officers or make other provision for enforcement of ABC laws as provided in Article 5;

- (9) Borrow money as provided in G.S. 18B-702;
- (10) Buy and lease real and personal property, and receive property bequeathed or given, as necessary for the operation of the ABC system;
- (11) Invest surplus funds as provided in G.S. 18B-702;
- (12) Dispose of property in the same manner as a city council may under Article 12 of Chapter 160A of the General Statutes; and
- (13) Perform any other activity authorized or required by the ABC law.

(b) Duties. – A local board shall have the duty to comply with all rules adopted by the Commission pursuant to this Chapter and meet all standards for performance and training established by the Commission pursuant to G.S. 18B-203(a)(20) and (21). Failure to comply with Commission rules shall be cause for removal."

SECTION 18. G.S. 18B-702 reads as rewritten:

"§ 18B-702. Financial operations of local boards.

(a) Generally. – A local board may transact business as a corporate body, except as limited by this section. A local board shall not be considered a public authority under G.S. 159-7(b)(10).

(b) Budget Officer. – The general manager of the local board shall be the budget officer for the local board. In the absence of a general manager, a local board may impose the duties of budget officer on the chairman or any member of the local board or any other employee of the board.

(c) Annual Balanced Budget. – Each local board shall operate under an annual balanced budget administered in accordance with this section. A budget is balanced when the sum of estimated gross revenues and both restricted and unrestricted funds are equal to appropriations. Expenditures shall not exceed the amount of funds received or in reserve for the purpose to which the funds are appropriated. It is the intent of this section that all monies received and expended by a local board should be included in the budget. Therefore, notwithstanding any other provision of law, no local board may expend any monies, regardless of their source, except in accordance with a budget adopted under this section. The budget of a local board shall cover a fiscal year beginning July 1 and ending June 30.

(d) Preparation and Submission of Budget and Budget Message. – Upon receipt of the budget requests and revenue estimates and the financial information supplied by the finance officer, the budget officer shall prepare a budget for consideration by the local board in such form and detail as may have been prescribed by the budget officer or the local board. The budget, together with a budget message, shall be submitted to the local board, the appointing authority, and the Commission not later than June 1. The budget and budget message should, but need not, be submitted at a formal meeting of the board. The budget message should contain a concise explanation of the goals fixed by the budget for the budget year, explain important features of the activities anticipated in the budget, set forth the reasons for stated changes from the previous year in appropriation levels, and explain any major changes in fiscal policy.

(e) Filing and Publication of the Budget. – On the same day the budget officer submits the budget to the local board, the budget officer shall make a copy for public inspection, and it shall remain available for public inspection until the budget is adopted. The budget officer shall make a copy of the budget available to all news media in the county. The budget officer shall also publish a statement that the budget has been submitted to the local board and is available for public inspection in the office of the general manager of the local board. The statement shall also give notice of the time and place of the budget hearing required by subsection (f) of this section.

(f) Budget Hearings. – Before adopting the budget, the board shall hold a public hearing at which time any persons who wish to be heard on the budget may appear.

(g) Adoption of Budget. – Not earlier than 10 days after the day the budget is presented to the board and not later than July 1, the local board shall adopt a budget making appropriations for the budget year in such sums as the board may consider sufficient and

proper, whether greater or less than the sums recommended in the budget. The budget shall authorize all financial transactions of the local board. The budget may be in any form that the board considers most efficient in enabling it to make the fiscal policy decisions embodied therein, but it shall make appropriations by department, function, or project and show revenues by major source. The following directions and limitations shall bind the local board in adopting the budget:

- (1) The full amount estimated by the finance officer to be required for debt service during the budget year shall be appropriated.
- (2) The full amount of any deficit in each fund shall be appropriated.
- (3) Working capital funds set aside pursuant to G.S. 18B-805 shall be established by rule of the Commission. "Working capital" means the total of cash, investments, and inventory less all unsecured liabilities. Gross sales means gross receipts from the sale of alcoholic beverages less distributions as defined in G.S. 18B-805(b)(2), (3), (4), and (5). Any expenditure to be charged against working capital funds shall be authorized by resolution of the local board, which resolution shall be deemed an amendment to the budget setting up an appropriation for the object of expenditure authorized. The local board may authorize the budget officer to authorize expenditures from working capital funds subject to such limitations and procedures as it may prescribe. Any such expenditure shall be deemed an amendment and reported to the board at its next regular meeting and recorded in the minutes.
- (4) Estimated revenues shall include only those revenues reasonably expected to be realized in the budget year.
- (5) Sufficient funds to meet the amounts to be paid during the fiscal year under continuing contracts previously entered into shall be appropriated unless such contract reserves to the local board the right to limit or not to make such appropriation.
- (6) The sum of estimated net revenues and appropriated fund balance in each fund shall be equal to appropriations in that fund. Appropriated fund balance in a fund shall not exceed the sum of cash and investments minus the sum of liabilities, encumbrances, and deferred revenues arising from cash receipts, as those figures stand at the close of the fiscal year next preceding the budget year.

The budget shall be entered in the minutes of the local board and within five days after adoption, and copies thereof shall be filed with the finance officer, the budget officer, the appointing authority, and the Commission.

(h) Amendments to the Budget. – Except as otherwise restricted by law, the local board may amend the budget at any time after adoption, in any manner, so long as the budget, as amended, continues to satisfy the requirements of this section. The local board by appropriate resolution may authorize the budget officer to transfer monies from one appropriation to another within the same fund subject to such limitations and procedures as it may prescribe. Any such transfers shall be reported to the local board at its next regular meeting and shall be entered in the minutes. Amendments to the adopted budget shall also be provided to the appointing authority and the Commission.

(i) Interim Budget. – In case the adoption of the budget is delayed until after July 1, the local board shall make interim appropriations for the purpose of paying salaries, debt service payments, and the usual ordinary expenses of the local board for the interval between the beginning of the budget year and the adoption of the budget. Interim appropriations so made shall be charged to the proper appropriations in the adopted budget.

(j) Finance Officer. – Except as otherwise provided, the local board shall designate (i) a part-time or full-time employee of the board other than the general manager or (ii) the finance officer of the appointing authority with consent of the appointing authority to be the finance officer for the local board. The Commission, for good cause shown, may allow the general

manager of a board also to be the finance officer. Good cause includes, but is not limited to, the fact that the board operates no more than two stores, and any approval for the general manager also to be the finance officer shall apply until the board operates more than two stores; in any event, the approval shall be effective for 36 months.

(k) Duties and Powers of the Finance Officer. – The finance officer for a local board shall:

- (1) Keep the accounts of the local board in accordance with generally accepted principles of governmental accounting and the rules and regulations of the Commission.
- (2) Disburse all funds of the local board in strict compliance with this Chapter, the budget, preaudit obligations, and disbursements as required by this section.
- (3) As often as may be requested by the local board or the general manager, prepare and file with the board a statement of the financial condition of the local board.
- (4) Receive and deposit all monies accruing to the local board, or supervise the receipt and deposit of money by other duly authorized employees.
- (5) Maintain all records concerning the debt and other obligations of the local board, determine the amount of money that will be required for debt service or the payment of other obligations during each fiscal year, and maintain all funds.
- (6) Supervise the investment of idle funds of the local board pursuant to subsection (t) of this section.

The finance officer shall perform such other duties as may be assigned by law, by the general manager, budget officer, or local board, or by rules and regulations of the Commission.

(l) Accounting System. – Each local board shall establish and maintain an accounting system designed to show in detail its assets, liabilities, equities, revenues, and expenditures. The system shall also be designed to show appropriations and estimated revenues as established in the budget originally adopted and subsequently amended.

(m) Incurring Obligations. – No obligation may be incurred in a program, function, or activity accounted for in a fund included in the budget unless the budget includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year. No obligation may be incurred for a capital project unless the budget authorizes the obligation and an unencumbered balance remains in the appropriation sufficient to pay the sums obligated by the transaction. If an obligation is evidenced by a contract or agreement requiring the payment of money or by a purchase order for supplies and materials, the contract, agreement, or purchase order shall include on its face a certificate stating that the instrument has been preaudited to assure compliance with this subsection. The certificate, which shall be signed by the finance officer or any deputy finance officer approved for this purpose by the local board, shall take substantially the following form:

"This instrument has been preaudited in the manner required by G.S. 18B-702.

(Signature of finance officer)."

An obligation incurred in violation of this subsection is invalid and may not be enforced. The finance officer shall establish procedures to assure compliance with this subsection.

(n) Disbursements. – When a bill, invoice, or other claim against a local board is presented, the finance officer shall either approve or disapprove the necessary disbursement. If the claim involves a program, function, or activity accounted for in a fund included in the budget or a capital project or a grant project authorized by the budget, the finance officer may approve the claim only if:

- (1) The finance officer determines the amount to be payable; and

- (2) The budget includes an appropriation authorizing the expenditure and either (i) an encumbrance has been previously created for the transaction or (ii) an unencumbered balance remains in the appropriation sufficient to pay the amount to be disbursed.

A bill, invoice, or other claim may not be paid unless it has been approved by the finance officer or, under subsection (o) of this section, by the local board. The finance officer shall establish procedures to assure compliance with this subsection.

(o) Local Board Approval of Bills, Invoices, or Claims. – The local board may, as permitted by this subsection, approve a bill, invoice, or other claim against the local board that has been disapproved by the finance officer. It may not approve a claim for which no appropriation appears in the budget, or for which the appropriation contains no encumbrance and the unencumbered balance is less than the amount to be paid. The local board shall approve payment by formal resolution stating the board's reasons for allowing the bill, invoice, or other claim. The resolution shall be entered in the minutes together with the names of those voting in the affirmative. The chairman of the board or some other member designated for this purpose shall sign the certificate on the check or draft given in payment of the bill, invoice, or other claim. If payment results in a violation of law, each member of the board voting to allow payment is jointly and severally liable for the full amount of the check or draft given in payment.

(p) Checks or Drafts Signed by Finance Officer. – Except as otherwise provided by law, all checks or drafts on an official depository shall be signed by the finance officer or a properly designated deputy finance officer. The chairman of the local board or general manager of the local board shall countersign these checks and drafts. The Commission may waive the requirements of this subsection if the board determines that the internal control procedures of the unit or authority will be satisfactory in the absence of dual signatures.

(q) Payment of a Bill, Invoice, Salary, or Claim. – A local board may not pay a bill, invoice, salary, or other claim except by a check or draft on an official depository or by a bank wire transfer from an official depository. Except as provided in this subsection, each check or draft on an official depository shall bear on its face a certificate signed by the finance officer or a deputy finance officer approved for this purpose by the local board (or signed by the chairman or some other member of the board pursuant to subsection (o) of this section). The certificate shall take substantially the following form:

"This disbursement has been approved in the manner required by G.S. 18B-702.

(Signature of finance officer)."

No certificate is required on payroll checks or drafts on an imprest account in an official depository if the check or draft depositing the funds in the imprest account carried a signed certificate. No certificate is required for expenditures of fifty dollars (\$50.00) or less from a petty cash fund, provided the expenditure is accounted for by a receipt for the expended item.

~~(b)(r)~~ Borrowing Money. – A local board may borrow money only for the purchase of land, buildings, equipment and stock needed for the operation of its ABC system. A local board may pledge a security interest in any real or personal property it owns other than alcoholic beverages. A city or county whose governing body appoints a local board shall not in any way be held responsible for the debts of that board.

~~(e)(s)~~ Audits. – A local board shall submit to the appointing authority and Commission an annual independent audit of its operations, performed in accordance with generally accepted accounting standards and in compliance with a chart of accounts prescribed by the Commission. The audit report shall contain a summary of the requirements of this Chapter, or of any local act applicable to that local board, concerning the distribution of profits of that board and a description of how those distributions have been made, including the names of recipients of the profits and the activities for which the funds were distributed. A local board shall also submit to any other audits and submit any reports demanded by the appointing authority or the Commission.

~~(d)~~(t) Deposits and Investments. – A local board may deposit ~~moneys~~monies at interest in any bank or trust company in this State in the form of savings accounts or certificates of deposit. Investment deposits shall be secured as provided in G.S. 159-31(b) and the reports required by G.S. 159-33 shall be submitted. A local board may invest all or part of the cash balance of any fund as provided in G.S. 159-30(c) and (d), and may deposit any portion of those funds for investment with the State Treasurer in the same manner as State boards and commissions under G.S. 147-69.3.

~~(e)~~(u) Compliance with Commission Rules. – The Commission shall adopt, and each local board shall comply with, fiscal control rules concerning the borrowing of money, maintenance of working capital, investments, appointment of a budget officer, appointment of a financial officer, daily deposit of funds, bonding of employees, auditing of operations, and the schedule, manner and other procedures for distribution of profits. The Commission may also adopt any other rules concerning the financial operations of local boards which are needed to assure the proper accountability of public funds. The Commission may vary these rules and regulations according to any other criteria reasonably related to the purpose or complexity of the financial operations involved. The Commission has the authority to inquire into and investigate the internal control procedures of a local board and may require any modifications in internal control procedures which, in the opinion of the Commission, are necessary or desirable to prevent embezzlements or mishandling of public monies.

(v) Penalties. – If a board member or employee of a local board incurs an obligation or pays out or causes to be paid out any funds in violation of this section, the member or employee and the sureties on the official bond are liable for any sums so committed or disbursed. If the finance officer or any properly designated deputy finance officer gives a false certificate to any contract, agreement, purchase order, check, draft, or other document, the finance officer and the sureties on the official bond are liable for any sums illegally committed or disbursed thereby.

~~(f)~~(w) Applicability of Criminal Statutes. – The provisions of G.S. 14-90 and G.S. 14-254 shall apply to any person appointed to or employed by a local board, and any person convicted of a violation of G.S. 14-90 or G.S. 14-254 shall be punished as a Class H felon.

(x) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards."

SECTION 19. Chapter 18B of the General Statutes is amended by adding a new section to read:

"§ 18B-704. Removal of local board members and employees.

(a) Improper Influence. – Neither the Commission nor its individual members shall attempt to coerce any appointing authority to appoint a particular person as a member of a local board or attempt to coerce a local board to employ any particular applicant.

(b) Purpose. – This section is intended to provide a uniform system of removal for appointing authorities and the Commission.

(c) Cause for Removal. – (i) Disqualification of a local board member or employee under the law, (ii) a violation of the ABC laws, (iii) failure to complete training required by this Chapter or the Commission, or (iv) engaging in any conduct constituting moral turpitude or which brings the local board or the ABC system into disrepute is cause for the Commission to remove any member or employee of a local board. The employment or retention of any employee who is known to be disqualified under the law to hold a position with a local board is cause for the Commission to remove the board members involved.

(d) Removal Process. – The Commission or appointing authority shall provide, in writing, to the local board member or employee the findings of fact upon which the decision for removal is based. The Commission or appointing authority shall also provide the local board member or employee with notice of the availability of a hearing before the Commission to review the removal.

(e) Removal Hearing. – Any local board member or employee removed from office or discharged by the Commission or the appointing authority may request a hearing before the Commission. Such a request operates to stay the action of the Commission or the appointing

authority with regard to the matter until after the hearing, unless the Commission finds that the public interest requires immediate action. At the hearing, the employee or the employee's counsel may examine all evidence used against the employee and present evidence in the employee's own behalf. A removal hearing is not subject to the provisions of Chapter 150B of the General Statutes. All hearings shall be conducted informally and in such manner as to preserve the substantial rights of the parties.

(f) Hearing Procedure. – The Commission shall hold the hearing required by subsection (e) of this section within 15 days of the member's or employee's request for a hearing. The standard of review by the Commission is de novo. The Commission or appointing authority shall be represented by a Commission hearing officer. The Commission shall discharge the member or employee if two-thirds of the Commission's members vote for removal. The Commission shall make findings of fact. The Commission may adopt the findings of fact of the Commission or the appointing authority, may add new findings of fact to the original findings of fact, or may substitute new findings of fact for the original findings of fact. The Commission shall make conclusions of law and shall issue a written decision to the member or employee of the local board, and to the appointing authority, within 15 days of the hearing.

(g) Commission Authority. – The Commission shall have the sole power, in its discretion, to determine if cause exists for removal of a local board member or employee who has requested a hearing before the Commission. The Commission's decision in a removal hearing is final.

(h) Appeal. – A local board member or employee may appeal the Commission's final decision to the Court of Appeals. The standard of review for an appeal shall be abuse of discretion. The sole remedy for a local board member or employee shall be the reinstatement of the board member or employee to the local board with back pay. All awards for back pay shall be paid by the local board from which the board member or employee was removed.

(i) Removal Hearing Not a Substitute for Termination of Employee. – Nothing in this section replaces or is intended to replace a local board's policy regarding the termination of an employee for personnel reasons. The removal process under this section is reserved solely for the appointing authority or the Commission to remove a board member or employee for cause.

(j) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards."

SECTION 20. Chapter 18B of the General Statutes is amended by adding a new section to read:

"§ 18B-705. Compliance with performance standards; remedies.

(a) Local Board Compliance. – The Commission shall establish performance standards pursuant to G.S. 18B-203(a)(20). The Commission shall ensure that all local boards comply with established performance standards by conducting regular or special audits, conducting performance evaluations, or taking other measures, which may include inspections by Commission auditors or alcohol law enforcement agents.

(b) Performance Improvement Plans. – The Commission, upon determining that a local board is failing to meet performance standards established pursuant to G.S. 18B-203(a)(20), shall meet with the chair of the local board and the appointing authority and issue a statement of findings. The appointing authority, in consultation with the Commission and the local board, shall develop and deliver a performance improvement plan to the local board within 60 days of the meeting with the Commission. The performance improvement plan shall include, but not be limited to, recommendations for improved performance based on the performance standards established by the Commission. The plan shall also state a period of time in which the performance improvements are to occur and what action will be taken by the Commission if performance standards are not met within the given time limits. The appointing authority shall allow up to, but no more than, 12 months' time to the local board to implement and show improvement under the performance improvement plan. The local appointing authority, in consultation with the Commission and upon good cause shown, may allow up to an additional six-month period of time for the local board to meet all requirements in the performance

improvement plan and to establish that the performance standards established by the Commission are met.

(c) Remedies. – If the Commission determines that the established performance standards identified in the statement of findings cannot be met after a performance improvement plan has been implemented and adequate time has been given, but in no case less than 12 months, the Commission shall take appropriate action to avoid insolvency. This action may include closing the board pursuant to G.S. 18B-801(d), closing a store or multiple stores, or merging the local board with another local board in order to maintain solvency. The Commission may also seize the assets of the local board and liquidate any assets necessary to satisfy any debt in order to maintain the solvency of the local board. Prior to taking action pursuant to this subsection, the Commission shall issue a notice of intent to take such action to the appointing authority and the local board.

(d) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards."

SECTION 21. Chapter 18B of the General Statutes is amended by adding a new section to read:

"§ 18B-706. Ethics requirements for local boards.

(a) Each local board shall adopt a policy containing a code of ethics, consistent with the provisions of G.S. 18B-201, to guide actions by the local board members and employees of the local board in the performance of their official duties. The policy shall address at least all of the following:

- (1) The need to obey all applicable laws regarding official actions taken as a local board member or employee.
- (2) The need to uphold the integrity and independence of the local board member or employee's position.
- (3) The need to avoid impropriety in the exercise of official duties.
- (4) The need to faithfully perform the duties of the position.
- (5) The need to conduct the affairs of the board in an open and public manner, including complying with all applicable laws governing open meetings and public records.

(b) Each member of a local board shall receive a minimum of two hours of ethics education within 12 months after initial appointment to the office and again within 12 months after each subsequent appointment to the office. The ethics education shall cover laws and principles that govern conflicts of interest and ethical standards of conduct for local ABC boards. The education may be provided by the Commission or another qualified source approved by the Commission. The local board shall maintain a record verifying receipt of the ethics education by each member of the local board. The local board may require appropriate ethics training and education for employees of the local ABC board.

(c) The Commission shall develop a model ethics policy that local ABC boards may adopt to be in compliance with this section."

SECTION 22. G.S. 18B-801(b) reads as rewritten:

"(b) Location of Stores. – A local board may choose the location of the ABC stores within its jurisdiction, subject to the approval of the Commission. In making its decision on a location, the Commission may consider:

- (1) Whether the health, safety, or general welfare of the community will be adversely affected; ~~and~~ affected.
- (2) Whether the citizens of the community or city in which the proposed store is to be located voted for or against ABC stores in the last election on the question.
- (3) The proximity of the new location to existing ABC stores operated by the local board or any other board."

SECTION 23. G.S. 18B-801(c) reads as rewritten:

"(c) Closing of Stores. – Subject to the provisions of ~~subsection (a),~~ subsection (a) of this section, a local board may ~~close, close a store,~~ or the Commission may order a local board to ~~close, close~~ any store when the local board or the Commission determines that:

- (1) ~~The operation of the store is not sufficiently profitable to justify its continuation;~~
- (2) The store is not operated in accordance with the ABC law; or
- (3) The continued operation of that store will adversely affect the health, safety, or general welfare of the community in which the store operates."

SECTION 24. G.S. 18B-803 reads as rewritten:

"§ 18B-803. Store management.

(a) Manager. – A local board shall provide for the management of each store operated by it. The board shall employ at least one manager for each store, who shall operate the store pursuant to the directions of that board.

(b) Bonding of Manager. – Each store manager shall be bonded in an amount not less than ~~five thousand dollars (\$5,000),~~ fifty thousand dollars (\$50,000) secured by a corporate surety, for the honest performance of his duties. A public employees' blanket position bond, honesty form, in the required amount satisfies the requirements of this subsection. The bond shall be payable to the local board and shall be approved by the appointing authority for the local board. The appointing authority may increase the amount of bond required for store managers under this subsection.

(c) Bonding of Other Employees. – A local board or the appointing authority may require any of its other employees who handle funds to obtain bonds. The amount and form of those bonds shall be determined by the local board.

(d) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards."

SECTION 25. G.S. 18B-1213 reads as rewritten:

"§ 18B-1213. Obligations of purchaser.

The purchaser of a ~~winery~~ winery, and any successor to the import rights of a winery, is obligated to all the terms and conditions of an agreement in effect on the date of the ~~purchase,~~ purchase or other acquisition of the right to distribute a brand, except for good cause, which includes,

- (1) Revocation of the wholesaler's permit or license to do business in this State,
- (2) Bankruptcy or insolvency of the wholesaler,
- (3) Assignment for the benefit of creditors or similar disposition of the assets of the wholesaler, or
- (4) Failure by the wholesaler to comply substantially, without reasonable excuse or justification, with any reasonable and material requirement imposed upon ~~him~~ the wholesaler by the winery.

As used in this Article, "purchase" includes the sale of stock, sale of assets, merger, lease, transfer, or consolidation."

SECTION 26. G.S. 18B-1201(4) reads as rewritten:

- "(4) "Winery" means any holder of an unfortified winery permit, fortified winery permit, limited winery permit, or nonresident wine vendor permit issued under the authority of this Chapter who sells at least ~~1,000~~ 1,250 cases of wine in North Carolina per year."

SECTION 27. G.S. 93B-9 reads as rewritten:

"§ 93B-9. Age requirements.

Any other provision notwithstanding, except certifications issued by the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission pursuant to Chapters 17C, 17E, 74E, and 74G of the General Statutes, no occupational licensing board may require that an individual be more than 18 years of age as a requirement for receiving a license."

SECTION 28. Section 4 of S.L. 2004-92 reads as rewritten:

~~"SECTION 4. If an election is held pursuant to this act and the operation of ABC stores in the City of Kannapolis is approved, the~~The Rowan County ABC Board shall be renamed the Rowan/Kannapolis ABC Board. ~~The terms of the current members of the Rowan County ABC Board shall not be affected by this act, and the Rowan County Board of Commissioners shall continue to appoint three members for staggered, three-year terms on the same schedule as is now followed.~~There shall be three board members appointed for staggered three-year terms. One member shall be appointed by each of the following governing bodies: Rowan County Board of Commissioners, Kannapolis City Council, and the Salisbury City Council. Appointments shall be made in the following order as current board member terms expire: Salisbury City Council, Kannapolis City Council, and the Rowan County Board of Commissioners. The chair of the Rowan/Kannapolis ABC Board shall be determined by a vote of the members of the Rowan/Kannapolis ABC Board. A member of the Rowan/Kannapolis ABC Board may be removed for cause at anytime by the appointing authority. Members and employees of the Rowan/Kannapolis ABC Board are subject to the removal provisions of G.S. 18B-202."

SECTION 29. Section 6 of this act becomes effective January 1, 2011. Sections 12 and 15 of this act become effective October 1, 2010, and apply to general managers and employees hired on or after that date. Section 16 of this act becomes effective October 1, 2011. Section 18 of this act becomes effective May 1, 2011, and is applicable for local board fiscal years beginning July 1, 2011. The ABC Commission shall offer training and education to local boards to assist local boards in complying with Section 18 of this act, and such training and education shall be offered at least once annually after the effective date of this act; however, the Commission shall have no obligation to provide such training and education after December 31, 2013. Section 25 of this act is effective September 15, 2010, and its provisions shall apply to all existing wine distribution agreements. A supplier's shipment of wine to a wholesaler in North Carolina following the effective date of Section 25 of this act shall constitute acceptance by the supplier of the terms of this act and shall be incorporated into the distribution agreement between the supplier and wholesaler. Section 25 of this act shall be effective prospectively only and shall not apply to any administrative action pending before the ABC Commission or to pending litigation or claims that accrued before the effective date of this act. Section 26 of this act is effective September 15, 2010. Section 27 of this act is effective when it becomes law. Section 28 of this act is effective when it becomes law and applies to appointments and vacancies that occur on or after that date. The remainder of this act becomes effective October 1, 2010. Nothing in this act shall be deemed to repeal or amend S.L. 1997-224 applicable to Mecklenburg County. Nothing in this act shall be deemed to repeal or amend Chapter 886 of the 1985 Session Laws applicable to the Greensboro ABC Board.

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law upon approval of the Governor at 10:16 a.m. on the 21st day of July, 2010.

Session Law 2010-123

S.B. 1202

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND OTHER MODIFICATIONS TO THE CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS APPROPRIATIONS ACTS.

The General Assembly of North Carolina enacts:

PART I. GENERAL PROVISIONS

SECTION 1.1. The portion of Section 2.1 of S.L. 2010-31 setting forth appropriations for Education reads as rewritten:

"**SECTION 2.1.** Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated, are adjusted for the fiscal year ending June 30, 2011, according to the schedule that follows. Amounts set out in brackets are reductions from General Fund appropriations for the 2010-2011 fiscal year.

Current Operations – General Fund	2010-2011
EDUCATION	
Community Colleges System Office	\$ 42,668,183
Department of Public Instruction	(275,244,311)
University of North Carolina – Board of Governors	
Appalachian State University	1,998,580
East Carolina University	
Academic Affairs	5,851,230
Elizabeth City State University	750,308
Fayetteville State University	1,417,998
North Carolina Agricultural and Technical State University	2,490,531
North Carolina Central University	370,281
North Carolina State University	
Academic Affairs	12,371,317
UNC School of the Arts	466,240
University of North Carolina at Asheville	782,143
University of North Carolina at Chapel Hill	
Academic Affairs	5,269,319
Health Affairs	125,319
Area Health Education Centers	0
University of North Carolina at Charlotte	7,748,950
University of North Carolina at Greensboro	3,362,001
University of North Carolina at Pembroke	768,400
University of North Carolina at Wilmington	3,435,177
Western Carolina University	1,015,952
Winston-Salem State University	798,672
General Administration	(410,863)
University Institutional Programs	(40,303,905) (44,855,669)
Related Educational Programs	10,058,332
UNC Financial Aid Private Colleges	(63,635) 4,488,129
North Carolina School of Science and Mathematics	80,851
UNC Hospitals at Chapel Hill	(8,000,000)
Total University of North Carolina – Board of Governors	\$ 10,383,198
...."	

SECTION 1.2.(a) Section 2.2(d) of S.L. 2010-31 reads as rewritten:

"**SECTION 2.2.(d)** Notwithstanding the provisions of G.S. 105-187.19(b), effective for taxes levied during the 2010-2011 fiscal year, the Secretary of Revenue shall credit to the General Fund the net tax proceeds that G.S. 105-187.19(b) directs the Secretary to credit to the Scrap Tire Disposal Account. This subsection applies to distributions to the Scrap Tire Disposal Account made by the Secretary during the 2010-2011 fiscal year."

SECTION 1.2.(b) Section 2.2(e) of S.L. 2010-31 reads as rewritten:

"SECTION 2.2.(e) Notwithstanding the provisions of G.S. 105-187.24, effective for taxes levied during the 2010-2011 fiscal year, the Secretary of Revenue shall credit to the General Fund the net tax proceeds that G.S. 105-187.24 directs the Secretary to credit to the White Goods Management Account. This subsection applies to distributions to the White Goods Management Account made by the Secretary during the 2010-2011 fiscal year."

SECTION 1.2.(c) Section 2.2(j) of S.L. 2010-31 reads as rewritten:

"SECTION 2.2.(j) The Brody School of Medicine (formerly known as the East Carolina University School of Medicine) shall transfer the sum of ~~two million dollars (\$2,000,000)~~ one million dollars (\$1,000,000) from Budget Code 06067, Fund Code 0142, to the Office of State Controller for deposit to Nontax Budget Code 19978 (Intrastate Transfers) for the 2010-2011 fiscal year."

SECTION 1.2.(d) Section 2.2 of S.L. 2010-31 is amended by adding a new subsection to read:

"SECTION 2.2.(k) The sum of one million dollars (\$1,000,000) is hereby transferred from the Contingency and Emergency Fund to the Department of Agriculture for budget code 53750, which is DACS – NC State Fair."

SECTION 1.2.(e) Section 2.2 of S.L. 2010-31 is amended by adding a new subsection to read:

ESTABLISH RESERVE FOR SOFTWARE DEVELOPMENT FOR THE STATE BOARD OF ELECTIONS

"SECTION 2.2.(l). There is appropriated from the General Fund to the Office of State Budget and Management, Reserve for State Board of Elections Software Development, the sum of six hundred seventy-one thousand eight hundred ninety-three dollars (\$671,893) recurring for the 2010-2011 fiscal year. If House Bill 961, 2010 Regular Session of the 2009 General Assembly, or Senate Bill 716, 2010 Regular Session of the 2009 General Assembly, or substantially similar government ethics and campaign reform legislation becomes law, then the funds shall be used for the development of software to provide campaign committee treasurers the ability to comply with existing campaign laws and provide a searchable public database."

SECTION 1.3. Section 2.3 of S.L. 2010-31 reads as rewritten:

"SECTION 2.3.(a) The General Assembly finds that:

...

"SECTION 2.3.(b) If the Congress does not act to authorize all or part of these enhanced FMAP funds prior to January 1, 2011, the General Assembly directs the Director of the Budget, in conjunction with the State Treasurer, State Controller, and other State officials, to effectuate the following extraordinary budget adjustments that either increase availability or decrease appropriations, to the extent necessary to backfill the enhanced FMAP funds, in priority order:

MEASURES TO ADDRESS POTENTIAL LOSS OF ENHANCED FMAP FUNDS

(1) Transfer from the Disaster Relief Reserve Fund established in S.L. 2005-1	\$ (30,000,000)	<u>\$ 30,000,000</u>
(2) Transfer of unclaimed lottery prize money and excess receipts	(35,000,000)	<u>35,000,000</u>
(3) Use of interest from all other funds	(50,000,000)	<u>50,000,000</u>
(4) Use of balance in General Fund Availability	(23,469,157)	<u>22,768,282</u>
(5) Reduction of Medicaid Provider rates	(26,618,975)	<u>26,618,975</u>
(6) Use of funds from the Savings Reserve Fund	(37,307,714)	<u>38,008,589</u>
(7) Reduction in Retirement System contributions	(139,000,000)	<u>139,000,000</u>

(8) One percent (1%) Management Flexibility Reduction	(177,500,000)	<u>177,500,000</u>
TOTAL	<u>\$ (518,895,846)</u>	<u>\$ 518,895,846</u>

"SECTION 2.3.(b1) Items set out in subdivisions (1) through (4) and (6) of subsection (b) of this section are increases to availability and, to the extent that these funds are required to backfill shortfalls in FMAP funding, these funds are hereby appropriated from the appropriate fund for this purpose. Items set out in subdivisions (5), (7), and (8) of subsection (b) of this section are decreases to appropriations.

...
"SECTION 2.3.(e) If it is necessary to implement the budget adjustment set out in subdivision (b)(4) of this section, the Director of the Budget shall use the unappropriated balance in the General Fund to offset the reduction in federal fund ~~availability, and such funds are hereby appropriated for this purpose.~~ availability. If it is not necessary to expend all of these funds in accordance with subdivision (b)(4) of this section, the State Controller shall transfer the remaining funds to the Savings Reserve Account.

SECTION 2.3.(f) If it is necessary to implement the budget adjustment set out in subdivision (b)(5) of this section, notwithstanding Section 10.68A(a)(8) of S.L. 2009-451, as amended by Section 5A of S.L. 2009-575 and Section 10.35 of this act, the Department of Health and Human Services shall reduce reimbursement rates paid to service providers in the Medicaid program to generate savings of twenty-six million six hundred eighteen thousand nine hundred seventy-five dollars ~~(\$26,618,975).~~ (\$26,618,975) with the reductions occurring in an equal percentage rate to all service providers, as allowed under federal law.

In order to avoid a significant decrease in reimbursement rates late in the fiscal year, the Secretary of the Department of Health and Human Services may reduce reimbursement rates as provided in this subsection at any time that he or she finds it is unlikely the State will receive adequate enhanced FMAP funds to avoid the necessity to reduce reimbursement rates.

The rate reduction authorized in this section shall not apply to: ~~federally qualified health clinics, rural health centers, State institutions, hospital inpatient, pharmacies, and the noninflationary components of the case-mix reimbursement system for nursing facilities.~~ federally qualified health centers, rural health centers, school-based and school-linked health centers, State institutions, hospital outpatient, pharmacy, and the noninflationary components of the case-mix reimbursement system for skilled nursing facilities.

"SECTION 2.3.(g) If it is necessary to implement the budget adjustment set out in subdivision (b)(6) of this section, the Office of State Budget and Management shall use up to thirty-eight million eight thousand five hundred eighty-nine dollars (\$38,008,589) from the Savings Reserve Fund to offset the reduction in federal fund ~~availability, and such funds are hereby appropriated for this purpose.~~ availability.

...
"SECTION 2.3.(i) If it is necessary to implement the budget adjustment set out in subdivision (b)(8) of this section, the Director of the Budget shall implement a one percent (1%) annualized management flexibility reduction. Notwithstanding any other provision of law, and unless it is inconsistent with a federal law, grant agreement, or other federal requirement, or with the terms of a gift or settlement agreement, the Director of the Budget may use funds appropriated for any purpose or program and from any governmental or proprietary funds for this purpose. For purposes of this section, and in keeping with the legislative budget priority to "keep our families working" set out in Section 6.6 of this act, "management flexibility" shall be defined as cuts made at the discretion of the agency head with the understanding that the agencies are encouraged to implement all administrative and other operating efficiencies, including the reduction of vacant positions which do not affect public safety or staffing ratios at State institutions, prior to the dismissal of employees.

Effective July 1, 2010, agency heads shall immediately take steps in preparation for a potential one percent (1%) reduction. The reduction authorized in this section shall not apply to Medicaid provider reimbursement rates.

...."

SECTION 1.3A. Section 3.1 of S.L. 2010-31 reads as rewritten:

"CURRENT OPERATIONS/HIGHWAY FUND

"**SECTION 3.1.** Appropriations from the State Highway Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated are adjusted for the fiscal year ending June 30, 2011, according to the following schedule. Amounts set out in brackets are reductions from Highway Fund Appropriations for the 2010-2011 fiscal year.

2010-2011

...

Division of Highways

...

Maintenance	(4,373,213) <u>(4,693,213)</u>
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...

Transfers to Other State Agencies, and Reserves	35,861,964 <u>36,181,964</u>
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...."

SECTION 1.4. Section 5.1(e) of S.L. 2010-31 reads as rewritten:

"**SECTION 5.1(e)** Notwithstanding G.S. 18C-164(c), G.S. 115C-546.2(d), or any other provision of law, funds appropriated in this section to the Public School Building Capital Fund for the 2010-2011 fiscal year shall be allocated to counties on the basis of average daily membership (ADM). ~~Counties~~ For funds received for the 2010-2011 fiscal year, counties may authorize local school administrative units to use funds received from the Public School Building Capital Fund pursuant to subsection (f) of this section for one or more of the following purposes only: (i) for school construction projects in accordance with G.S. 115C-546.2(d), (ii) to retire indebtedness incurred for school construction projects incurred on or after January 1, 2003, in accordance with G.S. 115C-546.2(d), and (iii) for classroom teachers. A county may authorize the use of these funds for classroom teachers only upon the request of the local board of education. Funds used for classroom teachers shall supplement and not supplant existing local current expense funding for the public schools.

These funds shall not be included in the computation of "average per pupil allocation for average daily membership" or "per pupil local current expense appropriation" under G.S. 115C-238.29H."

PART II. INFORMATION TECHNOLOGY

SECTION 2.1. Section 6.7(b) of S.L. 2009-451, as amended by Section 6.8 of S.L. 2010-31, reads as rewritten:

"**SECTION 6.7(b)** Enterprise Projects. – The State Chief Information Officer shall consult the respective State agency chief information officers to identify specific State agency requirements prior to the initiation of any enterprise project or contract. State agency requirements shall be incorporated into any enterprise agreement signed by the State Chief Information Officer. Enterprise projects shall not exceed the participating State agencies' ability to financially support the contracts.

The State Chief Information Officer shall ensure that enterprise project costs are allocated to participating agencies in an equitable manner and shall not enter into any information technology contracts without obtaining written agreements from participating State agencies regarding apportionment of funding. State agencies agreeing to participate in a contract shall:

- (1) Ensure that sufficient funds are budgeted to support their agreed shares of enterprise agreements throughout the life of the contract.
- (2) Transfer the agreed-upon funds to the Office of Information Technology Services in sufficient time for the Office of Information Technology Services to meet contract requirements.
- (3) ~~Ensure that enterprise project costs are allocated to participating agencies in an equitable manner."~~

SECTION 2.2. Section 6.7(f) of S.L. 2009-451, as amended by Section 6.8 of S.L. 2010-31, reads as rewritten:

"SECTION 6.7.(f) The Office of Information Technology Procurement shall assist State agencies in identifying the ~~least expensive source~~ most cost-effective source and the least expensive source for the purchase of IT goods and services and shall ensure that agencies receive every available discount when purchasing IT goods and services."

SECTION 2.3. S.L. 2010-31 is amended by adding a new section to read:

"CONTINUING PILOT PROGRAM TO ALLOW PUBLIC-PRIVATE PARTNERSHIPS TO MEET DEPARTMENT OF REVENUE TECHNOLOGY NEEDS

SECTION 6.13. Section 6.20 of S.L. 2009-451 reads as rewritten:

"SECTION 6.20.(a) To speed the implementation of the Tax Information Management System (TIMS) and the additional components of the Planning and Design Project (PDP) ~~during the 2009-2011 fiscal biennium, through June 30, 2015,~~ the Secretary of the Department of Revenue may enter into public-private arrangements where (i) the funding of projects under the arrangement comes from revenue generated by the project and (ii) the project is related to the implementation of TIMS and additional components of the PDP. As used in this section, the "additional components of the PDP" are Enterprise Data Warehouse, Management Reporting and Decision Analytics, Customer Relationship Management, Enterprise Case Management, and E-Services. All such arrangements shall terminate June 30, 2015.

Work under a public-private arrangement may be contracted by requests for proposals, modifications to existing contracts, and purchases using existing contract vehicles.

The Secretary of Revenue shall establish a measurement process to determine the increased revenue attributable to the public-private arrangements. To accomplish this, the Secretary shall consult subject matter experts outside the Department of Revenue, both within State government and from private industry. The measurement process shall include:

- (1) Calculation of a revenue baseline against which the increased revenue attributable to the project is measured;
- (2) Periodic evaluation to determine if the baseline needs to be modified based on significant measurable changes in the economic environment; and
- (3) Monthly calculation of increased revenue attributable to contracts executed under this program.

Of funds generated from collections above the baseline established by subdivision (1) of this subsection, in both the General and Highway Funds, up to forty-one million dollars (\$41,000,000) may be authorized by the Office of State Budget and Management (i) for the purchases related to the implementation of TIMS and the additional components of the PDP, including payment for services from non-State ~~entities and (ii) toward internal State costs related to the implementation of TIMS and PDP components.~~ entities. Any internal costs must be appropriated by the General Assembly. The total of any funds expended during the 2009-2011 biennium for implementation of TIMS and the additional PDP components shall not exceed the sum of forty-one million dollars (\$41,000,000).

If the Department of Revenue finds that it cannot generate additional benefits totaling forty-one million dollars (\$41,000,000) ~~in the 2009-2011 biennium, through June 30, 2015, or that total costs exceed the total available appropriations and earned benefits,~~ then the Department shall do all of the following: (i) immediately notify the Chairs of the House of Representatives and Senate Appropriations Committees and Fiscal Research Division, (ii)

identify any obligations to vendors, (iii) identify options for meeting obligations to vendors, and (iv) provide costs associated with each option. The Department shall ensure that this notification is made in sufficient time to allow the General Assembly to properly evaluate the options presented.

"SECTION 6.20.(b) Notwithstanding G.S. 114-2.3, the Department of Revenue shall engage the services of private counsel with the pertinent information technology and computer law expertise to review requests for proposals, and to negotiate and review contracts associated with TIMS and the additional components of the Planning and Design Project (PDP) (Enterprise Data Warehouse, Management Reporting and Decision Analytics, Customer Relationship Management, Enterprise Case Management, and E-Services).

"SECTION 6.20.(c) There is established within the Department of Revenue the Oversight Committee for reviewing and approving the benefits measurement methodology and calculation process. The Oversight Committee shall review and approve in writing all contracts, including change orders, amendments to contracts, and addendums to contracts, before they are executed under this section. This shall include (i) details of each public-private contract, (ii) the benefits from each contract, and (iii) a comprehensive forecast of the benefits of using public-private agreements to implement TIMS and the additional PDP components, including the measurement process established for the Secretary of Revenue. The Oversight Committee shall approve all of the fund transfers for this project. Within five days of entering into a contract, the Department shall provide copies of each contract and all associated information to the Joint Legislative Oversight Committee on Information Technology, the Chairs of the House of Representatives and Senate Committees on Appropriations, and the Fiscal Research Division.

The members of the Committee shall include the following:

- (1) The State Budget Director;
- (2) The Secretary of the Department of Revenue;
- (3) The State Chief Information Officer;
- (4) Two persons appointed by the Governor;
- (5) One member of the general public having expertise in information technology appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives; and
- (6) One member of the general public having expertise in economic and revenue forecasting appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate.

The State Budget Director shall serve as chair of the Committee. The Committee shall set its meeting schedule and adopt its rules of operation by majority vote. A majority of the members constitutes a quorum. Vacancies shall be filled by the appointing authority. Administrative support staff shall be provided by the Department of Revenue. Members of the Committee shall receive reimbursements for subsistence and travel expenses as provided by Chapter 138 of the General Statutes. The Committee shall terminate on ~~June 30, 2011~~ June 30, 2015.

The Department shall provide copies of the minutes of each meeting and all associated information to the Joint Legislative Oversight Committee on Information Technology, the Chairs of the House of Representatives and Senate Committees on Appropriations, and the Fiscal Research Division.

"SECTION 6.20.(d) Beginning ~~October 1, 2009~~ August 1, 2010, and quarterly thereafter, the Department of Revenue shall submit detailed written reports to the Chairs of the House of Representatives and Senate Committees on Appropriation, to the Joint Legislative Oversight Committee on Information Technology, and to the Fiscal Research Division of the Legislative Services Office. The report shall include (i) details of each public-private contract, (ii) the benefits from each contract, (iii) a comprehensive forecast of the benefits of using

public-private agreements to implement TIMS and the additional PDP components, including cost savings and the acceleration of the project timeline, (iv) and any issues associated with the operation of the public-private partnership. Within 60 days of implementing the public-private partnership, the Department of Revenue shall provide to the Chairs of the House of Representatives and Senate Appropriations Committees, and Fiscal Research Division, a schedule for vendor payments that identifies sources and amounts of funding anticipated as a result of the project's implementation.

"SECTION 6.20.(e) In addition to the oversight provided by the Oversight Committee established in subsection (c) of this section, the TIMS project shall be subject to existing Information Technology project oversight ~~legislation, including, but not limited to, G.S. 147-33.72C and G.S. 147-33.72E.~~legislation and the TIMS project management shall comply with all statutory requirements and other requirements established by the State Chief Information Officer and the Office of State Budget and Management for information technology projects. The State Chief Information Officer and the Office of State Budget and Management shall immediately report any failure to do so to the Joint Legislative Oversight Committee on Information Technology, the Chairs of the House of Representatives and Senate Committees on Appropriations, and the Fiscal Research Division."

PART III. EDUCATION

SECTION 3.1. Section 7.24(h) of S.L. 2010-31 reads as rewritten:

"SECTION 7.24.(h) Beginning with the 2010-2011 school year, courses provided in (i) general education, except for mathematics, science, and technology, (ii) physical education, and (iii) college success skills courses offered to high school students shall no longer generate State funding through budget ~~FTE-FTE~~ or receive reimbursements from the Department of Public Instruction. If an institute of higher education offers these courses to high school students, the colleges may charge an amount sufficient to cover the costs of the courses.

This subsection does not apply to courses provided to students of Early and Middle College High ~~Schools~~Schools, as established under Part 9 of Article 16 of Chapter 115C of the General Statutes."

SECTION 3.2. Nothing in Section 7.17 of S.L. 2010-31 shall be construed to invalidate any budget resolution or budget amendment approved by a local board of education regarding the appropriation or transfer of revenue to any other fund that was approved for use by the North Carolina Department of Public Instruction and the Local Government Commission.

SECTION 3.2A. Section 7.4(b) of S.L. 2010-31 reads as rewritten:

"SECTION 7.4.(b) ~~The State Board shall use only funds provided through the North Carolina Virtual Public Schools Allotment Formula to fund~~ shall be the only source of State funds available to the State Board for the purposes of funding NCVPS."

SECTION 3.3. Section 9.14(c) of S.L. 2009-451, as rewritten by Section 9.9 of S.L. 2010-31, reads as rewritten:

"SECTION 9.14.(c) The North Carolina Utilities Commission is directed to facilitate and expedite wind energy pilot projects developed pursuant to this act that come within its jurisdiction to the extent allowed by law and consistent with State statute. A wind turbine constructed pursuant to this section shall be exempt from the requirements of G.S. 62-110.1. For such wind turbines owned by a public utility, upon an application by the public utility seeking a rider to recover the costs of such project, the Utilities Commission shall establish an annual rider for the public utility to recover the just and reasonable costs, including the utility's cost of debt and equity, of such project upon completion. Should the project development and construction of the demonstration wind turbines be unreasonably delayed beyond the date set forth in subsection (a) of this section for reasons outside the control of the public utility, all just and reasonable costs incurred by the public utility during project development and construction shall nonetheless be recoverable through an annual rider under this subsection, provided that

the public utility shall bear the burden of proving by a preponderance of the evidence that the reasons for the delay were beyond its control and its execution of the project was reasonable and prudent. Should the demonstration wind turbines be abandoned prior to completion, the capital costs and AFUDC related to the project, less any salvage value received, shall nonetheless be ~~recoverable under this Article, recoverable,~~ provided that the utility shall bear the burden of proving by a preponderance of the evidence that the decision to abandon construction of the project was prudent."

SECTION 3.4.(a) Section 9.19 of S.L. 2009-451, as rewritten by Section 9.13 of S.L. 2010-31, reads as rewritten:

"SECTION 9.19. The management flexibility reduction for The University of North Carolina shall not be allocated by the Board of Governors to the constituent institutions and affiliated entities using an across-the-board method but in a manner that recognizes the importance of the academic mission and differences among The University of North Carolina entities. Before taking reductions in instructional budgets, the Board of Governors and the campuses of the constituent institutions shall consider reducing budgets for senior and middle management personnel, centers and institutes, low enrollment degree programs, speaker series, and nonacademic activities. The Board of Governors and the campuses of the constituent institutions also shall review the institutional trust funds and the special funds held by or on behalf of The University of North Carolina and its constituent institutions to determine whether there are monies available in those funds that can be used to assist with operating costs before taking reductions in instructional budgets. In addition, the campuses of the constituent institutions also shall require their faculty to have a teaching workload equal to the national average in their Carnegie classification. Budget reductions shall not be considered in funding available for need-based financial aid.

Notwithstanding any other provision of law, ~~for the 2010-2011 fiscal year only,~~ the constituent institutions may, with the approval of the President of The University of North Carolina, increase tuition by up to seven hundred fifty dollars ~~(\$750.00) per academic year. (\$750.00), and may implement the increase over the 2010-2011 and 2011-2012 academic years.~~ This increase shall be in addition to other increases authorized for the fiscal year 2010-2011 and 2011-2012 fiscal years. At least twenty percent (20%) of these funds shall be used to provide need-based financial aid to students. The remaining balance of these funds ~~shall be used only to offset the institutions' management flexibility reductions funds:~~

- (1) Shall be used to offset the institutions' management flexibility reductions.
- (2) May, if it is necessary to implement an additional one percent (1%) management flexibility reduction pursuant to Section 2.3 of this act to backfill enhanced FMAP funds, also be used to offset the additional one percent (1%) management flexibility reduction and to meet reversion requirements."

SECTION 3.5. S.L. 2010-31 is amended by adding a new section to read:

"UNC/FUNDS TO COMPLETE NC EAST PROJECT

SECTION 9.26A. Of the funds appropriated by this act to the Board of Governors of The University of North Carolina and allocated to East Carolina University for the 2010-2011 fiscal year, the sum of thirty-three thousand eight hundred fifty dollars (\$33,850) shall be used to complete the North Carolina East Project. The North Carolina East Project is a project conducted jointly by the UNC Program on Public Life and North Carolina's Eastern Region partnership. The purpose of the project is: (i) to consider economic development opportunities in Eastern North Carolina from a metropolitan perspective rather than a traditional rural perspective, and (ii) to determine what steps the region should take to attract and retain young professionals. The costs to complete the project include the following:

- (1) Printing, postage, and related expenses.
- (2) Report design and map-making.
- (3) Support for multiple listening sessions, meetings with key decision makers, and consultations.
- (4) Support for collaboration with faculty members and graduate students at East Carolina University.
- (5) Support for faculty and professional non-faculty research and engagement at UNC-Chapel Hill.
- (6) Support to enable two graduate students from UNC-Chapel Hill to be employed as summer interns by the project.
- (7) Travel and related expenses."

PART IV. HEALTH AND HUMAN SERVICES

SECTION 4.1. The last sentence in Section 10.17 of S.L. 2010-31 reads as rewritten:

"Any equipment that the Department of Health and Human Services (Department) determines cannot be used by the Department and is not included in the transfer shall revert to the Department of Administration, Division of Surplus Property."

SECTION 4.2. Section 10.36(a) of S.L. 2010-31 reads as rewritten:

"SECTION 10.36.(a) ~~The Starting October 1, 2010, the~~ Department of Health and Human Services, Division of Medical Assistance, shall require that, prior to the delivery of selected enhanced mental health services in the Medicaid program, as determined by the Department, an independent assessment be conducted that meets all of the following criteria:

- (1) An initial assessment or a continuing need reassessment is performed by an independent assessment entity ~~(IAE)~~ that is not the provider of the services in question.
- (2) ~~The IAE authorizes independent assessment entity recommends~~ the type and amount of service to be provided based on the specific health condition and needs of the intended recipient of the service."

SECTION 4.3. Section 10.5A of S.L. 2010-31 reads as rewritten:

"REPORT ON DHHS POSITION ELIMINATIONS

SECTION 10.5A. The Secretary of the Department of Health and Human Services may achieve savings ~~from position eliminations~~ within the Divisions under the supervision of the Secretary by reducing a greater or lesser number of positions than prescribed for the Department in the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets for the 2010-2011 fiscal year. The Secretary shall report on the number of positions eliminated in the budget for the 2010-2011 fiscal year. The report shall include the total number of positions, including positions filled and vacant positions, and savings generated through salary and fringe benefits and any severance paid out. The Secretary shall submit the report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on or before March 1, 2011."

SECTION 4.5. Section 10.29A(c) of S.L. 2009-451, as enacted by Section 10.13(a) of S.L. 2010-31, reads as rewritten:

"SECTION 10.29A.(c) The General Assembly finds that health insurers licensed to practice in this State currently provide reimbursement for the full series of standard immunizations recommended by the federal Centers for Disease Control and Prevention (CDC) and the American Academy of Family Physicians and required by the North Carolina Immunization Program. The covered immunizations include all of the following:

- (1) Diphtheria, Pertussis, Tetanus Toxoid (DPT).
- (2) Polio.
- (3) Measles, Mumps, Rubella (MMR).
- (4) Influenza.
- (5) Pneumococcal vaccine.
- (6) Human Papilloma virus (HPV).
- (7) Haemophilus Influenzae Type b (Hib) vaccine.
- (8) Hepatitis B.
- (9) Meningococcal vaccine.
- (10) Varicella.
- (11) Rotavirus.
- (12) Hepatitis A.
- (13) Tetanus, Diphtheria, Pertussis (TdaP).

The General Assembly also finds that, consistent with G.S. 130A-153, physicians and local health departments currently administer the required immunizations listed in subdivisions (1) through ~~(11)~~(13) of this subsection, which are supplied by the federal government at no cost through the Vaccine For Children (VFC) program, to uninsured and underinsured children with incomes below two hundred percent (200%) of the federal poverty level. Therefore, the General Assembly eliminates the State appropriation for the purchase of childhood vaccines for which health care providers, including local health departments, should be billing health insurers."

SECTION 4.6. Section 10.58(d) of S.L. 2009-451, as rewritten by Section 10.22(a) of S.L. 2010-31, reads as rewritten:

"SECTION 10.58.(d) Services and Payment Bases. – The Department shall spend funds appropriated for Medicaid services in accordance with the following schedule of services and payment bases. All services and payments are subject to the language at the end of this subsection. Unless otherwise provided, services and payment bases will be as prescribed in the State Plan as established by the Department of Health and Human Services and may be changed with the approval of the Director of the Budget.

- ...
- (19) Medicare crossover claims. – The Department shall apply Medicaid medical policy to Medicare and Medicare Advantage claims for dually eligible recipients. The Department shall pay an amount up to the actual coinsurance or deductible or both, in accordance with the State Plan, as approved by the Department of Health and Human Services. The Department may disregard application of this policy in cases where application of the policy would adversely affect patient care.

- ...
- (30) Experimental or trial procedures. – Coverage is limited to procedures that are recognized or approved by a federal scientific or regulatory agency such as the Food and Drug Administration or the National Institutes of Health (NIH).

....."

SECTION 4.7. Section 10.37 of S.L. 2010-31 is amended by adding the following new subsections to read:

"SECTION 10.37.(s1) The Department of Health and Human Services, Division of Social Services, shall demonstrate qualifying conditions and apply for grants available through the Emergency Contingency Fund for State Temporary Assistance for Needy Families (TANF) Programs for the 2010-2011 federal fiscal year.

"SECTION 10.37.(s2) Notwithstanding Sections 2.3, 5.4, 6.7, and 10.37(c) of this act, the Office of State Budget and Management shall use grants received under this section to maximize General Fund availability for the 2010-2011 fiscal year. In addition, not more than twenty million dollars (\$20,000,000) may be used to implement a temporary, statewide subsidized employment program for the purpose of creating transitional employment opportunities for the chronically unemployed.

Prior to implementing the program, the Department shall develop a plan that identifies, at a minimum, each of the following:

- (1) Participant eligibility requirements.
- (2) The maximum duration of the subsidized employment period.
- (3) Financial match requirements for third-party partners.
- (4) Average estimated wages and benefits per participant.
- (5) The projected number of participants to be employed through the program.

The Department shall report the plan to the Joint Legislative Commission on Governmental Operations Subcommittee on Education/Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committees on Health and Human Services, and the Fiscal Research Division no later than November 1, 2010.

"SECTION 10.37.(s3) The Department shall evaluate the program upon its completion, including in its evaluation the following:

- (1) The number of participants and employers, by industry sector;
- (2) The median wage paid per participant;
- (3) The average duration of the subsidized work period; and
- (4) The rate of continued employment with the participating employer upon completion of the subsidized work period.

The Department shall report its findings to the Joint Legislative Commission on Governmental Operations Subcommittee on Education/Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committees on Health and Human Services, and the Fiscal Research Division no later than December 1, 2011.

"SECTION 10.37.(s4) TANF Emergency Contingency Fund grants received during the 2010-2011 fiscal year shall not be committed for expenditure in the subsequent fiscal year. Nothing in this subsection shall preclude the carryforward of funds for purposes in this section."

SECTION 4.8. S.L. 2003-178, as amended by Section 10.27 of S.L. 2006-66, Section 1.1(a)(5) of S.L. 2007-504, Section 3 of S.L. 2009-340, and Section 1 of Senate Bill 1309 of the 2010 Regular Session of the 2009 General Assembly, is amended by deleting the language "masters level certified clinical addictions specialist" wherever it appears and substituting "masters level licensed clinical addictions specialist" and by deleting the language "North Carolina Substance Abuse Professional Certification Board" and substituting "North Carolina Substance Abuse Professional Practice Board".

PART V. NATURAL AND ECONOMIC RESOURCES

SECTION 5.1. Section 13.8(b) of S.L. 2010-31 reads as rewritten:

"SECTION 13.8.(b) This section becomes effective July 1, ~~2010~~2010, and applies to fees assessed on or after that date. However, the Department of Environment and Natural Resources shall not collect the fees established pursuant to this section until on or after July 14, 2010."

SECTION 5.2.(a) G.S. 130A-309.123(a), as rewritten by Section 13.10(b) of S.L. 2010-31, reads as rewritten:

"§ 130A-309.123. Substitution of paper bags restricted.

(a) A retailer subject to G.S. 130A-309.122 may substitute paper bags for the plastic bags banned by that section, but only if all of the following conditions are met:

- (1) The paper bag is a recycled paper bag.
- (2) The retailer offers a cash refund to any customer who uses the customer's own reusable bags instead of the bags provided by the retailer. The amount of the refund shall be equal to ~~or greater than~~ the cost to the retailer of providing a recycled paper bag, multiplied by the number of reusable bags filled with the goods purchased by the customer. For purposes of this subdivision, 'cash refund' includes a credit against the cost of goods purchased."

SECTION 5.2.(b) This section becomes effective October 1, 2010.

SECTION 5.3. Notwithstanding G.S. 130A-294.1, there is appropriated from the nonreverting hazardous waste fund established in G.S. 130A-298 (Budget Code 24300-2387) the sum of two hundred fifty thousand dollars (\$250,000) for the 2010-2011 fiscal year. These funds shall be used to:

- (1) Provide implementation and oversight of activities involving actions necessary to respond to inactive hazardous substance or waste disposal sites; and
- (2) Provide compliance and prevention activities within the solid waste program to ensure hazardous waste is not disposed in solid waste management facilities.

PART VI. JUSTICE AND PUBLIC SAFETY

SECTION 6.1. Section 15.5(c) of S.L. 2010-31 reads as rewritten:

"SECTION 15.5.(c) This Subsection (b) of this section becomes effective October 1, 2010, and applies to costs or fees assessed or collected on or after that date. Subsection (a) of this section becomes effective October 1, 2010, and applies to costs or fees assessed or collected on or after that date, except that in misdemeanor or infraction cases disposed of on or after that date by written appearance, waiver of trial or hearing, and plea of guilt or admission of responsibility pursuant to G.S. 7A-180(4) or G.S. 7A-273(2), in which the citation or other criminal process was issued before that date, the cost or fee shall be the lesser of those specified in G.S. 7A-304(a), as amended by subsection (a) of this section, or those specified in the notice portion of the defendant's or respondent's copy of the citation or other criminal process, if any costs or fees are specified in that notice."

SECTION 6.2. Section 18.6 of S.L. 2009-451 reads as rewritten:

"ELIMINATE SUPPORT OUR STUDENTS PROGRAM

SECTION 18.6. Part 5A of Article 3 of Chapter 143B of the General Statutes is repealed. Notwithstanding the provisions of G.S. 143-341, or any other law to the contrary, any equipment or vehicles that were bought by a nonprofit organization under a grant issued to the nonprofit organization, from the grants funds provided by the Support Our Students program, shall remain the sole property of the local nonprofit organization for the continued use of the equipment or vehicle under the same conditions required by the grant when it was awarded by the Support Our Students program."

SECTION 6.3. Section 19.4(b) of S.L. 2010-31 reads as rewritten:

"SECTION 19.4.(b) This section becomes effective October 1, 2010, and applies to fees assessed or collected persons ordered to perform community service on or after that date."

SECTION 6.4. S.L. 2010-31 is amended by adding a new section to read:

"ALIGN STATUTORY STAFFING NUMBERS TO BUDGET REDUCTION ACTIONS

"SECTION 15.14. Notwithstanding any other provision of law relating to the number of positions in the Judicial Department, during the 2009-2011 biennium, the Administrative Office of the Courts may reduce positions in the Judicial Department to comply with budget reductions taken by action of the General Assembly for that Department. The Administrative Office of the Courts shall report to the Joint Legislative Commission on Governmental Operations, to the Fiscal Research Division of the General Assembly, and to the Revisor of Statutes, on any reductions taken that affect statutory staffing numbers in Chapter 7A of the General Statutes."

PART VII. GENERAL GOVERNMENT

SECTION 7.1. S.L. 2010-31 is amended by adding a new section to read:

"EXTEND HEALTH INSURANCE POOL PILOT PROJECT START DATE

SECTION 24.4. Section 1 of S.L. 2009-568 reads as rewritten:

"SECTION 1. Notwithstanding any other provision of law to the contrary, a single health insurance demonstration project (Demonstration Project) for both large and small employers may be established in the State. The Demonstration Project, the goal of which is to reduce the number of uninsured North Carolinians and to reduce the cost of health insurance for all purchasers of health insurance in the Demonstration Project area, shall begin offering coverage not later than ~~December 1, 2010~~, July 1, 2011, and may continue through December 31, 2014. Entities that are eligible under subdivisions (b)(1) or (b)(1a) of G.S. 58-51-80, subsection (e) of G.S. 58-65-60, or subsection (a) of G.S. 58-67-85, to issue a policy of group health insurance are eligible to be the Demonstration Project Sponsor. The Demonstration Project authorized under this act shall comply with the following:

...."

PART VIII. TRANSPORTATION

SECTION 8.1. Section 28.3(b) of S.L. 2010-31 reads as rewritten:

"SECTION 28.3(b) The Program Evaluation Division of the General Assembly shall conduct a comprehensive program and financial review of the North Carolina Global TransPark Authority. The program review shall examine the Authority's operations and evaluate the effectiveness of the Authority in meeting its mission and goals. The financial review shall study the cost-effectiveness of all State funds appropriated to the Authority to date, examine potential efficiency savings, study the long-term operating needs of the Authority, examine the Authority's current business practices, and make recommendations for it to become financially self-sustaining and to fully repay the Escheat Fund. The Division shall prepare a report of the findings and recommendations of the study and submit it to the Joint Legislative Program Evaluation Oversight Committee no later than ~~March 1, 2011~~.May 1, 2011."

SECTION 8.2. Section 28.7(b) of S.L. 2010-31 reads as rewritten:

"SECTION 28.7(b) The Department of Transportation shall develop selection criteria under G.S. 136-188, as enacted by this act, and shall report to the Joint Legislative Transportation Oversight Committee on its development of the selection criteria. A preliminary report on the selection criteria for projects is due to the Joint Legislative Transportation Oversight Committee by October 1, 2010. A final report is due to the Joint Legislative Transportation Oversight Committee by December 15, 2010. When developing the project criteria and selection process, the Department shall give preferential consideration to projects qualified to receive State grants from the Congestion Relief and Intermodal Transportation 21st Century Fund under Article 19 of Chapter 136 of the General Statutes. When developing the project criteria and selection process, the Department shall involve the public and other

stakeholders, including, but not limited to, the ~~North Carolina Association of Municipal Planning Organizations~~, North Carolina Association of Metropolitan Planning Organizations, the North Carolina Association of Rural Planning Organizations, the North Carolina League of Municipalities, the North Carolina Association of County Commissioners, the North Carolina Metropolitan Mayors Coalition, and the North Carolina Council of Regional Governments."

PART IX. SALARIES AND BENEFITS

SECTION 9.1.(a) Section 29.4(b) of S.L. 2010-31 reads as rewritten:

"SECTION 29.4.(b) The President of The University of North Carolina may implement furloughs of university employees or delegate furlough authority to a chancellor of a constituent ~~institution to offset the UNC Management Flexibility Reduction~~ institution. Savings realized as a result of a furlough shall be used in accordance with the policies adopted pursuant to subdivision (f)(5) of this section."

SECTION 9.1.(b) Section 29.4(f) of S.L. 2010-31 reads as rewritten:

"SECTION 29.4.(f) As soon as practicable, and no more than 30 calendar days from the effective date of this section, the Board of Governors of The University of North Carolina shall adopt policies for the implementation of this section to remain in effect until the expiration of this section. These policies shall be applied by the President and the constituent institutions in implementing a furlough of university employees. These policies shall provide, at a minimum, that:

- (1) The President may establish a salary threshold below which university employees shall not be subject to furlough. In no event may any full-time university employee, prorated for any part-time employee, earning an annual salary of thirty-two thousand dollars (\$32,000) or less be subject to furlough.
- (2) The scheduling of any furlough period shall be at the discretion of the President or the chancellor of the constituent institution when delegated.
- (3) Paid leave shall not be used to offset all or any portion of a furlough.
- (4) If a holiday falls during the mandatory furlough period, the university employee must be paid for the holiday.
- (5) All savings realized as a result of a ~~furlough shall be used to offset the Management Flexibility Reduction for The University of North Carolina furlough:~~
 - a. Shall be used to offset the Management Flexibility Reduction for The University of North Carolina.
 - b. May, if it is necessary to implement an additional one percent (1%) Management Flexibility Reduction pursuant to Section 2.3 of this act to backfill enhanced FMAP funds, also be used to offset the additional 1% Management Flexibility Reduction and to meet reversion requirements."

SECTION 9.2. Section 26.1A of S.L. 2009-451, as amended by S.L. 2009-575 and by Section 29.7(c) of S.L. 2010-31, reads as rewritten:

"SECTION 26.1A.(a) The salaries of those officers and employees, whose salaries for the 2008-2009 fiscal year were set or increased in Sections 26.1, 26.2, 26.3, 26.4, 26.5, 26.6, 26.7, 26.8, 26.9, 26.10, 26.11, 26.11A, 26.12, 26.12D, 26.13, 26.14, 26.18, and 26.19 of Session Law 2008-107, and in effect on June 30, 2009, or the last date in pay status during the 2008-2009 fiscal year if earlier, shall remain in effect and shall not increase for the 2009-2010 and 2010-2011 fiscal years, except:

- (1) As provided for by Section 29.20A of S.L. 2005-276.
- (2) For Community College faculty as otherwise provided in Section 8.1 of this act.

- (3) For University of North Carolina (i) faculty as otherwise provided by using funds from the Faculty Recruiting and Retention Fund, the Distinguished Professors Endowment Fund, or the University Cancer Research Fund in the case of faculty involved in cancer research supported by that fund and (ii) faculty, nonfaculty, and other employee retention adjustments funded from non-state funding sources.
- (3a) For Judicial Department employees for local supplementation as authorized under G.S. 7A-300.1.
- (4) Salaries may be increased for reallocations or promotions, in-range adjustments for job change, career progression adjustments for demonstrated competencies, or any other adjustment related to an increase in job duties or responsibilities, none of which are subject to the salary freeze otherwise provided by this subsection. All other salary increases are prohibited."

SECTION 9.3. Section 26.14D of S.L. 2009-451 reads as rewritten:

"REDUCTION IN FORCE/EXTEND STATE EMPLOYEE PRIORITY RIGHTS

SECTION 26.14D. ~~For the 2009-2011 fiscal biennium, the~~ The priority consideration afforded to State employees pursuant to G.S. 126-7.1(c1) shall remain in effect for an additional 12-month ~~period.~~ period for those employees who receive notification, on or after May 1, 2009, but on or before June 30, 2011, of a prospective separation of employment by reduction in force provided the employee was subsequently separated by a reduction in force."

PART X. TAX CHANGES

SECTION 10.2. Section 31.6.(g) of S.L. 2010-31 reads as rewritten:

"SECTION 31.6(g) This ~~act-section~~ becomes effective January 1, 2011, and applies to gross receipts derived from the rental of an accommodation that a consumer occupies or has the right to occupy on or after that date."

PART XI. COMMITTEE REPORT

SECTION 11.3. Notwithstanding Page G-9, Item 52, of the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets dated June 28, 2010, Maternal Care Coordinators (MCC) and Children Services Coordinators (CSC) personnel are required to have a bachelor's degree or be a licensed registered nurse.

SECTION 11.4. Notwithstanding Page G-9, Item 54, of the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets dated June 28, 2010, except for reimbursement for multi-vitamin prescriptions for pregnant women, Medicaid coverage of prescriptions for vitamins and minerals is eliminated.

SECTION 11.5. Notwithstanding Page G-10, Item 63, of the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets dated June 28, 2010, the Department may generate the required savings through bulk purchasing of incontinence supplies by selecting one or more providers through a competitive bidding process.

SECTION 11.7. Notwithstanding Page H-11, Item 57, of the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets dated June 28, 2010, the General Fund appropriation for the Division of Aquariums of the Department of Environment and Natural Resources is reduced on a recurring basis by the sum of seven hundred fourteen thousand two hundred ninety-seven thousand dollars (\$714,297) and replaced with funds obtained by increasing rental fees at the Aquariums and by using gate admission fee receipts budgeted in the North Carolina Aquariums Special Fund as follows:

- (1) The Division shall use the increased rental fees and the gate admission fee receipts to replace the General Fund appropriation for special activities and events of the Division and for continuing and supporting three positions within the Division that support special activities and events.
- (2) The Division shall use gate admission fee receipts to replace the General Fund appropriation for the daily operations of the Division.

SECTION 11.8. Notwithstanding Page H-11, Item 58, of the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets dated June 28, 2010, when reducing its fleet of aircraft by not less than 10 aircraft, the Division of Forest Resources of the Department of Environment and Natural Resources shall, for those aircraft that are federal surplus aircraft, return the aircraft to the federal government and, for those aircraft that are owned by the State, sell the aircraft.

SECTION 11.9. Notwithstanding Page I-1, Item 7, of the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets dated June 28, 2010, the pass-through appropriation reduction affects funds appropriated to the North Carolina State Bar, not the North Carolina Bar Association.

SECTION 11.10. Notwithstanding Page I-7, Item 25, of the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets dated June 28, 2010, no vacant positions are eliminated in the Department of Juvenile Justice and Delinquency Prevention, and the amount of the management flexibility reserve established in that Department by S.L. 2010-31 is a reduction of three million eight hundred seventy-two thousand one hundred seventy-one dollars (\$3,872,171).

SECTION 11.11. Notwithstanding Page J-8, Item 29, of the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets dated June 28, 2010, of the funds appropriated to the State Ethics Commission, the sum of one hundred eighty-one thousand sixty-one dollars (\$181,061) in recurring funds and two hundred seventeen thousand eight hundred fifty dollars (\$217,850) in nonrecurring funds shall be used for one Attorney II and one Paralegal III position and operating expenses to develop an online system for the filing of Statements of Economic Interest (SEIs), an online education program, all information technology related to online education and online filing of SEIs, and legal research tools.

If House Bill 961, 2010 Regular Session of the 2009 General Assembly, or Senate Bill 716, 2010 Regular Session of the 2009 General Assembly, or substantially similar government ethics and campaign reform legislation becomes law, then the sum of ninety-one thousand five hundred forty-one dollars (\$91,541) in recurring funds and two thousand two hundred fifty dollars (\$2,250) in nonrecurring funds shall be used in accordance with that act to fund two Paralegal III positions and provide operating expenses to respond to customer service queries regarding State ethics law compliance and any additional ethics rules or standards implemented by the Governor.

SECTION 11.12. Notwithstanding Page J-9, Item 32, of the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets dated June 28, 2010, the budget reduction for the Department of Administration includes the elimination of seven vacant positions and three-fourths of accountant position #65009979.

SECTION 11.13. Notwithstanding Page J-13, Item 42, of the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets dated June 28, 2010, the funds appropriated includes the sum of one hundred thousand dollars (\$100,000) in nonrecurring funds for the Freedom Monument Project, Inc., and seventy-five thousand dollars (\$75,000) in nonrecurring funds to support the three monuments on Capitol grounds.

SECTION 11.14. Notwithstanding Page J-14, Item 48, of the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets dated June 28, 2010, the sum of one hundred thousand dollars (\$100,000) in nonrecurring funds shall be used for the Capitol Foundation and the sum of seventy-five thousand dollars (\$75,000) in nonrecurring funds to support the three monuments in Capitol Square shall be eliminated.

SECTION 11.15. Notwithstanding Page J-15, Item 52, of the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets dated June 28, 2010, the budget reduction eliminates salaries and benefits of the following new positions: an Administrative Officer III; Art Handler; and Processing Assistant III and reduces various expenditure accounts; it does not eliminate the three FTEs for these positions.

SECTION 11.16. Notwithstanding Page J-16, Item 54, of the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets dated June 28, 2010, the budget reduction eliminates salaries and benefits of one filled position – W/A Processing Assistant IV, 1.50 vacant positions – Library Clerk III and Processing Assistant III, transfers Library Technician position to receipt-support, and reduces various expenditure accounts.

SECTION 11.17. Notwithstanding Page J-36, Item 95, of the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets dated June 28, 2010, the budget reduction for the Department of Secretary of State includes (i) the salary and benefits for a Processing Assistant IV position and the FTE for that position (ii) the salary and benefits for a Notary Investigator position but not the FTE for that position and (iii) other budget reductions.

SECTION 11.18. Notwithstanding the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets dated June 28, 2010, there is appropriated from the General Fund to the State Board of Elections the sum of twenty-eight thousand nine hundred eighty-two dollars (\$28,982) for the 2010-2011 fiscal year. These funds and other expansion funds appropriated in this act for government ethics and campaign reform legislation shall be used to provide one hundred thousand dollars (\$100,000) in recurring funds for one Attorney position and three hundred fifty thousand dollars (\$350,000) in nonrecurring funds for software development.

SECTION 11.19. Notwithstanding Page J-38, Item 101, of the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets dated June 28, 2010, the State Board of Elections may retain the positions referred to in that item and shall fund them with Maintenance of Effort funds that qualify the Board to receive federal HAVA funds.

SECTION 11.20.(a) Notwithstanding Page K-4, Item 17, of the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets dated June 28, 2010, the annual recurring transfer from the Highway Fund to the Global TransPark Authority shall not be reduced.

SECTION 11.20.(b) Notwithstanding Page K-3, Item 9, of the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets dated June 28, 2010, the reduction to the General Maintenance Reserve for the State's highway infrastructure shall be further reduced by three hundred twenty thousand dollars (\$320,000).

SECTION 11.21. Section 32.2(a) of S.L. 2010-31 reads as rewritten:

"**SECTION 32.2(a)** ~~The~~ With the exception of Pages N-1 and N-2, the Joint Conference Committee Report on the Continuation, Expansion, and Capital Budgets dated June 28, 2010, which was distributed in the Senate and the House of Representatives and used to explain this act, shall indicate action by the General Assembly on this act and shall therefore be used to construe this act, as provided in the State Budget Act, Chapter 143C of the General Statutes, as appropriate, and for these purposes shall be considered a part of this act and as such shall be printed as a part of the Session Laws."

PART XII. EFFECTIVE DATE

SECTION 12.1. Except as otherwise provided, this act becomes effective July 1, 2010.

In the General Assembly read three times and ratified this the 10th day of July, 2010. Became law upon approval of the Governor at 5:00 p.m. on the 21st day of July, 2010.

Session Law 2010-124

H.B. 2066

AN ACT TO AUTHORIZE THE CREATION OF SPECIAL RETIREMENT ALLOWANCES FOR RETIREES OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-5(m1) reads as rewritten:

"(m1) Special Retirement Allowance for Law Enforcement Officers. – Upon retirement, a member who is a law enforcement officer vested as of June 30, 2010, may elect to transfer any portion of his eligible accumulated contributions, not including any Roth after-tax contributions and the earnings thereon, from the Supplemental Retirement Income Plan of North Carolina to this Retirement System and receive, in addition to his basic service, early or disability retirement allowance, a special retirement allowance which shall be based upon his eligible accumulated account balance at the date of the transfer of the assets to this System. For the purpose of determining the special retirement allowance, the Board of Trustees shall adopt straight life annuity factors on the basis of mortality tables, such other tables as may be necessary and the interest assumption rate recommended by the actuary based upon actual experience including an assumed annual post-retirement allowance increase of four percent (4%). The Board of Trustees shall modify such factors every five years, as shall be deemed necessary, based upon the five year experience study as required by G.S. 135-6(n). Provided, however, a member, who transfers his eligible accumulated contributions from the Supplemental Retirement Income Plan of North Carolina, shall be taxed for North Carolina State Income tax purposes on the special retirement allowance the same as if that special retirement allowance had been paid directly by the Supplemental Retirement Income Plan of North Carolina. The Teachers' and State Employees' Retirement System shall be responsible to determine the taxable amount, if any, and report accordingly."

SECTION 2. G.S. 135-5 is amended by adding a new subsection to read:

"(m2) Special Retirement Allowance. – At any time coincident with or following retirement, a member may make a one-time election to transfer any portion of the member's eligible accumulated contributions, not including any Roth after-tax contributions and the earnings thereon, from the Supplemental Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation Plan to this Retirement System and receive, in addition to the member's basic service, early or disability retirement allowance, a special retirement allowance which shall be based upon the member's transferred balance. Notwithstanding anything to the contrary, a member may not transfer such amounts as will cause the member's retirement allowance under the System to exceed the amount allowable under G.S. 135-18.7(b). The Board of Trustees may establish a minimum amount that must be transferred if a transfer is elected. The member may elect a special retirement allowance with no postretirement increases or a special retirement allowance with annual postretirement increases equal to the annual increase in the U.S. Consumer Price Index. Postretirement increases on any other allowance will not apply to the special retirement allowance. The Board

of Trustees shall provide educational materials to the members who apply for the transfer authorized by this section. Those materials shall describe the special retirement allowance and shall explain (i) the relationship between the transferred balance and the monthly benefit; and (ii) how the member's heirs may be impacted by the election to make this transfer and any costs and fees involved.

For the purpose of determining the special retirement allowance, the Board of Trustees shall adopt straight life annuity factors on the basis of yields on U.S. Treasury Bonds and mortality and such other tables as may be necessary based upon actual experience. A single set of mortality and such other tables will be used for all members, with factors differing only based on the age of the member and the election of postretirement increases. The Board of Trustees shall modify the mortality and such other tables every five years, as shall be deemed necessary, based upon the five-year experience study as required by G.S. 135-6(n). Provided, however, a member who transfers the member's eligible accumulated contributions from the Supplemental Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation Plan to this Retirement System shall be taxed for North Carolina State Income Tax purposes on the special retirement allowance the same as if that special retirement allowance had been paid directly by the Supplemental Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation Plan. The Teachers' and State Employees' Retirement System shall be responsible to determine the taxable amount, if any, and report accordingly.

The Supplemental Retirement Board of Trustees established under G.S. 135-96 may assess a one-time flat administrative fee not to exceed the actual cost of the administrative expenses relating to these transfers.

The special retirement allowance shall continue for the life of the member and the beneficiary designated to receive a monthly survivorship benefit under Option 2, 3 or 6 as provided in G.S. 135-5(g), if any. The Board of Trustees, however, shall establish two payment options that guarantee payments as follows:

- (1) A member may elect to receive the special retirement allowance for life but with payments guaranteed for a number of months to be specified by the Board of Trustees. Under this plan, if the member dies before the expiration of the specified number of months, the special retirement allowance will continue to be paid to the member's designated beneficiary for the life of the beneficiary, if Option 2, 3 or 6 is selected. If Option 2, 3 or 6 is not selected, the member's designated beneficiary will receive the benefit only for the remainder of the specified number of months. If the member's designated beneficiary dies before receiving payments for the specified number of months, any remaining payments will be paid to the member's estate.
- (2) A member may elect to receive the special retirement allowance for life but is guaranteed that the sum of the special allowance payments will equal the total of the transferred amount. Under this payment option, if the member dies before receiving the total transferred amount, the special retirement allowance will continue to be paid to the member's designated beneficiary for the life of the beneficiary, if Option 2, 3 or 6 is selected. If Option 2, 3 or 6 is not selected, the member's designated beneficiary or the member's estate shall be paid any remaining balance of the transferred amount.

The Board of Trustees shall report annually to the Joint Legislative Commission on Governmental Operations on the number of persons who made an election in the previous calendar year, with any recommendations it might make on amendment or repeal based on any identified problems.

The General Assembly reserves the right to repeal or amend this subsection, but such repeal or amendment shall not affect any person who has already made the one-time election provided in this subsection."

SECTION 3. G.S. 135-5(g1) reads as rewritten:

"(g1) In the event of the death of a retired member while in receipt of a retirement allowance under the provisions of this Article, there shall be paid to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the retiree's legal representatives, a death benefit equal to the excess, if any, of the accumulated contributions of the retiree at the date of retirement over the total of the retirement allowances paid prior to the death of the retiree. ~~For purposes of this paragraph, the term "accumulated contributions" includes amounts of employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible law enforcement officers.~~ In the event that a retiree is receiving a Special Retirement Allowance under subsection (m1) of this section, there shall be paid to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the retiree's legal representatives, an additional death benefit equal to the excess, if any, of the employee's voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation Plan to this Retirement System over the total of the Special Retirement Allowances paid prior to the death of the retiree. For purposes of this paragraph, the term "accumulated contributions" excludes any amount transferred under subsection (m2) of this section.

In the event that a retirement allowance becomes payable to the designated survivor of a retired member under the provisions above and such retirement allowance to the survivor shall terminate upon the death of the survivor before the total of the retirement allowances paid to the retiree and the designated survivor combined equals the amount of the accumulated contributions of the retiree at the date of retirement, the excess, if any, of such accumulated contributions over the total of the retirement allowances paid to the retiree and the survivor combined shall be paid in a lump sum to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time such payment falls due, otherwise to the retiree's legal representative. For purposes of this paragraph, the term "accumulated contributions" includes amounts of employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible law enforcement officers.

In the event that a retirement allowance becomes payable to the principal beneficiary designated to receive a return of accumulated contributions pursuant to subsection (m) of this section and that beneficiary dies before the total of the retirement allowances paid equals the amount of the accumulated contributions of the member at the date of the member's death, the excess of those accumulated contributions over the total of the retirement allowances paid to the beneficiary shall be paid in a lump sum to the person or persons the member has designated as the contingent beneficiary for return of accumulated contributions, if the person or persons are living at the time the payment falls due, otherwise to the principal beneficiary's legal representative. For purposes of this paragraph, the term "accumulated contributions" includes amounts of employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible law enforcement officers.

In the event a retiree purchases creditable service as provided in G.S. 135-4, there shall be paid to such person or persons as the retiree shall have nominated by electronic submission in a

form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the retiree's legal representatives, an additional death benefit equal to the excess, if any, of the cost of the creditable service purchased less the administrative fee, if any, over the total of the increase in the retirement allowance attributable to the additional creditable service, paid from the month following the month in which payment was received to the death of the retiree.

In the event that a retirement allowance becomes payable to the designated survivor of a retired member under the provisions above and such retirement allowance to the survivor shall terminate upon the death of the survivor before the total of the increase in the retirement allowance attributable to the additional creditable service paid to the retiree and the designated survivor combined equals the cost of the creditable service purchased less the administrative fee, the excess, if any, shall be paid in a lump sum to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time such payment falls due, otherwise to the retiree's legal representative.

In the event that a retiree dies without having designated a beneficiary to receive a benefit under the provisions of this subsection, any such benefit that becomes payable shall be paid to the member's estate."

SECTION 4. G.S. 128-27(m1) reads as rewritten:

"(m1) Special Retirement Allowance for Law Enforcement Officers. – Upon retirement, a member who is a law enforcement officer vested as of June 30, 2010, may elect to transfer any portion of his eligible accumulated contributions, not including any Roth after-tax contributions and the earnings thereon, from the Supplemental Retirement Income Plan of North Carolina to this Retirement System and receive, in addition to his basic service, early or disability retirement allowance, a special retirement allowance which shall be based upon his eligible accumulated account balance at the date of the transfer of the assets to this System. For the purpose of determining the special retirement allowance, the Board of Trustees shall adopt straight life annuity factors on the basis of mortality tables, such other tables as may be necessary and the interest assumption rate recommended by the actuary based upon actual experience including an assumed annual post-retirement allowance increase of four percent (4%). The Board of Trustees shall modify such factors every five years, as shall be deemed necessary, based upon the five year experience study as required by ~~G.S. 128-29(o)~~. G.S. 128-28(o). Provided, however, a member who transfers his eligible accumulated contributions from the Supplemental Retirement Income Plan of North Carolina shall be taxed for North Carolina State Income tax purposes on the special retirement allowance the same as if that special retirement allowance had been paid directly by the Supplemental Retirement Income Plan of North Carolina. The Local Governmental Employees' Retirement System shall be responsible to determine the taxable amount, if any, and report accordingly."

SECTION 5. G.S. 128-27 is amended by adding a new subsection to read:

"(m2) Special Retirement Allowance. – At any time coincident with or following retirement, a member may make a one-time election to transfer any portion of the member's eligible accumulated contributions, not including any Roth after-tax contributions and the earnings thereon, from the Supplemental Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation Plan to this Retirement System and receive, in addition to the member's basic service, early or disability retirement allowance, a special retirement allowance which shall be based upon the member's transferred balance. Notwithstanding anything to the contrary, a member may not transfer such amounts as will cause the member's retirement allowance under the System to exceed the amount allowable under G.S. 128-38.2(b). The Board of Trustees may establish a minimum amount that must be transferred if a transfer is elected. The member may elect a special retirement allowance with no postretirement increases or a special retirement allowance with annual postretirement

increases equal to the annual increase in the U.S. Consumer Price Index. Postretirement increases on any other allowance will not apply to the special retirement allowance. The Board of Trustees shall provide educational materials to the members who apply for the transfer authorized by this section. Those materials shall describe the special retirement allowance and shall explain (i) the relationship between the transferred balance and the monthly benefit; and (ii) how the member's heirs may be impacted by the election to make this transfer and any costs and fees involved.

For the purpose of determining the special retirement allowance, the Board of Trustees shall adopt straight life annuity factors on the basis of yields on U.S. Treasury Bonds and mortality and such other tables as may be necessary based upon actual experience. A single set of mortality and such other tables will be used for all members, with factors differing only based on the age of the member and the election of postretirement increases. The Board of Trustees shall modify the mortality and such other tables every five years, as shall be deemed necessary, based upon the five-year experience study as required by G.S. 128-28(o). Provided, however, a member who transfers the member's eligible accumulated contributions from the Supplemental Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation Plan to this Retirement System shall be taxed for North Carolina State Income Tax purposes on the special retirement allowance the same as if that special retirement allowance had been paid directly by the Supplemental Retirement Income Plan of North Carolina. The Local Governmental Employees' Retirement System shall be responsible to determine the taxable amount, if any, and report accordingly.

The special retirement allowance shall continue for the life of the member and the beneficiary designated to receive a monthly survivorship benefit under Option 2, 3 or 6 as provided in G.S. 128-27(g), if any. The Board of Trustees, however, shall establish two payment options that guarantee payments as follows:

- (1) A member may elect to receive the special retirement allowance for life but with payments guaranteed for a number of months to be specified by the Board of Trustees. Under this plan, if the member dies before the expiration of the specified number of months, the special retirement allowance will continue to be paid to the member's designated beneficiary for the life of the beneficiary, if Option 2, 3 or 6 is selected. If Option 2, 3 or 6 is not selected, the member's designated beneficiary will receive the benefit only for the remainder of the specified number of months. If the member's designated beneficiary dies before receiving payments for the specified number of months, any remaining payments will be paid to the member's estate.
- (2) A member may elect to receive the special retirement allowance for life but is guaranteed that the sum of the special allowance payments will equal the total of the transferred amount. Under this payment option, if the member dies before receiving the total transferred amount, the special retirement allowance will continue to be paid to the member's designated beneficiary for the life of the beneficiary, if Option 2, 3 or 6 is selected. If Option 2, 3 or 6 is not selected, the member's designated beneficiary or the member's estate shall be paid any remaining balance of the transferred amount.

The Supplemental Retirement Board of Trustees established under G.S. 135-96 may assess a one-time flat administrative fee not to exceed the actual cost of the administrative expenses relating to these transfers.

The Board of Trustees shall report annually to the Joint Legislative Commission on Governmental Operations on the number of persons who made an election in the previous calendar year, with any recommendations it might make on amendment or repeal based on any identified problems.

The General Assembly reserves the right to repeal or amend this subsection, but such repeal or amendment shall not affect any person who has already made the one-time election provided in this subsection."

SECTION 6. G.S. 128-27(g1) reads as rewritten:

"(g1) In the event of the death of a retired member while in receipt of a retirement allowance under the provisions of this Article, there shall be paid to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the retiree's legal representatives, a death benefit equal to the excess, if any, of the accumulated contributions of the retiree at the date of retirement over the total of the retirement allowances paid prior to the death of the retiree. ~~For purposes of this paragraph, the term "accumulated contributions" includes amounts of employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible law enforcement officers.~~ In the event that a retiree is receiving a Special Retirement Allowance under subsection (m1) of this section, there shall be paid to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the retiree's legal representatives, an additional death benefit equal to the excess, if any, of the employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation Plan to this Retirement System over the total of the Special Retirement Allowances paid prior to the death of the retiree. For purposes of this paragraph, the term "accumulated contributions" excludes any amount transferred under subsection (m2) of this section.

In the event that a retirement allowance becomes payable to the designated survivor of a retired member under the provisions above and such retirement allowance to the survivor shall terminate upon the death of the survivor before the total of the retirement allowances paid to the retiree and the designated survivor combined equals the amount of the accumulated contributions of the retiree at the date of retirement, the excess, if any, of such accumulated contributions over the total of the retirement allowances paid to the retiree and the survivor combined shall be paid in a lump sum to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time such payment falls due, otherwise to the retiree's legal representative. For purposes of this paragraph, the term "accumulated contributions" includes amounts of employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible law enforcement officers.

In the event that a retirement allowance becomes payable to the principal beneficiary designated to receive a return of accumulated contributions pursuant to subsection (m) of this section and that beneficiary dies before the total of the retirement allowances paid equals the amount of the accumulated contributions of the member at the date of the member's death, the excess of those accumulated contributions over the total of the retirement allowances paid to the beneficiary shall be paid in a lump sum to the person or persons the member has designated as the contingent beneficiary for return of accumulated contributions, if the person or persons are living at the time the payment falls due, otherwise to the principal beneficiary's legal representative. For purposes of this paragraph, the term "accumulated contributions" includes amounts of employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible law enforcement officers.

In the event a retiree purchases creditable service as provided in G.S. 128-26, there shall be paid to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the retiree's legal representatives, an additional death benefit equal to the excess, if

any, of the cost of the creditable service purchased less the administrative fee, if any, over the total of the increase in the retirement allowance attributable to the additional creditable service, paid from the month following the month in which payment was received to the death of the retiree.

In the event that a retirement allowance becomes payable to the designated survivor of a retired member under the provisions above, and such retirement allowance to the survivor shall terminate upon the death of the survivor before the total of the increase in the retirement allowance attributable to the additional creditable service paid to the retiree and the designated survivor combined equals the cost of the creditable service purchased less the administrative fee, the excess, if any, shall be paid in a lump sum to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time such payment falls due, otherwise to the retiree's legal representative.

In the event that a retiree dies without having designated a beneficiary to receive a benefit under the provisions of this subsection, any such benefit that becomes payable shall be paid to the member's estate."

SECTION 6.1 If House Bill 2054, 2009 Regular Session becomes law, Sections 9(a), 9(b), 10(a) and 10(b) of that act are repealed.

SECTION 7. Sections 1, 4 and 7 of this act become effective July 1, 2010. The remainder of this act becomes effective January 1, 2011. Any beneficiary who retired prior to January 1, 2011, will not be allowed to make the one-time election until July 1, 2011. Any administrative fees accessed by the Boards of Trustees may be used to hire additional personnel to administer this act.

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law upon approval of the Governor at 5:01 p.m. on the 21st day of July, 2010.

Session Law 2010-125

H.B. 1936

AN ACT TO REMOVE THE SUNSET ON THE AUTHORIZATION TO SELL, THROUGH A PRIVATE SALE, LOCAL GOVERNMENT BONDS THAT ARE EITHER NOT RATED OR RATED BELOW "AA," SO AS TO CONTINUE TO TAKE ADVANTAGE OF THE FEDERAL "BUILD AMERICA BONDS" PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 159-123(b)(8) reads as rewritten:

"§ 159-123. Sale of bonds by sealed bids; private sales.

...
(b) The following classes of bonds may be sold at private sale:

...
(8) General obligation bonds issued pursuant to the Local Government Bond Act that have been rated by a nationally recognized credit rating agency at a credit rating below "AA" (or comparable category if stated differently) or that are unrated and that are not described in subdivisions (1) through (7) of this subsection that are sold prior to December 31, 2010-subsection."

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

In the General Assembly read three times and ratified this the 7th day of July, 2010.

Became law upon approval of the Governor at 5:02 p.m. on the 21st day of July, 2010.

Session Law 2010-126

S.B. 1176

AN ACT TO CONSTRUE CERTAIN FORMULA CLAUSES THAT REFER TO FEDERAL ESTATE AND GENERATION-SKIPPING TRANSFER TAX LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 7 of Chapter 31 of the General Statutes is amended by adding a new section to read:

"§ 31-46.1. Construction of certain formula clauses applicable to estates of decedents dying in calendar year 2010.

(a) Purpose. – The federal estate tax and generation-skipping transfer tax expired January 1, 2010, for one year. To carry out the intent of decedents in the construction of wills and trusts and to promote judicial economy in the administration of trusts and estates, this section construes certain formula clauses that reference federal estate and generation-skipping transfer tax laws and that are used in wills or codicils of decedents who die in or before calendar year 2010.

(b) Applicability. – This section applies to the following:

- (1) To a will or codicil executed by a decedent before December 31, 2009, that contains a formula provision described in subsection (c) of this section if the decedent dies after December 31, 2009, and before the earlier of January 1, 2011, and the effective date of the reinstatement of the federal estate tax and generation-skipping transfer tax, unless the will or codicil clearly manifests an intent that a rule contrary to the rule of construction described in subsection (c) of this section applies.
- (2) To the terms of a will or codicil executed by a decedent who dies before December 31, 2009, providing for a disposition of property that contains a formula provision described in subsection (c) of this section and occurs as a result of the death of another individual who dies after December 31, 2009, and before the earlier of January 1, 2011, and the effective date of the reinstatement of the federal estate tax and generation-skipping transfer tax, unless the terms of the will or codicil clearly manifests an intent that a rule contrary to the rule of construction described in subsection (c) of this section applies.

(c) Construction. – A will or codicil subject to this section is considered to refer to the federal estate and generation-skipping transfer tax laws as they applied with respect to estates of decedents dying on December 31, 2009, if the will or codicil contains a formula that meets one or more of the following conditions:

- (1) The formula refers to any of the following: 'applicable credit amount,' 'applicable exclusion amount,' 'applicable exemption amount,' 'applicable fraction,' 'estate tax exemption,' 'generation-skipping transfer tax exemption,' 'GST exemption,' 'inclusion ratio,' 'marital deduction,' 'maximum marital deduction,' 'unified credit,' or 'unlimited marital deduction.'
- (2) The formula measures a share of an estate or trust based on the amount that can pass free of federal estate taxes or the amount that can pass free of federal generation-skipping transfer taxes.
- (3) The formula is otherwise based on a provision of federal estate tax or federal generation-skipping transfer tax law similar to the provisions in subdivision (1) or (2) of this subsection.

(d) Judicial Determination. – The personal representative or an affected beneficiary under a will or testamentary trust may bring an action in the superior court division of the General Court of Justice under Article 26 of Chapter 1 of the General Statutes, and the trustee of a trust created under the will or an affected beneficiary under the trust may bring a proceeding as permitted under Article 2 of Chapter 36C of the General Statutes to determine

whether the decedent intended that the references under subsection (c) of this section be construed with respect to the federal law as it existed after December 31, 2009. The action must be commenced within 12 months following the death of the decedent."

SECTION 2. Article 1 of Chapter 36C of the General Statutes is amended by adding a new section to read:

"§ 36C-1-113. Construction of certain formula clauses applicable to estates of decedents dying in calendar year 2010.

(a) Purpose. – The federal estate tax and generation-skipping transfer tax expired January 1, 2010, for one year. To carry out the intent of decedents in the construction of wills and trusts and to promote judicial economy in the administration of trusts and estates, this section construes certain formula clauses that reference federal estate and generation-skipping transfer tax laws and that are used in trust instruments or amendments to trust instruments created by settlors who die in or before calendar year 2010.

(b) Applicability. – This section applies to the following:

- (1) To a trust instrument or an amendment to a trust instrument executed by a settlor before December 31, 2009, that contains a formula provision described in subsection (c) of this section if the settlor dies after December 31, 2009, and before the earlier of January 1, 2011, and the effective date of the reinstatement of the federal estate tax and generation-skipping transfer tax, unless the instrument or amendment clearly manifests an intent that a rule contrary to the rule of construction described in subsection (c) of this section applies.
- (2) To the terms of a trust instrument or an amendment to a trust instrument executed by a settlor who dies before December 31, 2009, providing for a disposition of property that contains a formula provision described in subsection (c) of this section and occurs as a result of the death of another individual who dies after December 31, 2009, and before the earlier of January 1, 2011, and the effective date of the reinstatement of the federal estate tax and generation-skipping transfer tax, unless the terms of the instrument or amendment clearly manifests an intent that a rule contrary to the rule of construction described in subsection (c) of this section applies.

(c) Construction. – A trust instrument or an amendment to a trust instrument subject to this section is considered to refer to the federal estate and generation-skipping transfer tax laws as they applied with respect to estates of decedents dying on December 31, 2009, if the trust instrument or the amendment to the trust instrument contains a formula that meets one or more of the following conditions:

- (1) The formula refers to any of the following: 'applicable credit amount,' 'applicable exclusion amount,' 'applicable exemption amount,' 'applicable fraction,' 'estate tax exemption,' 'generation-skipping transfer tax exemption,' 'GST exemption,' 'inclusion ratio,' 'marital deduction,' 'maximum marital deduction,' 'unified credit,' or 'unlimited marital deduction.'
- (2) The formula measures a share of a trust based on the amount that can pass free of federal estate taxes or the amount that can pass free of federal generation-skipping transfer taxes.
- (3) The formula is otherwise based on a provision of federal estate tax or federal generation-skipping transfer tax law similar to the provisions in subdivision (1) or (2) of this subsection.

(d) Judicial Determination. – The trustee of the trust or an affected beneficiary under the trust may commence a proceeding to determine whether the settlor intended that the references under subsection (c) of this section be construed with respect to the federal law as it existed after December 31, 2009. The proceeding must be commenced within 12 months following the death of the settlor."

SECTION 3. G.S. 36C-2-203(f) reads as rewritten:

"(f) Without otherwise limiting the jurisdiction of the superior court division of the General Court of Justice, proceedings concerning the internal affairs of trusts shall not include, and, therefore, the clerk of superior court shall not have jurisdiction under subsection (a) of this section of any of the following:

- (1) Actions to reform, terminate, or modify a trust as provided by G.S. 36C-4-410 through ~~G.S. 36C-4-416~~; G.S. 36C-4-416.
- (2) Actions by or against creditors or debtors of a ~~trust~~; trust.
- (3) Actions involving claims for monetary damages, including claims for breach of fiduciary duty, fraud, and ~~negligence~~; negligence.
- (4) Actions to enforce a charitable trust under ~~G.S. 36C-4-405.1~~; G.S. 36C-4-405.1.
- (5) Actions to amend or reform a charitable trust under ~~G.S. 36C-4A-1~~; and G.S. 36C-4A-1.
- (6) Actions involving the exercise of the trustee's special power to appoint to a second trust pursuant to G.S. 36C-8-816.1.
- (7) Actions to construe a formula contained in a trust subject to G.S. 36C-1-113."

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

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Became law upon approval of the Governor at 5:03 p.m. on the 21st day of July, 2010.

Session Law 2010-127

H.B. 1741

AN ACT TO AUTHORIZE THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO REGISTER ANIMAL SHELTERS UNDER THE NORTH CAROLINA CONTROLLED SUBSTANCES ACT FOR THE LIMITED PURPOSE OF OBTAINING, POSSESSING, AND USING DRUGS FOR ANIMAL EUTHANASIA, TO AUTHORIZE CERTIFIED EUTHANASIA TECHNICIANS TO ADMINISTER THESE DRUGS TO EUTHANIZE DOGS AND CATS ON THE PREMISES OF THE ANIMAL SHELTER, AND TO GIVE THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES EXPLICIT AUTHORIZATION TO REJECT CERTIFICATION OF OR TO DECERTIFY A EUTHANASIA TECHNICIAN FOR CERTAIN FELONY CONVICTIONS, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-101 reads as rewritten:

"§ 90-101. **Annual registration and fee to engage in listed activities with controlled substances; effect of registration; exceptions; waiver; inspection.**

(a) Every person who manufactures, distributes, dispenses, or conducts research with any controlled substance within this State or who proposes to engage in any of these activities shall annually register with the North Carolina Department of Health and Human Services, in accordance with rules adopted by the Commission, and shall pay the registration fee set by the Commission for the category to which the applicant belongs. An applicant for registration shall file an application for registration with the Department of Health and Human Services and submit the required fee with the application. The categories of applicants and the maximum fee for each category are as follows:

<u>CATEGORY</u>	<u>MAXIMUM FEE</u>
Clinic	\$150.00
<u>Animal Shelter</u>	<u>150.00</u>
Hospital	350.00
Nursing Home	150.00

Teaching Institution	150.00
Researcher	150.00
Analytical Laboratory	150.00
Dog Handler	150.00
Distributor	600.00
Manufacturer	700.00

(a1) Any physician who prescribes or dispenses Buprenorphine for the treatment of opiate dependence shall annually register with the Department, in accordance with rules adopted by the Commission. In the application for registration under this subsection, the applicant shall document plans to ensure that patients are directly engaged or referred to a qualified provider to receive counseling and case management, as appropriate, and shall acknowledge the application of federal confidentiality regulations to patient information. Applicant plans for referral to appropriate services shall be a written document and may include either an executed memorandum of agreement, contractual arrangement, or linkage agreement with qualified providers. The Department shall provide assistance upon request to physicians registered under this subsection to identify and establish linkages with qualified providers of counseling and case management. The Department shall provide the North Carolina Medical Board with any evidence of noncompliance with this subsection by a qualified physician prior to taking action to rescind the physician's registration to prescribe or dispense Buprenorphine for the treatment of opiate dependency.

(a2) An animal shelter may register under this section for the limited purpose of obtaining, possessing, and using sodium pentobarbital and other drugs approved by the Department in consultation with the North Carolina Veterinary Medical Association for the euthanasia of animals lawfully held by the animal shelter. An animal shelter registered under this section shall also register with the federal Drug Enforcement Agency under the federal Controlled Substances Act. An animal shelter's acquisition of sodium pentobarbital and other approved drugs for use in the euthanizing of animals shall be made only by the shelter's manager or chief operating officer or by a licensed veterinarian.

A person certified by the Department of Agriculture and Consumer Services to administer euthanasia by injection is authorized to possess and administer sodium pentobarbital and other approved euthanasia drugs for the purposes of euthanizing domestic dogs (Canis familiaris) and cats (Felis domestica) lawfully held by an animal shelter. Possession and administration of sodium pentobarbital and other approved drugs for use in the euthanizing of dogs and cats by a certified euthanasia technician shall be limited to the premises of the animal shelter.

For purposes of this section, "animal shelter" means an animal shelter registered under Article 3 of Chapter 19A of the General Statutes and owned, operated, or maintained by a unit of local government or under contract with a unit of local government for the purpose of housing or containing seized, stray, homeless, quarantined, abandoned, or unwanted animals.

(b) Persons registered by the North Carolina Department of Health and Human Services under this Article (including research facilities) to manufacture, distribute, dispense or conduct research with controlled substances may possess, manufacture, distribute, dispense or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this Article.

(c) The following persons shall not be required to register and may lawfully possess controlled substances under the provisions of this Article:

- (1) An agent, or an employee thereof, of any registered manufacturer, distributor, or dispenser of any controlled substance if such agent is acting in the usual course of his business or employment;
- (2) The State courier service operated by the Department of Administration, a common or contract carrier, or a public warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of his business or employment;

- (3) An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner;
- (4) Repealed by Session Laws 1977, c. 891, s. 4.
- (5) Any law-enforcement officer acting within the course and scope of official duties, or any person employed in an official capacity by, or acting as an agent of, any law-enforcement agency or other agency charged with enforcing the provisions of this Article when acting within the course and scope of official duties; and
- (6) A practitioner, as defined in G.S. 90-87(22)a., who is required to be licensed in North Carolina by his respective licensing board.

(d) The Commission may, by rule, waive the requirement for registration of certain classes of manufacturers, distributors, or dispensers if it finds it consistent with the public health and safety.

(e) A separate registration shall be required at each principal place of business, research or professional practice where the registrant manufactures, distributes, dispenses or uses controlled substances.

(f) The North Carolina Department of Health and Human Services is authorized to inspect the establishment of a registrant, applicant for registration, or practitioner in accordance with rules adopted by the Commission.

(g) Practitioners licensed in North Carolina by their respective licensing boards may possess, dispense or administer controlled substances to the extent authorized by law and by their boards.

(h) A physician licensed by the North Carolina Medical Board pursuant to Article 1 of this Chapter may possess, dispense or administer tetrahydrocannabinols in duly constituted pharmaceutical form for human administration for treatment purposes pursuant to rules adopted by the Commission.

(i) A physician licensed by the North Carolina Medical Board pursuant to Article 1 of this Chapter may dispense or administer Dronabinol or Nabilone as scheduled in G.S. 90-90(5) only as an antiemetic agent in cancer chemotherapy."

SECTION 2. G.S. 19A-24(b) reads as rewritten:

"(b) In addition to rules on the euthanasia of animals adopted pursuant to subdivision (5) of subsection (a) of this section, the Board of Agriculture ~~may adopt rules on the euthanasia of animals for:~~ shall adopt rules for the certification of euthanasia technicians. The rules may provide for:

- (1) Written and practical examinations for persons who perform euthanasia.
- (2) Issuance of certification to persons who have successfully completed both training and examinations to become a euthanasia technician.
- (3) Recertification of euthanasia technicians on a periodic basis.
- (4) Standards and procedures for the approval of persons who conduct training of euthanasia technicians.
- (5) Approval of materials for use in euthanasia technician training.
- (6) Minimum certification criteria for persons seeking to become euthanasia technicians including, but not limited to: age; previous related experience; criminal record; and other qualifications that are related to an applicant's fitness to perform euthanasia.
- (7) Denial, suspension, or revocation of certification of euthanasia technicians ~~who either violate who:~~
 - a. Violate any provision of the Animal Welfare Act pursuant to Article 3 of Chapter 19A of the General Statutes or otherwise this Article or rules adopted pursuant to this Article;
 - b. Have been convicted of or entered a plea of guilty or nolo contendere to:
 - 1. Any felony;

2. Any misdemeanor or infraction involving animal abuse or neglect; or
 3. Any other offense related to animal euthanasia, the duties or responsibilities of a euthanasia technician, or a euthanasia technician's fitness for certification;
 - c. Make any false statement, give false information, or omit material information in connection with an application for certification or for renewal or reinstatement of certification as a euthanasia technician;
or
 - d. Otherwise are or become ineligible for certification.
- (8) Provision of the names of persons who perform euthanasia at animal shelters and for the animal shelter to notify the Department when those persons are no longer affiliated, employed, or serving as a volunteer with the shelter.
 - (9) Certified euthanasia technicians to notify the Department when they are no longer employed by or are serving as a volunteer at an animal shelter.
 - (10) The duties, responsibilities, and standards of conduct for certified euthanasia technicians."

SECTION 3. G.S. 19A-24 is amended by adding two new subsections to read:

"(c) Regardless of the extent to which the Board exercises its authority under subsection (b) of this section, the Department may deny, revoke, or suspend the certification of a euthanasia technician who has been convicted of or entered a plea of guilty or nolo contendere to a felony involving the illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, or narcotic.

(d) Persons seeking certification as euthanasia technicians, or a renewal of such certification, shall provide the Department a fingerprint card in a format acceptable to the Department, a form signed by the person consenting to a criminal record check and the use of the person's fingerprints, and such other identifying information as may be required by the State or national data banks. The Department may deny certification to persons who refuse to provide the fingerprint card or consent to the criminal background check. Fees required by the Department of Justice for conducting the criminal background check shall be collected by the Department and remitted to the Department of Justice along with the fingerprint card and consent form."

SECTION 4. Part 2 of Chapter 114 of the General Statutes is amended by adding a new section to read:

§ 114-19.29. Criminal record checks of applicants for certification by the Department of Agriculture and Consumer Services as euthanasia technicians.

The Department of Justice may provide a criminal record check to the Department of Agriculture and Consumer Services for a person who has applied for a new or renewal certification as a euthanasia technician. The Department of Agriculture and Consumer Services shall provide the Department of Justice a request for the criminal record check, the fingerprints of the individual to be checked, any additional information required by the Department of Justice, and a form signed by the person seeking certification consenting to the check of the criminal record. The fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department of Agriculture and Consumer Services shall keep all information pursuant to this section privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes. The Department of Justice may charge each applicant a fee for conducting the checks of criminal history records authorized by this section."

SECTION 5. This act becomes effective October 1, 2010.

In the General Assembly read three times and ratified this the 7th day of July, 2010.

Became law upon approval of the Governor at 5:04 p.m. on the 21st day of July, 2010.

Session Law 2010-128

S.B. 354

AN ACT TO PERMIT CONTINUING CARE RETIREMENT COMMUNITIES TO PROVIDE OR ARRANGE FOR HOME CARE SERVICES WITHOUT PROVIDING LODGING WHEN THOSE SERVICES ARE PROVIDED ADJUNCT TO A CONTRACT FOR CONTINUING CARE AND TO REQUIRE THE DEPARTMENT OF INSURANCE AND THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO STUDY ISSUES RELATED TO CONTINUING CARE RETIREMENT COMMUNITIES PROVIDING HOME CARE SERVICES WITHOUT PROVIDING LODGING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-64-5(b) reads as rewritten:

"(b) The application for a license shall be filed with the Department by the provider on forms prescribed by the Department and within a period of time prescribed by the Department; and shall include all information required by the Department pursuant to rules adopted by it under this Article including, but not limited to, the disclosure statement meeting the requirements of this Article and other financial and facility development information required by the Department. The application for a license must be accompanied by an application fee of ~~five hundred one thousand~~ one thousand dollars (~~\$500.00~~\$1,000)."

SECTION 2. G.S. 58-64-1 reads as rewritten:

"§ 58-64-1. Definitions.

As used in this Article, unless otherwise specified:

- (1) ~~"Continuing care" means the~~Continuing care. – The furnishing to an individual other than an individual related by blood, marriage, or adoption to the person furnishing the care, of lodging together with nursing services, medical services, or other health related services, ~~under an agreement a~~contract approved by the Department in accordance with this Article effective for the life of the individual or for a period longer than one year. "Continuing care" may also include home care services provided or arranged by a provider of lodging at a facility to an individual who has entered into a continuing care contract with the provider but is not yet receiving lodging.
- (2) ~~"Entrance fee" means a~~Entrance fee. – A payment that assures a resident a place in a facility for a term of years or for life.
- (3) ~~"Facility" means the~~Facility. – The retirement community or communities in which a provider undertakes to provide continuing care to an individual.
- (4) ~~"Health related services" means, at~~Health-related services. – At a minimum, nursing home admission or assistance in the activities of daily living, exclusive of the provision of meals or cleaning services.
- (4a) Home care services. – Defined in G.S. 131E-136.
- (5) ~~"Living unit" means a~~Living unit. – A room, apartment, cottage, or other area within a facility set aside for the exclusive use or control of one or more identified residents.
- (5a) Lodging. – A living unit as set forth in a contract approved by the Department in accordance with this Article.
- (6) ~~"Provider" means the~~Provider. – The promoter, developer, or owner of a facility, whether a natural person, partnership, or other unincorporated association, however organized, trust, or corporation, of an institution, building, residence, or other place, whether operated for profit or not, or any

other person, that solicits or undertakes to provide continuing care under a continuing care facility contract, or that represents himself, herself, or itself as providing continuing care or "life care."

- (7) ~~"Resident" means a~~Resident. – A purchaser of, a nominee of, or a subscriber to, a continuing care contract.
- (8) ~~"Hazardous financial condition" means a~~Hazardous financial condition. – A provider is insolvent or in eminent danger of becoming insolvent."

SECTION 3. G.S. 58-64-25(b) reads as rewritten:

"(b) Each contract shall include provisions that specify the following:

- (1) The total consideration to be ~~paid;~~paid.
- (2) Services to be ~~provided;~~provided.
- (3) The procedures the provider shall follow to change the resident's accommodation if necessary for the protection of the health or safety of the resident or the general and economic welfare of the ~~residents;~~residents.
- (4) The policies to be implemented if the resident cannot pay the periodic ~~fees;~~fees.
- (5) The terms governing the refund of any portion of the entrance fee in the event of discharge by the provider or cancellation by the ~~resident;~~resident.
- (6) The policy regarding increasing the periodic ~~fees;~~fees.
- (7) The description of the living ~~quarters;~~quarters.
- (8) Any religious or charitable affiliations of the provider and the extent, if any, to which the affiliate organization will be responsible for the financial and contractual obligations of the ~~provider;~~provider.
- (9) Any property rights of the ~~resident;~~resident.
- (10) The policy, if any, regarding fee adjustments if the resident is voluntarily absent from the ~~facility;~~facility.
- (11) Any requirement, if any, that the resident apply for Medicaid, public assistance, or any public benefit program.
- (12) The procedures for determining when the individual will transition to receiving lodging and health-related services in the event that a contract allows for the provision or arrangement of continuing care without lodging."

SECTION 4. Article 64 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-64-7. Continuing care services without lodging.

(a) A provider of continuing care who has obtained a license pursuant to this Article and desires to provide or arrange for continuing care services, including home care services, to an individual who has entered into a continuing care contract with the provider but is not yet receiving lodging must submit the following to the Commissioner:

- (1) An application to offer continuing care services without providing lodging.
- (2) An amended disclosure statement containing a description of the proposed continuing care services that will be provided without lodging, including the target market, the types of services to be provided, and the fees to be charged.
- (3) A copy of the written service agreement, which must contain those provisions as prescribed in G.S. 58-64-25(b).
- (4) A summary of an actuarial report that presents the impact of providing continuing care services without lodging on the overall operation of the continuing care retirement community.
- (5) A financial feasibility study prepared by a certified public accountant that shows the financial impact of providing continuing care services without lodging on the applicant and the continuing care retirement facility or facilities. The financial feasibility study shall include a statement of activities reporting the revenue and expense details for providing continuing

care services without lodging, as well as any impact the provision of these services will have on operating reserves.

- (6) Evidence of the license required under Part 3 of Article 6 of Chapter 131E of the General Statutes to provide home care services, or a contract with a licensed home care agency for the provision of home care services to the individuals under the continuing care services without lodging program.

(b) A provider issued a start-up certificate for the provision of continuing care services without lodging must enter into binding written service agreements with subscribers to provide continuing care services without lodging.

(c) When providing the financial statements and five-year forecasts required by G.S. 58-64-20, a provider offering continuing care services without lodging must account for the related revenue and expenses generated from the provision of these services separate from the facility's on-site operation."

SECTION 5. The Department of Insurance and the Department of Health and Human Services shall identify any statutory, regulatory, or practical barriers that prevent or discourage individuals that contract with continuing care retirement communities from receiving home care services for as long as they need home care services and are able to be safely cared for in their homes. The Departments shall jointly provide an interim status report on or before November 1, 2010, and a final report on or before September 1, 2011, to the North Carolina Study Commission on Aging and the Joint Legislative Health Care Oversight Committee. Each report shall include findings and recommendations made to date on statutory changes and a timetable for adopting rules to eliminate any identified barriers to providing appropriate levels of care.

SECTION 6. Section 1 of this act is effective when it becomes law, and applies to applications filed on or after that date, and the remainder of the act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Became law upon approval of the Governor at 5:05 p.m. on the 21st day of July, 2010.

Session Law 2010-129

S.B. 1214

AN ACT TO MAKE CHANGES TO SPECIFIED DEFINITIONS THAT AFFECT THE APPLICABILITY OF STATE LAW CONCERNING MOTOR CARRIERS, IN ORDER TO COMPLY WITH FEDERAL MOTOR CARRIER ENFORCEMENT REGULATIONS AND MAINTAIN FEDERAL MOTOR CARRIER SAFETY ASSISTANCE PROGRAM FUNDING FOR THE STATE HIGHWAY PATROL'S MOTOR CARRIER SECTION; TO PROVIDE THAT THE AUTHORITY OF LAW ENFORCEMENT TO SEIZE AND DETAIN A PROPERTY-HAULING VEHICLE PURSUANT TO G.S. 20-96 IS NOT AFFECTED BY A STATUTE OF LIMITATIONS; TO REQUIRE A PROPERTY-HAULING VEHICLE BE REGISTERED FOR THE MAXIMUM WEIGHT ALLOWED IN ORDER FOR THE VEHICLE TO BE ELIGIBLE FOR CERTAIN WEIGHT EXEMPTIONS IN G.S. 20-118; TO MAKE CHANGES TO THE ESTABLISHMENT, USE, AND REPORTING OF VEHICLE ESCORT FEES; TO ESTABLISH A THREE-YEAR STATUTE OF LIMITATIONS FOR ACTIONS RELATED TO CIVIL PENALTIES, CIVIL ASSESSMENTS, OR CIVIL FINES IMPOSED UNDER CHAPTER 20 OF THE GENERAL STATUTES, THE MOTOR VEHICLE LAWS OF THE STATE; AND TO ALLOW LOCAL GOVERNMENTS TO REFUND SPECIFIED UNUSED ASSESSMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-4.01 reads as rewritten:

"§ 20-4.01. Definitions.

Unless the context requires otherwise, the following definitions apply throughout this Chapter to the defined words and phrases and their cognates:

- ...
- (12b) **Gross Vehicle Weight Rating (GVWR).** – The value specified by the manufacturer as the maximum loaded weight a vehicle is capable of safely hauling. The GVWR of a combination vehicle is the GVWR of the power unit plus the GVWR of the towed unit or units. When a vehicle is determined by an enforcement officer to be structurally altered in any way from the manufacturer's original design in an attempt to increase the hauling capacity of the vehicle, the GVWR of that vehicle shall be deemed to be the greater of the license weight or the total weight of the vehicle or combination of vehicles for the purpose of enforcing this Chapter. For the purpose of classification of commercial drivers license and skills testing, the manufacturer's GVWR shall be used.
- (12c) Gross Combination Weight Rating (GCWR). – Defined in 49 C.F.R. § 390.5.
- (12d) Gross Vehicle Weight (GVW). – The total weight of a vehicle, including passengers, fuel, cargo, and attachments.
- (12e) Gross Combined Weight (GCW). – The total weight of a combination (articulated) motor vehicle, including passengers, fuel, cargo, and attachments.
- ~~(12e)~~(12f) **Hazardous Materials.** – Any material that has been designated as hazardous under 49 U.S.C. § 5103 and is required to be placarded under Subpart F of Part 172 of Title 49 of the Code of Federal Regulations (~~4 October 2007 Edition~~), or any quantity of a material listed as a select agent or toxin under Part 73 of Title 42 of the Code of Federal Regulations (~~4 October 2007 Edition~~)-Regulations.

...."

SECTION 2. G.S. 20-96 is amended by adding a new subsection to read:

"(c) The authority of a law enforcement officer to seize a motor vehicle pursuant to subsection (a) of this section shall not be affected by the statutes of limitations set out in Chapter 1 of the North Carolina General Statutes."

SECTION 3. G.S. 20-118(c) reads as rewritten:

"(c) **Exceptions.** – The following exceptions apply to G.S. 20-118(b) and 20-118(e).

- ...
- (12) Subsections (b) and (e) of this section do not apply to a vehicle that meets all of the conditions set out below:
- a. Is hauling agricultural crops from the farm where the crop is grown to any market within 150 miles of that farm.
 - b. Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 13.
 - b1. Does not operate on an interstate highway or exceed any posted bridge weight limits during transportation or hauling of agricultural products.
 - c. Does not exceed a single-axle weight of 22,000 pounds, a tandem-axle weight of 42,000 pounds, or a gross weight of 90,000 pounds.
 - d. Is registered pursuant to G.S. 20-88 for the maximum weight allowed for the vehicle configuration as listed in subsection (b) of this section.
-

- (14) Subsections (b) and (e) of this section do not apply to a vehicle that meets all of the conditions below, but all other enforcement provisions of this Article remain applicable:
- a. Is hauling aggregates from a distribution yard or a State-permitted production site located within a North Carolina county contiguous to the North Carolina State border to a destination in another state adjacent to that county as verified by a weight ticket in the driver's possession and available for inspection by enforcement personnel.
 - b. Does not operate on an interstate highway or exceed any posted bridge weight limits.
 - c. Does not exceed 69,850 pounds gross vehicle weight and 53,850 pounds per axle grouping for tri-axle vehicles. For purposes of this subsection, a tri-axle vehicle is a single power unit vehicle with a three consecutive axle group on which the respective distance between any two consecutive axles of the group, measured longitudinally center to center to the nearest foot, does not exceed eight feet. For purposes of this subsection, the tolerance provisions of subsection (h) of this section do not apply, and vehicles must be licensed in accordance with G.S. 20-88.
 - d. Repealed by Session Laws 2001-47, s. 10, effective December 16, 2001.
 - e. Is registered pursuant to G.S. 20-88 for the maximum weight allowed for the vehicle configuration as listed in subsection (b) of this section.
- (15) Subsections (b) and (e) of this section do not apply to a vehicle or vehicle combination that meets all of the conditions below, but all other enforcement provisions of this Article remain applicable:
- a. Is hauling wood residuals, including wood chips, sawdust, mulch, or tree bark from any site; is hauling raw logs to first market; or is transporting bulk soil, bulk rock, sand, sand rock, or asphalt millings from a site that does not have a certified scale for weighing the vehicle.
 - b. Does not operate on an interstate highway, a posted light-traffic road, except as provided by subdivision (c)(5) of this section, or exceed any posted bridge weight limits.
 - c. Does not exceed a maximum gross weight 4,000 pounds in excess of what is allowed in subsection (b) of this section.
 - d. Does not exceed a single-axle weight of more than 22,000 pounds and a tandem-axle weight of more than 42,000 pounds.
 - e. Is registered pursuant to G.S. 20-88 for the maximum weight allowed for the vehicle configuration as listed in subsection (b) of this section."

SECTION 4. G.S. 20-196.4 reads as rewritten:

"§ 20-196.4. Oversized and hazardous shipment escort fee.

(a) Every person, firm, corporation, or entity required by the North Carolina Department of Transportation or any federal agency or commission to have a law enforcement escort provided by the State Highway Patrol for the transport of any oversized load or hazardous shipment by road or rail shall pay to the Department of Crime Control and Public Safety a fee covering the full cost to administer, plan, and carry out the escort within this State.

(b) If the State Highway Patrol provides an escort to accompany the transport of oversized loads or hazardous shipments by road or rail at the request of any person, firm, corporation, or entity that is not required to have a law enforcement escort pursuant to subsection (a) of this section, then the requester shall pay to the Department of Crime Control

and Public Safety a fee covering the full cost to administer, plan, and carry out the escort within this State.

(c) ~~The Department of Crime Control and Public Safety shall comply with the provisions of G.S. 12-3.1(a)(2) when establishing fees to implement this section. A fee established under this section is subject to G.S. 12-3.1. The full cost of an escort includes costs for vehicle or equipment maintenance required before or after an escort to ensure the visibility and safety of the law enforcement escort and the motoring public.~~

(d) ~~All fees collected pursuant to this section shall be placed in a special Escort Fee Account and shall remain unencumbered and unexpended until appropriated by the General Assembly Account. Revenue in the account is annually appropriated to the Department to reimburse the Department for its expenses in providing escorts under this section.~~

(e) ~~The Department shall report quarterly on the funds in the special account to the Chairs of the Joint Legislative Transportation Oversight Committee, to the Chairs of the House of Representatives Appropriations Subcommittee on Transportation and the Senate Appropriations Subcommittee on Department of Transportation, and to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety."~~

SECTION 5. G.S. 20-376(5) reads as rewritten:

"(5) Intrastate motor carrier. – Any person, firm, or corporation that operates or controls a ~~commercial~~ motor vehicle as defined in G.S. 20-4.01(3d) ~~in intrastate commerce~~ in intrastate commerce when the vehicle:

- a. Is a vehicle having a gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) or gross vehicle weight (GVW) or gross combination weight (GCW) of 26,001 pounds or more, whichever is greater.
- b. Is designed or used to transport 16 or more passengers, including the driver.
- c. Is used in transporting a hazardous material in a quantity requiring placarding pursuant to 49 C.F.R. Parts 170 through 185."

SECTION 6. G.S. 1-52 is amended by adding a new subdivision to read:

"(20) Upon a liability for a civil penalty, civil assessment, or civil fine imposed pursuant to Chapter 20 of the General Statutes."

SECTION 7. A local government that imposed an assessment prior to 2007 to finance a capital project that has been assumed by another unit of local government may return unused assessments to the person that paid the assessment.

SECTION 8. Sections 3 and 5 of this act become effective October 1, 2010, and apply to offenses committed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law upon approval of the Governor at 5:06 p.m. on the 21st day of July, 2010.

Session Law 2010-130

S.B. 655

AN ACT TO INCREASE THE FEE FOR THE RESTORATION OF DRIVERS LICENSES REVOKED FOR IMPAIRED DRIVING TO PROVIDE FUNDING FOR THE FORENSIC TESTS FOR ALCOHOL BRANCH OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-7(i1) reads as rewritten:

"(i1) Restoration Fee. – Any person whose drivers license has been revoked pursuant to the provisions of this Chapter, other than G.S. 20-17(a)(2) shall pay a restoration fee of fifty dollars (\$50.00). A person whose drivers license has been revoked under G.S. 20-17(a)(2) shall

pay a restoration fee of ~~seventy-five dollars (\$75.00)~~ one hundred dollars (\$100.00). The fee shall be paid to the Division prior to the issuance to such person of a new drivers license or the restoration of the drivers license. The restoration fee shall be paid to the Division in addition to any and all fees which may be provided by law. This restoration fee shall not be required from any licensee whose license was revoked or voluntarily surrendered for medical or health reasons whether or not a medical evaluation was conducted pursuant to this Chapter. The ~~the fifty-dollar (\$50.00) fee, and the first fifty dollars (\$50.00) of the seventy-five dollar (\$75.00)~~ one-hundred-dollar (\$100.00) fee, shall be deposited in the Highway Fund. The remaining twenty-five dollars (\$25.00) of the seventy-five dollar (\$75.00) fee shall be deposited in the General Fund of the State. Twenty-five dollars (\$25.00) of the one-hundred-dollar (\$100.00) fee shall be used to fund a statewide chemical alcohol testing program administered by the Forensic Tests for Alcohol Branch of the Chronic Disease and Injury Section of the Department of Health and Human Services. The remainder of the one-hundred-dollar (\$100.00) fee shall be deposited in the General Fund. The Office of State Budget and Management shall annually report to the General Assembly the amount of fees deposited in the General Fund and transferred to the Forensic Tests for Alcohol Branch of the Chronic Disease and Injury Section of the Department of Health and Human Services under this subsection.

It is the intent of the General Assembly to annually appropriate from the funds deposited in the General Fund under this subsection the sum of five hundred thirty-seven thousand four hundred fifty-five dollars (\$537,455) to the Board of Governors of The University of North Carolina to be used for the operating expenses of the Bowles Center for Alcohol Studies at the University of North Carolina at Chapel Hill."

SECTION 2. This act becomes effective September 1, 2010.

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Became law upon approval of the Governor at 5:07 p.m. on the 21st day of July, 2010.

Session Law 2010-131

S.B. 181

AN ACT TO INCREASE THE AGE CAP OF PERSONS RECEIVING AN EIGHT-YEAR DRIVERS LICENSE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-7(f)(2) reads as rewritten:

"(2) Duration of original license for persons at least 18 years of age or older. – A drivers license issued to a person at least 18 years old but less than ~~54-66~~ years old expires on the birthday of the licensee in the eighth year after issuance. A drivers license issued to a person at least ~~54-66~~ years old expires on the birthday of the licensee in the fifth year after issuance. A commercial drivers license that has a vehicles carrying passengers (P) and school bus (S) endorsement issued pursuant to G.S. 20-37.16 shall expire on the birth date of the licensee three years after the date of issuance, if the licensee is certified to drive a school bus in North Carolina."

SECTION 2. G.S. 20-7(f)(2a) reads as rewritten:

"(2a) Duration of renewed licenses. – A renewed drivers license that was issued by the Division to a person at least 18 years old but less than ~~54-66~~ years old expires eight years after the expiration date of the license that is renewed. A renewed drivers license that was issued by the Division to a person at least ~~54-66~~ years old expires five years after the expiration date of the license that is renewed."

SECTION 3. This act becomes effective January 1, 2011, and applies to any drivers license issued on or after that date.

In the General Assembly read three times and ratified this the 9th day of July, 2010.
Became law upon approval of the Governor at 5:08 p.m. on the 21st day of July, 2010.

Session Law 2010-132**H.B. 1729**

AN ACT TO MAKE VARIOUS CHANGES TO THE MOTOR VEHICLE LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-7(f) reads as rewritten:

"(f) Duration and Renewal of Licenses. – Drivers licenses shall be issued and renewed pursuant to the provisions of this subsection:

- (1) Duration of license for persons under age 18. – A full provisional license issued to a person under the age of 18 expires on the person's twenty-first birthday.
- (2) Duration of original license for persons at least 18 years of age or older. – A drivers license issued to a person at least 18 years old but less than 54 years old expires on the birthday of the licensee in the eighth year after issuance. A drivers license issued to a person at least 54 years old expires on the birthday of the licensee in the fifth year after issuance. A commercial drivers license expires on the birthday of the licensee in the fifth year after issuance. A commercial drivers license that has a vehicles carrying passengers (P) and school bus (S) endorsement issued pursuant to G.S. 20-37.16 ~~shall expire on the birth date of the licensee three years after the date of~~ expires on the birthday of the licensee in the third year after issuance, if the licensee is certified to drive a school bus in North Carolina.
- (2a) Duration of renewed licenses. – A renewed drivers license that was issued by the Division to a person at least 18 years old but less than 54 years old expires eight years after the expiration date of the license that is renewed. A renewed drivers license that was issued by the Division to a person at least 54 years old expires five years after the expiration date of the license that is renewed. A renewed commercial drivers license expires five years after the expiration date of the license that is renewed.
- (3) Duration of license for certain other drivers. – The durations listed in subdivisions (1), (2) and (2a) of this subsection are valid unless the Division determines that a license of shorter duration should be issued when the applicant holds valid documentation issued by, or under the authority of, the United States government that demonstrates the applicant's legal presence of limited duration in the United States. In no event shall a license of limited duration expire later than the expiration of the authorization for the applicant's legal presence in the United States.
- (3a) When to renew. – A person may apply to the Division to renew a license during the 180-day period before the license expires. The Division may not accept an application for renewal made before the 180-day period begins.
- (3b) Renewal for certain members of the Armed Forces and reserve components of the Armed Forces.
 - a. The Division may renew a drivers license, without limitation on the period of time before the license expires, if the person applying for renewal is a member of the Armed Forces or of a reserve component of the Armed Forces of the United States and provides orders that place the member on active duty and duty station outside this State.
 - b. A person who is a member of a reserve component of the Armed Forces of the United States whose license bears an expiration date

that occurred while the person was on active duty outside this State shall be considered to have a valid license until 60 days after the date of release from active duty upon showing proof of the release date, unless the license was rescinded, revoked, or otherwise invalidated under some other provision of law. Notwithstanding the provisions of this sub-subdivision, no license shall be considered valid more than 18 months after the date of expiration.

- (4) Renewal by mail. – The Division may renew by mail a drivers license issued by the Division to a person who meets any of the following descriptions:
- a. Is a member of the Armed Forces or a reserve component of the Armed Forces of the United States serving on active duty and is stationed outside this State.
 - b. Is a resident of this State and has been residing outside the State for at least 30 continuous days.

When renewing a license by mail, the Division may waive the examination that would otherwise be required for the renewal and may impose any conditions it finds advisable. A license renewed by mail is a temporary license that expires 60 days after the person to whom it is issued returns to this State.

- (5) License to be sent by mail. – The Division shall issue to the applicant a temporary driving certificate valid for 20 days, unless the applicant is applying for renewal by mail under subdivision (4) of this subsection. The temporary driving certificate shall be valid for driving purposes only and shall not be valid for identification purposes. The Division shall produce the applicant's drivers license at a central location and send it to the applicant by first-class mail at the residence address provided by the applicant, unless the applicant is ineligible for mail delivery by the United States Postal Service at the applicant's residence. If the United States Postal Service documents that it does not deliver to the residential address provided by the applicant, and the Division has verified the applicant's residential address by other means, the Division may mail the drivers license to the post office box provided by the applicant. Applicants whose only mailing address prior to July 1, 2008, was a post office box in this State may continue to receive their license at that post office box, provided the applicant's residential address has been verified by the Division."

SECTION 2. G.S. 20-63(b) reads as rewritten:

"(b) Every license plate ~~shall have displayed upon it~~ must display the registration number assigned to the vehicle for which it is issued, the name of the State of North Carolina, which may be abbreviated, and the year number for which it is issued or the date of expiration. A plate issued for a commercial vehicle, as defined in G.S. 20-4.2(1), and weighing 26,001 pounds or more, must bear the word "commercial," unless the plate is a special registration plate authorized in G.S. 20-79.4 or the commercial vehicle is a trailer or is licensed for 6,000 pounds or less. The plate issued for vehicles licensed for 7,000 pounds through 26,000 pounds must bear the word ~~"weighted"~~ "weighted," unless the plate is a special registration plate authorized in G.S. 20-79.4.

Except as otherwise provided in this subsection, a registration plate issued by the Division for a private passenger vehicle or for a private hauler vehicle licensed for 6,000 pounds or less shall be a "First in Flight" plate. A "First in Flight" plate shall have the words "First in Flight" printed at the top of the plate above all other letters and numerals. The background of the plate shall depict the Wright Brothers biplane flying over Kitty Hawk Beach, with the plane flying slightly upward and to the right. The following special registration plates do not have to be a "First in Flight" plate. The design of the plates that are not "First in Flight" plates must be approved by the Division and the State Highway Patrol for clarity and ease of identification.

- (1) Friends of the Great Smoky Mountains National Park.
- (2) Rocky Mountain Elk Foundation.
- (3) Blue Ridge Parkway Foundation.
- (4) Friends of the Appalachian Trail.
- (5) NC Coastal Federation.
- (6) In God We Trust.
- (7) Stock Car Racing Theme.
- (8) Buddy Pelletier Surfing Foundation.
- (9) Guilford Battleground Company.
- (10) National Wild Turkey Federation.
- (11) North Carolina Aquarium Society.
- (12) First in Forestry.
- (13) North Carolina Wildlife Habitat Foundation.
- (14) NC Trout Unlimited.
- (15) Ducks Unlimited.
- (16) Lung Cancer Research.
- (17) NC State Parks.
- (18) Support Our Troops.
- (19) US Equine Rescue League.
- (20) Fox Hunting.
- (21) Back Country Horsemen of North Carolina.
- (22) Hospice Care.
- (23) Home Care and Hospice.
- (24) NC Tennis Foundation.
- (25) AIDS Awareness."

SECTION 3. G.S. 20-63(g) reads as rewritten:

"(g) Alteration, Disguise, or Concealment of Numbers. – Any operator of a motor vehicle who shall willfully mutilate, bend, twist, cover or cause to be covered or partially covered by any bumper, light, spare tire, tire rack, strap, or other device, or who shall paint, enamel, emboss, stamp, print, perforate, or alter or add to or cut off any part or portion of a registration plate or the figures or letters thereon, or who shall place or deposit or cause to be placed or deposited any oil, grease, or other substance upon such registration plates for the purpose of making dust adhere thereto, or who shall deface, disfigure, change, or attempt to change any letter or figure thereon, or who shall display a number plate in other than a horizontal upright position, shall be guilty of a Class 2 misdemeanor. Any operator of a motor vehicle who shall willfully cover or cause to be covered any part or portion of a registration plate or the figures or letters thereon by any device designed or intended to prevent or interfere with the taking of a clear photograph of a registration plate by a traffic control or toll collection system using cameras commits an infraction and shall be ~~fin~~ed-penalized under G.S. 14-3.1. Any operator of a motor vehicle who shall otherwise intentionally cover any number or registration renewal sticker on a registration plate with any material that makes the number or registration renewal sticker illegible commits an infraction and shall be ~~fin~~ed-penalized under G.S. 14-3.1. Any operator of a motor vehicle who covers any registration plate with any frame or transparent clear or color-tinted cover that makes a number or letter on the plate, the State name on the plate, or a number or month on the registration renewal sticker on the plate illegible commits an infraction and shall be penalized under G.S. 14-3.1. ~~Any operator of a motor vehicle who covers the State name, year sticker, or month sticker on a registration plate with a license plate frame commits an infraction and shall be fined under G.S. 14-3.1. Nothing in this subsection shall prohibit the use of transparent covers that do not prevent or interfere with the taking of a clear photograph of a registration plate by a traffic control or toll collection system using cameras."~~

SECTION 4. G.S. 20-64.2 is repealed.

SECTION 5. G.S. 20-79 reads as rewritten:

"§ 20-79. Dealer license plates.

(a) How to Get a Dealer Plate. – The Division may issue a person licensed under Article 12 of this Chapter the appropriate classification of dealer license plate. A person eligible for a dealer license plate may obtain one by filing an application with the Division and paying the required fee. An application must be filed on a form provided by the Division. The required fee is the amount set by G.S. 20-87(7).

(b) Number of Plates. – A dealer who was licensed under Article 12 of this Chapter for the previous 12-month period ending December 31 may obtain the number of dealer license plates allowed by the following table; the number allowed is based on the number of motor vehicles the dealer sold during the relevant 12-month period and the average number of qualifying sales representatives the dealer employed during that same 12-month period:

<u>Vehicles Sold In Relevant 12-Month Period</u>	<u>Maximum Number of Plates</u>
Fewer than 12	4 <u>3</u>
At least 12 but less than 25	4 <u>6</u>
At least 25 but less than 37	5 <u>7</u>
At least 37 but less than 49	6 <u>8</u>
49 or more	At least 6 <u>8</u> , but no more than 4 <u>5</u> times the average number of qualifying sales representatives employed by the dealer during the relevant 12-month period.

A dealer who was not licensed under Article 12 of this Chapter for part or all of the previous 12-month period ending December 31 may obtain the number of dealer license plates that equals four times the number of qualifying sales representatives employed by the dealer on the date the dealer files the application. A "qualifying sales representative" is a sales representative who works for the dealer at least 25 hours a week on a regular basis and is compensated by the dealer for this work.

A dealer who sold fewer than 49 motor vehicles the previous 12-month period ending December 31 but has sold at least that number since January 1 may apply for additional dealer license plates at any time. The maximum number of dealer license plates the dealer may obtain is the number the dealer could have obtained if the dealer had sold at least 49 motor vehicles in the previous 12-month period ending December 31.

A dealer who applies for a dealer license plate must certify to the Division the number of motor vehicles the dealer sold in the relevant period. Making a material misstatement in an application for a dealer license plate is grounds for the denial, suspension, or revocation of a dealer's license under G.S. 20-294.

A dealer engaged in the alteration and sale of specialty vehicles may apply for up to two dealer plates in addition to the number of dealer plates that the dealer would otherwise be entitled to under this section.

This subsection does not apply to manufacturers licensed under Article 12 of this Chapter.

(c) Form and Duration. – A dealer license plate is subject to G.S. 20-63, except for the requirement that the plate display the registration number of a motor vehicle and the requirement that the plate be a "First in Flight" plate. A dealer license plate must have a distinguishing symbol identifying the plate as a dealer license plate. The symbol may vary depending upon the classification of dealer license plate issued. The Division must provide suitably reduced sized license plates for motorcycle dealers and manufacturers.

A dealer license plate is issued for a period of one year. The Division shall vary the expiration dates of dealer registration renewals so that an approximately equal number expires at the end of each month, quarter, or other period consisting of one or more months. A dealer license plate may be transferred from one vehicle to another. When the Division issues a dealer plate, it may issue a registration that expires at the end of any monthly interval. When one of

the following occurs, a dealer must surrender to the Division all dealer license plates issued to the dealer:

- (1) The dealer surrenders the license issued to the dealer under Article 12 of this Chapter.
- (2) The Division suspends or revokes the license issued to the dealer under Article 12 of this Chapter.
- (3) The Division rescinds the dealer license plates because of a violation of the restrictions on the use of a dealer license plate.

To obtain a dealer license plate after it has been surrendered, the dealer must file a new application for a dealer license plate and pay the required fee for the plate.

(d) Restrictions on Use. – A dealer license plate may be displayed only on a motor vehicle that meets all of the following requirements:

- (1) Is part of the inventory of the dealer.
- (2) Is not consigned to the dealer.
- (3) Is covered by liability insurance that meets the requirements of Article 9A of this Chapter.
- (4) Is not used by the dealer in another business in which the dealer is engaged.
- (5) Is driven on a highway by a person who meets one of the following descriptions:
 - a. Has a demonstration permit to test-drive the motor vehicle and carries the demonstration permit while driving the motor vehicle.
 - b. Is an officer or sales representative of the dealer and is driving the vehicle for a business purpose of the dealer.
 - c. Is an employee of the dealer and is driving the vehicle in the course of employment.
 - d. Is an employee of the dealer or of a contractor of the dealer and is driving the vehicle within a 20-mile radius of a place where the vehicle is being repaired or otherwise prepared for sale.
 - e. Is an employee of the dealer or of a contractor of the dealer and is transporting the vehicle to or from a vehicle auction or to the dealer's established salesroom.
- (6) A copy of the registration card for the dealer plate issued to the dealer is carried by the person operating the motor vehicle or, if the person is operating the motor vehicle in this State, the registration card is maintained on file at the dealer's address listed on the registration card, and the registration card must be able to be produced within 24 hours upon request of any law enforcement officer.

A dealer may issue a demonstration permit for a motor vehicle to a person licensed to drive that type of motor vehicle. A demonstration permit authorizes each person named in the permit to drive the motor vehicle described in the permit for up to 96 hours after the time the permit is issued. A dealer may, for good cause, renew a demonstration permit for one additional 96-hour period.

A dealer may not lend, rent, lease, or otherwise place a dealer license plate at the disposal of a person except as authorized by this subsection.

(e) Sanctions. – The following sanctions apply when a motor vehicle displaying a dealer license plate is driven in violation of the restrictions on the use of the plate:

- (1) The individual driving the motor vehicle is responsible for an infraction and is subject to a penalty of ~~fifty dollars (\$50.00)~~ one hundred dollars (\$100.00).
- (2) The dealer to whom the plate is issued is subject to a civil penalty imposed by the Division of ~~two hundred dollars (\$200.00)~~ two hundred fifty dollars (\$250.00).

- (3) The Division may rescind all dealer license plates issued to the dealer whose plate was displayed on the motor vehicle.

A penalty imposed under subdivision (1) of this subsection is payable to the county where the infraction occurred, as required by G.S. 14-3.1. A civil penalty imposed under subdivision (2) of this subsection shall be credited to the Highway Fund as nontax revenue.

(f) Transfer of Dealer Registration. – No change in the name of a firm, partnership or corporation, nor the taking in of a new partner, nor the withdrawal of one or more of the firm, shall be considered a new business; but if any one or more of the partners remain in the firm, or if there is change in ownership of less than a majority of the stock, if a corporation, the business shall be regarded as continuing and the dealers' plates originally issued may continue to be used.

(g) Penalties. – The clear proceeds of all civil penalties, civil forfeitures, and civil fines that are collected by the Department of Transportation pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(h) Definition. – For purposes of this section, the term "dealer" means a person who is licensed under Article 12 of this Chapter."

SECTION 6. G.S. 20-79.2 reads as rewritten:

"§ 20-79.2. **Transporter plates.**

(a) Who Can Get a Plate. – ~~A person engaged in a business requiring the limited operation of a motor vehicle for any of the following purposes may obtain a transporter plate authorizing the movement of the vehicle for the specific purpose:~~The Division may issue a transporter plate authorizing the limited operation of a motor vehicle in the circumstances listed in this subsection. A person who receives a transporter plate must have proof of financial responsibility that meets the requirements of Article 9A of this Chapter. The person to whom a transporter plate may be issued and the circumstances in which the vehicle bearing the plate may be operated are as follows:

- (1) To a business or a dealer to facilitate the manufacture, construction, rebuilding, or delivery of new or used truck cabs or bodies between manufacturer, dealer, seller, or purchaser.
- (2) To a financial institution that has a recorded lien on a motor vehicle to repossess a the motor vehicle.
- (3) To a dealer or repair facility to pick up and deliver a motor vehicle that is to be repaired-repaired, is to undergo a safety or emissions inspection, or is to otherwise be prepared for sale by a dealer, to road-test the vehicle, if it is repaired, repaired or inspected within a 10-mile20-mile radius of the place where it is repaired, repaired or inspected, and to deliver the vehicle to the dealer. A repair facility may not receive more than two transporter plates for this purpose.
- (4) To a business that has at least 10 registered vehicles to move a motor vehicle that is owned by the business and is a replaced vehicle offered for sale.
- (5) To a dealer or a business that contracts with a dealer and has a business privilege license to take a motor vehicle either to or from a motor vehicle auction where the vehicle will be or was offered for sale. The title to the vehicle, a bill of sale, or written authorization from the dealer or auction must be inside the vehicle when the vehicle is operated with a transporter plate.
- (6) To a business or dealer to road-test a repaired truck whose GVWR is at least 15,000 pounds when the test is performed within a 10-mile radius of the place where the truck was repaired and the truck is owned by a person who has a fleet of at least five trucks whose GVWRs are at least 15,000 pounds and who maintains the place where the truck was repaired.
- (7) To a business or dealer to move a mobile office, a mobile classroom, or a mobile or manufactured home-home, or to transport a newly manufactured

travel trailer, fifth-wheel trailer, or camping trailer between a manufacturer and a dealer. Any transporter plate used under this subdivision may not be used on the power unit.

- (8) To a business to drive a motor vehicle that is registered in this State and is at least 2535 years old to and from a parade or another public event and to drive the motor vehicle in that event. A person who owns a motor vehicle that is at least 25 years old one of these motor vehicles is considered to be in the business of collecting those vehicles.
- (9) To a dealer to drive a motor vehicle that is part of the inventory of a dealer to and from a motor vehicle trade show or exhibition or to, during, and from a parade in which the motor vehicle is used.
- (10) To drive special mobile equipment in any of the following circumstances:
 - a. From the manufacturer of the equipment to a facility of a dealer.
 - b. From one facility of a dealer to another facility of a dealer.
 - c. From a dealer to the person who buys the equipment from the dealer.

(b) How to Get a Plate. – ~~A person~~business or a dealer may obtain a transporter plate by filing an application with the Division and paying the required fee. An application must be on a form provided by the Division and contain the information required by the Division. The fee for a transporter plate is one-half the fee set in G.S. 20-87(5) for a passenger motor vehicle of not more than 15 passengers.

(b1) Number of Plates. – The total number of ~~transporter and Dealer-Transporter or dealer~~ plates issued to a dealer may not exceed the total number of dealer plates that can be issued to the dealer under G.S. 20-79(b). This restriction does not apply to a person who is not a dealer. Transporter plates issued to a dealer shall bear the words "Dealer-Transporter." This subsection does not apply to a person who is not a dealer.

(b2) Sanctions. – The following sanctions apply when a motor vehicle displaying a "Dealer-Transporter" or "Transporter" license plate is driven in violation of the restrictions on the use of the ~~plate~~plate or of the requirement to have proof of financial responsibility:

- (1) The individual driving the motor vehicle is responsible for an infraction and is subject to a penalty of ~~fifty dollars (\$50.00)~~one hundred dollars (\$100.00).
- (2) The ~~dealer~~dealer or business to whom the plate is issued is subject to a civil penalty imposed by the Division of ~~two hundred dollars (\$200.00)~~two hundred fifty dollars (\$250.00) per occurrence.
- (3) The Division may rescind all dealer license ~~plates~~plates, dealer transporter plates, or transporter plates issued to the dealer or business whose plate was displayed on the motor vehicle.
- (4) A person who sells, rents, leases, or otherwise provides a transporter plate to another person in exchange for the money or any other thing of value is guilty of a Class I felony. A conviction for a violation of this subdivision is considered a felony involving moral turpitude for purposes of G.S. 20-294.

A penalty imposed under subdivision (1) of this subsection is payable to the county where the infraction occurred, as required by G.S. 14-3.1. A civil penalty imposed under subdivision (2) of this subsection shall be credited to the Highway Fund as nontax revenue. A law enforcement officer having probable cause to believe that a transporter plate is being used in violation of this section may seize the plate.

(c) Form, Duration, and Transfer. – ~~A transporter plate is a type of commercial license plate. A transporter plate issued to a dealer is issued on a fiscal-year basis. A transporter plate issued to a person who is not a dealer is issued on a calendar-year basis. A transporter plate is subject to G.S. 20-63, except for the requirement that the plate display the registration number of a motor vehicle and the requirement that the plate be a "First in Flight" plate. A transporter plate shall have a distinguishing symbol identifying the plate as a transporter plate. The symbol may vary depending upon the classification of transporter plate issued. A transporter plate is~~

issued for a period of one year. The Division shall vary the expiration dates of transporter registration renewals so that an approximately equal number expires at the end of each month, quarter, or other period consisting of one or more months. When the Division issues a transporter plate, it may issue a registration that expires at the end of any monthly interval. During the year for which it is issued, a ~~person-business or dealer~~ may transfer a transporter plate from one vehicle to another as long as the vehicle is driven only for a purpose authorized by subsection (a) of this section. The Division ~~may~~ must rescind a transporter plate that is displayed on a motor vehicle driven for a purpose that is not authorized by subsection (a) of this section.

(d) County. – A county may obtain one transporter plate, without paying a fee, by filing an application with the Division on a form to be provided by the Division. A transporter plate issued pursuant to this subsection may only be used to transport motor vehicles as part of a program established by the county to receive donated motor vehicles and make them available to low-income individuals.

If a motor vehicle is operated on the highways of this State using a transporter plate authorized by this section, all of the following requirements shall be met:

- (1) The driver of the vehicle shall have in his or her possession the certificate of title for the motor vehicle, which has been properly reassigned by the previous owner to the county or the affected donor program.
- (2) The vehicle shall be covered by liability insurance that meets the requirements of Article 9A of this Chapter.

The form and duration of the transporter plate shall be as provided in subsection (c) of this section.

(e) Any vehicle being operated on the highways of this State using a transporter plate shall have proof of financial responsibility that meets the requirement of Article 9A of this Chapter."

SECTION 7. G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. – Upon request, the Division shall provide and issue free of charge ~~one registration plate~~ a single Legion of Valor, 100% Disabled Veteran, and Ex-Prisoner of War registration plate to a recipient of a Legion of Valor award, a 100% disabled veteran, and an ex-prisoner of ~~war.~~ war each year. The preceding special registration plates are subject to the regular motor vehicle registration fees in G.S. 20-88, if the registered weight of the vehicle is greater than 6,000 pounds. All other special registration plates, including additional Legion of Valor, 100% Disabled Veteran, and Ex-Prisoner of War plates, plates are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

...."

SECTION 8. G.S. 20-85.1 reads as rewritten:

"§ 20-85.1. **Registration by mail; one-day title service; fees.**

(a) The owner of a vehicle registered in North Carolina may renew that vehicle registration by mail. ~~A postage and handling fee of one dollar (\$1.00) per vehicle to be registered shall be charged for this service.~~

(b) The Commissioner and the employees of the Division designated by the Commissioner may prepare and deliver upon request a certificate of title, charging a fee of seventy-five dollars (\$75.00) for one-day title service, in lieu of the title fee required by G.S. 20-85(a). The fee for one-day title service must be paid by cash or by certified check. This fee shall be credited to the Highway Trust Fund.

(e) ~~The fee collected under subsection (a) shall be credited to the Highway Fund. The fee collected under subsection (b) shall be credited to the Highway Trust Fund."~~

SECTION 9. G.S. 20-88.02 reads as rewritten:

"§ 20-88.02. **Registration of logging vehicles.**

Upon receipt of an application on a form prescribed by it, the Division shall register ~~trucks, tractor trucks, trailers, and semitrailers~~ trucks and tractor trucks used exclusively in connection

with logging operations in a separate category. operations, as provided in section 4483(e) of the Internal Revenue Code and 26 C.F.R. § 41.4483-6 for the collection of the federal heavy vehicle use tax. For the purposes of this section, "logging" shall mean the harvesting of timber and transportation from a forested site to places of sale.

Fees for the registration of vehicles under this section shall be the same as those ordinarily charged for the type of vehicle being registered."

SECTION 10. G.S. 20-118(c) reads as rewritten:

"§ 20-118. **Weight of vehicles and load.**

- ...
- (c) Exceptions. – The following exceptions apply to G.S. 20-118(b) and 20-118(e).
- (1) Two consecutive sets of tandem axles may carry a gross weight of 34,000 pounds each without penalty provided the overall distance between the first and last axles of the consecutive sets of tandem axles is 36 feet or more.
 - (2) When a vehicle is operated in violation of G.S. 20-118(b)(1), 20-118(b)(2), or 20-118(b)(3), but the gross weight of the vehicle or combination of vehicles does not exceed that permitted by G.S. 20-118(b)(3), the owner of the vehicle shall be permitted to shift the load within the vehicle, without penalty, from one axle to another to comply with the weight limits in the following cases:
 - a. Where the single-axle load exceeds the statutory limits, but does not exceed 21,000 pounds.
 - b. Where the vehicle or combination of vehicles has tandem axles, but the tandem-axle weight does not exceed 40,000 pounds.
 - (3) When a vehicle is operated in violation of G.S. 20-118(b)(4) the owner of the vehicle shall be permitted, without penalty, to shift the load within the vehicle from one axle to another to comply with the weight limits where the single-axle weight does not exceed the posted limit by 2,500 pounds.
 - (4) A truck or other motor vehicle shall be exempt from such light-traffic road limitations provided for pursuant to G.S. 20-118(b)(4), when transporting supplies, material or equipment necessary to carry out a farming operation engaged in the production of meats and agricultural crops and livestock or poultry by-products or a business engaged in the harvest or processing of seafood when the destination of such vehicle and load is located solely upon said light-traffic road.
 - (5) The light-traffic road limitations provided for pursuant to subdivision (b)(4) of this section do not apply to a vehicle while that vehicle is transporting only the following from its point of origin on a light-traffic road to either one of the two nearest highways that is not a light-traffic road: If that vehicle's point of origin is a non-light-traffic road and that road is blocked by light-traffic roads from all directions and is not contiguous with other non-light-traffic roads, then the road at point of origin is treated as a light-traffic road for purposes of this subdivision:
 - a. Processed or unprocessed seafood transported from boats or any other point of origin to a processing plant or a point of further distribution.
 - b. Meats or agricultural crop products transported from a farm to first market.
 - c. Forest products originating and transported from a farm or from woodlands to first market without interruption or delay for further packaging or processing after initiating transport.
 - d. Livestock or poultry transported from their point of origin to a processing plant or first market.

- e. Livestock by-products or poultry by-products transported from their point of origin to a rendering plant.
 - f. Recyclable material transported from its point of origin to a scrap-processing facility for processing. As used in this subpart, the terms "recyclable material" and "processing" have the same meaning as in G.S. 130A-290(a).
 - g. Garbage collected by the vehicle from residences or garbage dumpsters if the vehicle is fully enclosed and is designed specifically for collecting, compacting, and hauling garbage from residences or from garbage dumpsters. As used in this subpart, the term "garbage" does not include hazardous waste as defined in G.S. 130A-290(a), spent nuclear fuel regulated under G.S. 20-167.1, low-level radioactive waste as defined in G.S. 104E-5, or radioactive material as defined in G.S. 104E-5.
 - h. Treated sludge collected from a wastewater treatment facility.
 - i. Apples when transported from the orchard to the first processing or packing point.
 - j. Trees grown as Christmas trees from the field, farm, stand, or grove to first processing point.
- (6) A truck or other motor vehicle shall be exempt from such light-traffic road limitations provided by G.S. 20-118(b)(4) when such motor vehicles are owned, operated by or under contract to a public utility, electric or telephone membership corporation or municipality and such motor vehicles are used in connection with installation, restoration or emergency maintenance of utility services.
 - (7) A wrecker may tow any disabled truck or other motor vehicle or combination of vehicles to a place for repairs, parking, or storage within 50 miles from the point that the vehicle was disabled and may tow a truck, tractor, or other replacement vehicle to the site of the disabled vehicle without being in violation of G.S. 20-118 provided that the wrecker and towed vehicle or combination of vehicles otherwise meet all requirements of this section.
 - (8) A firefighting vehicle operated by any member of a municipal or rural fire department in the performance of his duties, regardless of whether members of that fire department are paid or voluntary and any vehicle of a voluntary lifesaving organization, when operated by a member of that organization while answering an official call shall be exempt from such light-traffic road limitations provided by G.S. 20-118(b)(4).
 - (9) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 12.
 - (10) Fully enclosed motor vehicles designed specifically for collecting, compacting and hauling garbage from residences, or from garbage dumpsters shall, when operating for those purposes, be allowed a single axle weight not to exceed 23,500 pounds on the steering axle on vehicles equipped with a boom, or on the rear axle on vehicles loaded from the rear. This exemption shall not apply to vehicles operating on interstate highways, vehicles transporting hazardous waste as defined in G.S. 130A-290(a)(8), spent nuclear fuel regulated under G.S. 20-167.1, low-level radioactive waste as defined in G.S. 104E-5(9a), or radioactive material as defined in G.S. 104E-5(14).
 - (11) A truck or other motor vehicle shall be exempt for light-traffic road limitations issued under subdivision (b)(4) of this section when transporting heating fuel for on-premises use at a destination located on the light-traffic road.

- (12) Subsections (b) and (e) of this section do not apply to a vehicle that meets all of the conditions set out below:
- a. Is hauling agricultural crops from the farm where the crop is grown to any market within 150 miles of that farm.
 - b. Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 13.
 - b1. Does not operate on an interstate highway or exceed any posted bridge weight limits during transportation or hauling of agricultural products.
 - c. Does not exceed a single-axle weight of 22,000 pounds, a tandem-axle weight of 42,000 pounds, or a gross weight of 90,000 pounds.
- (13) Vehicles specifically designed for fire fighting that are owned by a municipal or rural fire department. This exception does not apply to vehicles operating on interstate highways.
- (14) Subsections (b) and (e) of this section do not apply to a vehicle that meets all of the conditions below, but all other enforcement provisions of this Article remain applicable:
- a. Is hauling aggregates from a distribution yard or a State-permitted production site located within a North Carolina county contiguous to the North Carolina State border to a destination in another state adjacent to that county as verified by a weight ticket in the driver's possession and available for inspection by enforcement personnel.
 - b. Does not operate on an interstate highway or exceed any posted bridge weight limits.
 - c. Does not exceed 69,850 pounds gross vehicle weight and 53,850 pounds per axle grouping for tri-axle vehicles. For purposes of this subsection, a tri-axle vehicle is a single power unit vehicle with a three consecutive axle group on which the respective distance between any two consecutive axles of the group, measured longitudinally center to center to the nearest foot, does not exceed eight feet. For purposes of this subsection, the tolerance provisions of subsection (h) of this section do not apply, and vehicles must be licensed in accordance with G.S. 20-88.
 - d. Repealed by Session Laws 2001-487, s. 10, effective December 16, 2001.
- (15) Subsections (b) and (e) of this section do not apply to a vehicle or vehicle combination that meets all of the conditions below, but all other enforcement provisions of this Article remain applicable:
- a. Is hauling wood residuals, including wood chips, sawdust, mulch, or tree bark from any site; is hauling raw logs to first market; ~~or~~ is transporting bulk soil, bulk rock, sand, sand rock, or asphalt millings from a site that does not have a certified scale for weighing the ~~vehicle-vehicle~~; or is hauling animal waste products from the animal waste storage site to a farm or field.
 - b. Does not operate on an interstate highway, a posted light-traffic road, except as provided by subdivision (c)(5) of this section, or exceed any posted bridge weight limits.
 - c. Does not exceed a maximum gross weight 4,000 pounds in excess of what is allowed in subsection (b) of this section.
 - d. Does not exceed a single-axle weight of more than 22,000 pounds and a tandem-axle weight of more than 42,000 pounds.

...."

SECTION 11. G.S. 20-130.1 reads as rewritten:

"§ 20-130.1. Use of red or blue lights on vehicles prohibited; exceptions.

(a) It is unlawful for any person to install or activate or operate a red light in or on any vehicle in this State. As used in this subsection, unless the context requires otherwise, "red light" means an operable red light not sealed in the manufacturer's original package which: (i) is designed for use by an emergency vehicle or is similar in appearance to a red light designed for use by an emergency vehicle; and (ii) can be operated by use of the vehicle's battery, vehicle's electrical system, or a dry cell battery. As used in this subsection, the term "red light" shall also mean any forward facing red light installed on a vehicle after initial manufacture of the vehicle.

- (b) The provisions of subsection (a) of this section do not apply to the following:
- (1) A police car;
 - (2) A highway patrol car;
 - (3) A vehicle owned by the Wildlife Resources Commission and operated exclusively for law-enforcement purposes;
 - (4) An ambulance;
 - (5) A vehicle used by an organ procurement organization or agency for the recovery and transportation of blood, human tissues, or organs for transplantation;
 - (6) A fire-fighting vehicle;
 - (7) A school bus;
 - (8) A vehicle operated by any member of a municipal or rural fire department in the performance of his duties, regardless of whether members of that fire department are paid or voluntary;
 - (9) A vehicle of a voluntary lifesaving organization (including the private vehicles of the members of such an organization) that has been officially approved by the local police authorities and which is manned or operated by members of that organization while answering an official call;
 - (10) A vehicle operated by medical doctors or anesthetists in emergencies;
 - (11) A motor vehicle used in law enforcement by the sheriff, or any salaried rural policeman in any county, regardless of whether or not the county owns the vehicle;
 - (11a) A vehicle operated by the State Fire Marshal or his representatives in the performance of their duties, whether or not the State owns the vehicle;
 - (12) A vehicle operated by any county fire marshal, assistant fire marshal, or emergency management coordinator in the performance of his duties, regardless of whether or not the county owns the vehicle;
 - (13) A light required by the Federal Highway Administration;
 - (14) A vehicle operated by a transplant coordinator who is an employee of an organ procurement organization or agency when the transplant coordinator is responding to a call to recover or transport human tissues or organs for transplantation;
 - (15) A vehicle operated by an emergency medical service as an emergency support vehicle; ~~and~~
 - (16) A State emergency management ~~vehicle-vehicle; and~~
 - (17) An Incident Management Assistance Patrol vehicle operated by the Department of Transportation, when using rear-facing red lights while stopped for the purpose of providing assistance or incident management.

(c) It is unlawful for any person to possess a blue light or to install, activate, or operate a blue light in or on any vehicle in this State, except for a publicly owned vehicle used for law enforcement purposes or any other vehicle when used by law enforcement officers in the performance of their official duties. As used in this subsection, unless the context requires otherwise, "blue light" means any forward facing blue light installed on a vehicle after initial manufacture of the vehicle; or an operable blue light which:

- (1) Is not (i) being installed on, held in inventory for the purpose of being installed on, or held in inventory for the purpose of sale for installation on a vehicle on which it may be lawfully operated or (ii) installed on a vehicle which is used solely for the purpose of demonstrating the blue light for sale to law enforcement personnel;
- (1a) Is designed for use by an emergency vehicle, or is similar in appearance to a blue light designed for use by an emergency vehicle; and
- (2) Can be operated by use of the vehicle's battery, the vehicle's electrical system, or a dry cell battery.

(c1) The provisions of subsection (c) of this section do not apply to the possession and installation of an inoperable blue light on a vehicle that is inspected by and registered with the Department of Motor Vehicles as a specially constructed vehicle and that is used primarily for participation in shows, exhibitions, parades, or holiday/weekend activities, and not for general daily transportation. For purposes of this subsection, "inoperable blue light" means a blue-colored lamp housing or cover that does not contain a lamp or other mechanism having the ability to produce or emit illumination.

(d) Repealed by Session Laws 1999-249, s. 1.

(e) Violation of subsection (a) or (c) of this section is a Class 1 misdemeanor."

SECTION 12. G.S. 20-157(f) reads as rewritten:

"(f) When an authorized emergency vehicle as described in subsection (a) of this section or any public service vehicle is parked or standing within 12 feet of a roadway and is giving a warning signal by appropriate light, the driver of every other approaching vehicle shall, as soon as it is safe and when not otherwise directed by an individual lawfully directing traffic, do one of the following:

- (1) Move the vehicle into a lane that is not the lane nearest the parked or standing authorized emergency vehicle or public service vehicle and continue traveling in that lane until safely clear of the authorized emergency vehicle. This paragraph applies only if the roadway has at least two lanes for traffic proceeding in the direction of the approaching vehicle and if the approaching vehicle may change lanes safely and without interfering with any vehicular traffic.
- (2) Slow the vehicle, maintaining a safe speed for traffic conditions, and operate the vehicle at a reduced speed and be prepared to stop until completely past the authorized emergency vehicle or public service vehicle. This paragraph applies only if the roadway has only one lane for traffic proceeding in the direction of the approaching vehicle or if the approaching vehicle may not change lanes safely and without interfering with any vehicular traffic.

For purposes of this section, "public service vehicle" means a vehicle that is being used to assist motorists or law enforcement officers with wrecked or disabled vehicles, or is a vehicle being used to restore electric utility service due to an unplanned event, and is operating an amber-colored flashing light authorized by G.S. 20-130.2. Violation of this subsection shall be negligence per se."

SECTION 13. G.S. 20-161(a) reads as rewritten:

"(a) No person shall park or leave standing any vehicle, whether attended or unattended, upon the ~~paved or~~ main-traveled portion of any highway or highway bridge ~~outside municipal corporate limits~~ with the speed limit posted less than 45 miles per hour unless the vehicle is disabled to such an extent that it is impossible to avoid stopping and temporarily leaving the vehicle upon the paved or main traveled portion of the highway or highway bridge. This subsection shall not apply to a solid waste vehicle stopped on a highway while engaged in collecting garbage as defined in G.S. 20-118(c)(5)g. or recyclable material as defined in G.S. 130A-290(a)(26)."

SECTION 14. G.S. 20-161 is amended by adding a new subsection to read:

"(a1) No person shall park or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled portion of any highway or highway bridge with the speed limit posted 45 miles per hour or greater unless the vehicle is disabled to such an extent that it is impossible to avoid stopping and temporarily leaving the vehicle upon the paved or main-traveled portion of the highway or highway bridge. This subsection shall not apply to a solid waste vehicle stopped on a highway while engaged in collecting garbage as defined in G.S. 20-118(c)(5)g. or recyclable material as defined in G.S. 130A-290(a)(26)."

SECTION 15. G.S. 20-161(b) reads as rewritten:

"(b) No person shall park or leave standing any vehicle upon the shoulder of a public highway ~~outside municipal corporate limits~~ unless the vehicle can be clearly seen by approaching drivers from a distance of 200 feet in both directions and does not obstruct the normal movement of traffic."

SECTION 16. G.S. 20-294(2) reads as rewritten:

"§ 20-294. Grounds for denying, suspending or revoking licenses.

The Division may deny, suspend, or revoke a license issued under this Article for any one or more of the following grounds:

- ...
- (2) Willfully and intentionally failing to comply with this Article, Article 15 of this Chapter, or G.S. 20-52.1, 20-75, 20-79.1, 20-79.2, 20-108, 20-109, or a rule adopted by the Division under this Article."

SECTION 17. G.S. 160A-300.1(c1) reads as rewritten:

"(c1) The duration of the yellow light change interval at intersections where traffic control photographic systems are in use shall be no less than the yellow light change interval duration specified ~~in the Design Manual developed by the Signals and Geometries Section of the North Carolina Department of Transportation~~ on the traffic signal plan of record signed and sealed by a professional engineer, licensed in accordance with the provisions of Chapter 89C of the General Statutes, and shall comply with the provisions of the Manual on Uniform Traffic Control Devices."

SECTION 18. G.S. 160A-300.2(e), as enacted by Section 3 of S.L. 2001-286, reads as rewritten:

"(e) The duration of the yellow light change interval at intersections where traffic control photographic systems are in use shall be no less than the yellow light change interval duration specified ~~in the Design Manual developed by the Signals and Geometries Section of the North Carolina Department of Transportation~~ on the traffic signal plan of record signed and sealed by a professional engineer, licensed in accordance with the provisions of Chapter 89C of the General Statutes, and shall comply with the provisions of the Manual on Uniform Traffic Control Devices."

SECTION 19. G.S. 160A-300.3(e), as enacted by Section 4 of S.L. 2001-286, reads as rewritten:

"(e) The duration of the yellow light change interval at intersections where traffic control photographic systems are in use shall be no less than the yellow light change interval duration specified ~~in the Design Manual developed by the Signals and Geometries Section of the North Carolina Department of Transportation~~ on the traffic signal plan of record signed and sealed by a professional engineer, licensed in accordance with the provisions of Chapter 89C of the General Statutes, and shall comply with the provisions of the Manual on Uniform Traffic Control Devices."

SECTION 20. G.S. 160A-303(b1)(4) reads as rewritten:

- "(4) Is left on any public street or highway for longer than seven ~~days~~ days or is determined by law enforcement to be a hazard to the motoring public."

SECTION 21. Section 25.10 of S.L. 2009-451, as added by Section 20 of S.L. 2009-575, reads as rewritten:

"DMV TO MOVE EMISSIONS INSPECTION PROGRAM CALL CENTER TO NORTH CAROLINA

"**SECTION 25.10.** The Department of Transportation, Division of Motor Vehicles, shall replace the current out-of-state contractors handling questions ~~from service station operators~~ about the State's ~~emissions inspection~~ program with State employees at an existing Division of Motor Vehicles call center within the State. The Department of Transportation, Division of Motor Vehicles, is authorized to create up to 15 new receipt-supported positions to replace the current out-of-state contractors."

SECTION 22. Sections 21 and 22 of this act are effective when it becomes law. The remainder of this act becomes effective December 1, 2010, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law upon approval of the Governor at 5:09 p.m. on the 21st day of July, 2010.

Session Law 2010-133

H.B. 1685

AN ACT TO MAKE VARIOUS CHANGES TO THE STATUTES GOVERNING COLLECTION AND ENFORCEMENT OF TOLLS BY THE NORTH CAROLINA TURNPIKE AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-82.2 is repealed.

SECTION 2. G.S. 136-89.211 reads as rewritten:

"§ **136-89.211. Tolls for use of Turnpike project.**

In exercising its authority under G.S. 136-89.183 to set tolls for the use of a Turnpike project, the Authority may not do any of the following:

- (1) Set open road tolls that vary for the same class of motor vehicle depending on the method by which the Authority identifies a motor vehicle that drives on the Turnpike project. This does not preclude the Authority from allowing a discount ~~of up to thirty five percent (35%) of the amount of a toll for a motor vehicle equipped with an electronic toll collection transponder.~~ transponder or a motor vehicle that has prepaid its toll.
- (2) Exempt a motor vehicle that is not a law enforcement vehicle, an emergency fire or rescue vehicle, or an emergency medical services vehicle from the requirement of paying a toll for the use of a Turnpike project."

SECTION 3. G.S. 136-89.214(a) reads as rewritten:

"(a) Bill. – If a motor vehicle travels on a Turnpike project that uses an open road tolling system and a toll for traveling on the project is not paid ~~within 15 days after the travel occurs,~~ prior to travel or at the time of travel, the Authority must send a bill by first-class mail to the registered owner of the motor vehicle for the amount of the unpaid toll. The Authority must send the bill within 90 days after the travel occurs. If a bill is not sent within the required time, the Authority waives collection of the toll. The Authority must establish a billing period for unpaid open road tolls that is no shorter than 15 days. A bill for a billing period must include all unpaid tolls incurred by the same person during the billing period."

SECTION 4. G.S. 136-89.215 reads as rewritten:

"§ **136-89.215. Required action upon receiving bill for open road toll and processing fee for unpaid toll.**

(a) Action Required. – A person who receives a bill from the Authority for an unpaid open road toll must take one of the following actions within 30 days ~~after receiving the bill of~~ the date of the bill:

- (1) Pay the bill.
- (2) Send a written request to the Authority for a review of the toll.

(b) Fee. – If a person does not take one of the actions required under subsection (a) of this section within the required time, the Authority may add a processing fee to the amount the

person owes. The processing fee may not exceed six dollars (\$6.00). A person may not be charged more than forty-eight dollars (\$48.00) in processing fees in a ~~calendar year.~~ 12-month period.

The Authority must set the processing fee at an amount that does not exceed the costs of identifying the owner of a motor vehicle that is subject to an unpaid toll and billing the owner for the unpaid toll. The fee is a receipt of the Authority and must be applied to these costs."

SECTION 5. G.S. 136-89.216 reads as rewritten:

"§ 136-89.216. Civil penalty for failure to pay open road toll.

(a) ~~Penalty. – A person who receives one two or more bills for unpaid open road tolls during the first or second six month period in a year and who has not paid the amount due on those bills within 30 days after the end of the six month period is subject to a civil penalty of twenty-five dollars (\$25.00). The period from January 1 through June 30 of a year is the first six month period in a year, and the period from July 1 through December 31 is the second six month period in a year. Only one penalty may be assessed for in a six-month period.~~

(b) ~~Payment. – The Authority must send a notice by first-class mail to a person who is assessed a civil penalty under this section. A person who is assessed a civil penalty must pay the unpaid toll for which the civil penalty was imposed, the amount of any processing fee due, and the civil penalty within 30 days after receiving the notice of the date of the notice.~~

(c) ~~Penalty Proceeds. – A civil penalty imposed under this section is payable to the Authority or, if collected when a vehicle registration is renewed, to the Division of Motor Vehicles of the Department of Transportation Authority. The clear proceeds of a civil penalty imposed under this section must be credited to the Civil Penalty and Forfeiture Fund established in G.S. 115C-457.1. The guidelines used by the Office of State Budget and Management to determine an agency's actual costs of collecting a civil penalty and the clear proceeds of the civil penalty apply to the determination of the clear proceeds of a civil penalty imposed under this section.~~

SECTION 6. G.S. 136-89.217 reads as rewritten:

"§ 136-89.217. Vehicle registration renewal blocked for unpaid open road toll.

(a) ~~Registration Block. – Failure of a person to pay an open road toll billed to the person under G.S. 136-89.214, any processing fee added under G.S. 136-89.215, and any civil penalty imposed under G.S. 136-89.216 is grounds under G.S. 20-54 to withhold the registration renewal of a motor vehicle registered in that person's name. The Authority must notify the Commissioner of Motor Vehicles of a person who owes a toll, a processing fee, or a civil penalty. When notified, the Commissioner of Motor Vehicles must withhold the registration renewal of any motor vehicle registered in that person's name.~~

(b) ~~Collection by DMV. – A person whose motor vehicle registration renewal is blocked under this section may pay to the Division of Motor Vehicles of the Department of Transportation the amount owed for unpaid tolls, processing fees, and civil penalties due under this Part when renewing the vehicle registration. The Division must remit to the Authority the amount of tolls, fees, and civil penalties collected. The Division's costs of collecting tolls, fees, and civil penalties are considered a necessary expense of the operation of the Authority, and the Authority must reimburse the Division for these costs.~~

SECTION 7. G.S. 136-89.218 reads as rewritten:

"§ 136-89.218. Procedures for contesting liability for unpaid open road toll.

(a) ~~Informal Review. – A person who receives a bill for an unpaid open road toll and who disputes liability for the toll may contest the toll by sending to the Authority a request for review of the toll. The person may include a sworn affidavit described in G.S. 136-89.212 that establishes that someone else had the care, custody, and control of the motor vehicle subject to the toll when the toll was incurred. The person must send the request for review to the Authority within 30 days after receiving the bill for the toll of the date of the bill sent by the Authority. A person who does not send a request for review to the Authority within this time limit waives the right to a review. If a person sends a timely request for review to the Authority,~~

the Authority may not collect the disputed toll and any processing fee added to the bill for the toll until the conclusion of the review process in this section.

(b) Administrative Hearing. – If the Authority conducts an informal review under subsection (a) of this section and determines that the person who requested the review is liable for the toll, the Authority must send the person a notice informing the person of the Authority's determination. The person may contest this determination by filing a petition for a contested case hearing at the Office of Administrative Hearings in accordance with Article 3 of Chapter 150B of the General Statutes.

(c) Judicial Review. – Article 4 of Chapter 150B of the General Statutes governs judicial review of a final decision made in a contested case authorized under subsection (b) of this section."

SECTION 8. This act becomes effective December 1, 2010.

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law upon approval of the Governor at 5:15 p.m. on the 21st day of July, 2010.

Session Law 2010-134

S.B. 1136

AN ACT TO STRENGTHEN THE REGULATION OF THE TOWING OF VEHICLES FROM PRIVATE LOTS IN CERTAIN COUNTIES AND CITIES, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-219.2 reads as rewritten:

"§ 20-219.2. **Removal of unauthorized vehicles from private lots.**

(a) It shall be unlawful for any person other than the owner or lessee of a privately owned or leased parking space to park a motor or other vehicle in such private parking space without the express permission of the owner or lessee of such ~~spacespace~~; ~~provided, that such if~~ the private parking lot be is clearly designated as such by a sign no smaller than 24 inches by 24 inches prominently displayed at the entrance ~~thereto~~ thereto, displaying the name and phone number of the towing and storage company, and and, if individually owned or leased, the parking lot or spaces within the lot be are clearly marked by signs setting forth the name of each individual lessee or ~~owner~~; owner. a-A vehicle parked in a privately owned parking space in violation of this section may be removed from such space upon the written request of the parking space owner or lessee to a place of storage and the registered owner of such motor vehicle shall become liable for removal and storage charges. Any person who removes a vehicle pursuant to this section shall not be held liable for damages for the removal of the vehicle to the owner, lienholder or other person legally entitled to the possession of the vehicle removed; however, any person who intentionally or negligently damages a vehicle in the removal of such vehicle, or intentionally or negligently inflicts injury upon any person in the removal of such vehicle, may be held liable for damages.

(a1) If any vehicle is removed pursuant to this section and there is a place of storage within 15 miles, the vehicle shall not be transported for storage more than 15 miles from the place of removal. For all other vehicles, the vehicle shall not be transported for storage more than 25 miles from the place of removal.

(a2) Any person who tows or stores a vehicle subject to this section shall inform the owner in writing at the time of retrieval of the vehicle that the owner has the right to pay the amount of the lien asserted, request immediate possession, and contest the lien for towing charges pursuant to the provisions of G.S. 44A-4.

(a3) Any person who tows or stores a vehicle subject to this section shall not require any person retrieving a vehicle to sign any waiver of rights or other similar document as a condition of the release of the person's vehicle, other than a form acknowledging the release and receipt of the vehicle.

(b) Any person violating any of the provisions of this section shall be guilty of a ~~Class 3 misdemeanor or an infraction~~ and upon conviction shall be only ~~fined-penalized~~ not more than ~~ten dollars (\$10.00)~~ one hundred dollars (\$100.00) in the discretion of the court.

(c) This section shall apply only to the Counties of Craven, Cumberland, Dare, Forsyth, Gaston, Guilford, Mecklenburg, New Hanover, Orange, Richmond, Robeson, Wake, Wilson and municipalities in those counties, and to the Cities of Durham, Jacksonville, Charlotte and Fayetteville.

(d) The provisions of this section shall not be interpreted to preempt the authority of any county or municipality to enact ordinances regulating towing from private lots, as authorized by general law."

SECTION 2. This act becomes effective October 1, 2010, and applies to vehicles towed on or after that date.

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Became law upon approval of the Governor at 5:20 p.m. on the 21st day of July, 2010.

Session Law 2010-135

H.B. 1812

AN ACT TO ENSURE THAT A COURT, WHEN CONSIDERING PRETRIAL RELEASE UNDER THE DOMESTIC VIOLENCE CRIMES STATUTE, CONSIDERS THE DEFENDANT'S CRIMINAL RECORD, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMITTEE ON DOMESTIC VIOLENCE.

The General Assembly of North Carolina enacts:

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

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

(a) In all cases in which the defendant is charged with assault on, stalking, communicating a threat to, or committing a felony provided in Articles 7A, 8, 10, or 15 of Chapter 14 of the General Statutes upon a spouse or former spouse or a person with whom the defendant lives or has lived as if married, with domestic criminal trespass, or with violation of an order entered pursuant to Chapter 50B, Domestic Violence, of the General Statutes, the judicial official who determines the conditions of pretrial release shall be a ~~judge, and the judge.~~ The judge shall direct a law enforcement officer or a district attorney to provide a criminal history report for the defendant and shall consider the criminal history when setting conditions of release. After setting conditions of release, the judge shall return the report to the providing agency or department. No judge shall unreasonably delay the determination of conditions of pretrial release for the purpose of reviewing the defendant's criminal history report. The following provisions shall apply in addition to the provisions of G.S. 15A-534:

...."

SECTION 2. This act becomes effective October 1, 2010.

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law upon approval of the Governor at 5:25 p.m. on the 21st day of July, 2010.

Session Law 2010-136

S.B. 1251

AN ACT TO GRANT THE SAME HEALTH BENEFIT COVERAGE CURRENTLY PROVIDED TO OTHER STATE EMPLOYEES TO TEACHERS WHO HAVE WORKED A FULL SCHOOL YEAR AND TO NOT PROVIDE NON-CONTRIBUTORY HEALTH BENEFIT COVERAGE TO FORMER STATE EMPLOYEES WHO ARE PROVIDED NON-CONTRIBUTORY HEALTH BENEFIT COVERAGE BY A SUBSEQUENT EMPLOYER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-45.2(a)(8) reads as rewritten:

"§ 135-45.2. **Eligibility.**

(a) Noncontributory Coverage. – The following persons are eligible for coverage under the Plan, on a noncontributory basis, subject to the provisions of G.S. 135-45.4:

- ...
- (8) Notwithstanding the provisions of ~~G.S.~~ G.S. 135-45.12 employees formerly covered by the provisions of this section, other than retired employees, who have been employed for 12 or more months by an employing ~~unit~~ unit, or who have completed a contract term of employment of 10 or 11 months and whose employing unit is a local school administrative unit, and whose jobs are eliminated because of a reduction, in total or in part, in the funds used to support the job or its responsibilities, provided the employees were covered by the Plan at the time of separation from service resulting from a job elimination. Employees covered by this subsection shall be covered for a period of up to 12 months following a separation from service because of a job elimination."

SECTION 2. G.S. 135-45.2(a)(8), as amended by Section 1 of this act, reads as rewritten:

- "(8) Notwithstanding the provisions of G.S. 135-45.12 employees formerly covered by the provisions of this section, other than retired employees, who have been employed for 12 or more months by an employing unit, or who have completed a contract term of employment of 10 or 11 months and whose employing unit is a local school administrative unit, and whose jobs are eliminated because of a reduction, in total or in part, in the funds used to support the job or its responsibilities, provided the employees were covered by the Plan at the time of separation from service resulting from a job elimination. Employees covered by this subsection shall be covered for a period of up to 12 months following a separation from service because of a job elimination. An employee formerly covered by the provisions of this section shall not be eligible for coverage under this subdivision if the employee is provided health benefit coverage on a non-contributory basis by a subsequent employer."

SECTION 3. Section 1 of this act becomes effective May 1, 2010. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law upon approval of the Governor at 5:30 p.m. on the 21st day of July, 2010.

Session Law 2010-137

S.B. 1256

AN ACT TO AUTHORIZE BREVARD ACADEMY, AN EXISTING CHARTER SCHOOL, TO ELECT TO PARTICIPATE IN THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE STATE HEALTH PLAN FOR TEACHERS AND STATE EMPLOYEES.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the time limitation contained in G.S. 135-5.3 and G.S. 135-45.5, the Board of Directors of Brevard Academy, a charter school located in Brevard, may elect to become a participating employer in the Teachers and State Employees Retirement System in accordance with Article 1 of Chapter 135 of the General Statutes and may also elect to become a participating employing unit in the State Health Plan for Teachers and State Employees in accordance with Article 3A of Chapter 135. The elections authorized

by this act shall be made no later than 30 days after the effective date of this act and shall be made in accordance with all other requirements of G.S. 135-5.3 and G.S. 135-45.5.

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

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law upon approval of the Governor at 5:35 p.m. on the 21st day of July, 2010.

Session Law 2010-138

H.B. 144

AN ACT TO PROHIBIT HEALTH BENEFIT PLANS AND INSURERS FROM LIMITING OR FIXING THE FEE A DENTIST MAY CHARGE PATIENTS FOR SERVICES UNLESS THE SERVICES ARE COVERED FOR REIMBURSEMENT UNDER THE PLAN OR INSURER CONTRACT WITH THE DENTIST.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-50-290. Health benefit plans or insurers contracting for provision of dental services; no limitation on fees for noncovered services.

(a) No agreement between an insurer or an entity that writes stand-alone dental insurance and a dentist for the provision of dental services on a preferred or in-network basis to plan members or insurance subscribers in connection with coverage under a stand-alone dental plan, but not in connection with or incidental to coverage under a medical plan or health insurance policy, may require that a dentist provide services at a fee limited or set by the plan or insurer, unless the services are reimbursed as covered services under the contract.

(b) For purposes of this section, "covered services" means a service for which reimbursement is available under an insurer's policy, without regard to contractual limitations by a deductible, copayment, coinsurance, waiting period, annual or lifetime maximum, frequency limitation, alternative benefit payment, or other limitation."

SECTION 2. G.S. 58-65-2 reads as rewritten:

"§ 58-65-2. Other laws applicable to service corporations.

The following provisions of this Chapter are applicable to service corporations that are subject to this Article:

G.S. 58-2-125.	Authority over all insurance companies; no exemptions from license.
G.S. 58-2-150.	Oath required for compliance with law.
G.S. 58-2-155.	Investigation of charges.
G.S. 58-2-160.	Reporting and investigation of insurance and reinsurance fraud and the financial condition of licensees; immunity from liability.
G.S. 58-2-162.	Embezzlement by insurance agents, brokers, or administrators.
G.S. 58-2-185.	Record of business kept by companies and agents; Commissioner may inspect.
G.S. 58-2-190.	Commissioner may require special reports.
G.S. 58-2-195.	Commissioner may require records, reports, etc., for agencies, agents, and others.
G.S. 58-2-200.	Books and papers required to be exhibited.
G.S. 58-3-50.	Companies must do business in own name; emblems, insignias, etc.
G.S. 58-3-100(c),(e).	Insurance company licensing provisions.
G.S. 58-3-115.	Twisting with respect to insurance policies; penalties.

G.S. 58-7-46.	Notification to Commissioner for president or chief executive officer changes.
Part 7 of Article 10.	Annual Financial Reporting.
G.S. 58-50-35.	Notice of nonpayment of premium required before forfeiture.
<u>G.S. 58-50-290.</u>	<u>Health benefit plans or insurers contracting for the provision of dental services; no limitation on fees for noncovered services.</u>
G.S. 58-51-15(a)(2)b.	Accident and health policy provisions.
G.S. 58-51-17	Portability for accident and health insurance.
G.S. 58-51-25.	Policy coverage to continue as to mentally retarded or physically handicapped children.
G.S. 58-51-95(h),(i),(j).	Approval by Commissioner of forms, classification and rates; hearings; exceptions."

SECTION 3. This act is effective when it becomes law and applies to contracts between dentists and health benefit plans or insurers delivered, amended, or renewed on or after that date.

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law upon approval of the Governor at 5:35 p.m. on the 21st day of July, 2010.

Session Law 2010-139

H.B. 213

AN ACT TO REQUIRE THE ADOPTION OF RULES AND POLICIES FOR THE VOLUNTARY SHARED LEAVE PROGRAM THAT WILL PERMIT THE DONATION OF SICK LEAVE TO A NONFAMILY MEMBER RECIPIENT FOR STATE EMPLOYEES SUBJECT TO THE STATE PERSONNEL ACT AND FOR PUBLIC SCHOOL EMPLOYEES, AND TO REQUIRE THE STATE PERSONNEL COMMISSION, THE STATE BOARD OF EDUCATION, AND THE STATE BOARD OF COMMUNITY COLLEGES TO MAKE AN ANNUAL REPORT ON THE VOLUNTARY SHARED LEAVE PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 126-8.3 reads as rewritten:

"§ 126-8.3. **Voluntary shared leave.**

(a) The State Personnel Commission, in cooperation with the State Board of Community Colleges and the State Board of Education, shall adopt rules and policies to allow any employee at a State agency to share leave voluntarily with an immediate family member who is an employee of a State agency, community college, or public school; and with a coworker's immediate family member who is an employee of a State agency, community college, or public school. For the purposes of this section, the term "immediate family member" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. The term "coworker" means that the employee donating the leave is employed by the same agency, department, institution, university, local school administrative unit, or community college as the employee whose immediate family member is receiving the leave.

(b) The State Personnel Commission shall adopt rules and policies for the voluntary shared leave program to allow an employee at a State agency to donate sick leave to a nonfamily member employee of a State agency. A donor of sick leave to a nonfamily member recipient shall not donate more than five days of sick leave per year to any one nonfamily member recipient. The combined total of sick leave donated to a recipient from nonfamily member donors shall not exceed 20 days per year. Donated sick leave shall not be used for

retirement purposes, and employees who donate sick leave shall be notified in writing of the State retirement credit consequences of donating sick leave."

SECTION 2. G.S. 115C-12.2 reads as rewritten:

"§ 115C-12.2. **Voluntary shared leave.**

(a) The State Board of Education, in cooperation with the State Board of Community Colleges and the State Personnel Commission, shall adopt rules and policies to allow any employee at a public school to share leave voluntarily with an immediate family member who is an employee of a public school, community college, or State agency; and with a coworker's immediate family member who is an employee of a public school, community college, or State agency. For the purposes of this section, the term "immediate family member" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. The term "coworker" means that the employee donating the leave is employed by the same agency, department, institution, university, local school administrative unit, or community college as the employee whose immediate family member is receiving the leave.

(b) The State Board of Education shall adopt rules and policies for the voluntary shared leave program to allow an employee at a public school to donate sick leave to a nonfamily member employee of a public school. A donor of sick leave to a nonfamily member recipient shall not donate more than five days of sick leave per year to any one nonfamily member recipient. The combined total of sick leave donated to a recipient from nonfamily member donors shall not exceed 20 days per year. Donated sick leave shall not be used for retirement purposes, and employees who donate sick leave shall be notified in writing of the State retirement credit consequences of donating sick leave."

SECTION 3. The State Personnel Commission, the State Board of Education, and the State Board of Community Colleges shall annually report on the voluntary shared leave program. For the prior fiscal year, the report shall include the total number of days or hours of vacation leave and sick leave donated and used by voluntary shared leave recipients and the total cost of the vacation leave and sick leave donated and used. The State Personnel Commission, the State Board of Education, and the State Board of Community Colleges shall provide a report for each fiscal year as required by this section to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division on or before October 15 each year.

SECTION 4. This act becomes effective January 1, 2011.

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Became law upon approval of the Governor at 5:40 p.m. on the 21st day of July, 2010.

Session Law 2010-140

H.B. 1249

AN ACT TO MODIFY THE INVENTORY PROPERTY TAX DEFERRAL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-277.1D reads as rewritten:

"§ 105-277.1D. **Inventory property tax deferral.**

(a) **Classification.** – A residence ~~owned and~~ constructed by a builder and owned by the builder or a business entity of which the builder is a member, as defined in G.S. 105-277.2, is designated a special class of property under Section 2(2) of Article V of the North Carolina Constitution and is taxable in accordance with this section. For purposes of this section, a "residence" is an improvement, other than remodeling, renovating, rehabilitating, or refinishing, by a builder to real property that is intended to be sold and used as an individual's residence, that is unoccupied, and for which a certificate of occupancy authorized by law has been issued.

(b) **Deferred Taxes.** – ~~A builder~~ An owner may defer the portion of tax imposed on real property that represents the increase in value of the property attributable solely to

improvements resulting from the construction by the builder of a residence on the property. The difference between the taxes due under this section and the taxes that would have been payable in the absence of this section are a lien on the real property of the taxpayer as provided in G.S. 105-355(a). The difference in taxes for the fiscal years preceding the current tax year shall be carried forward in the records of the taxing unit or units as deferred taxes. The deferred taxes are due and payable in accordance with G.S. 105-277.1F when the property loses its eligibility for deferral because of the occurrence of a disqualifying event. A disqualifying event occurs at the earliest of (i) when the ~~builder-owner~~ transfers the residence, (ii) when the residence is occupied by the ~~builder-owner~~ or by someone other than the ~~builder-owner~~ with the ~~builder's owner's~~ consent, (iii) five years from the time the improved property was first subject to being listed for taxation by the ~~builder-owner~~, or (iv) three years from the time the improved property first received the property tax benefit provided by this section. On or before September 1 of each year, the collector shall notify each ~~builder-owner~~ to whom a tax deferral has previously been granted of the accumulated sum of deferred taxes and interest.

(c) **Creditor Limitations.** – A mortgagee or trustee that elects to pay any tax deferred by the ~~builder-owner~~ subject to a mortgage or deed of trust does not acquire a right to foreclose as a result of the election. Except for requirements dictated by federal law or regulation, any provision in a mortgage, deed of trust, or other agreement that prohibits the ~~builder-owner~~ from deferring taxes on property under this section is void.

(d) **Construction.** – This section does not affect the attachment of a lien for personal property taxes against a tax-deferred residence.

(e) **Application.** – An application for property tax relief provided by this section should be filed during the regular listing period but may be filed after the regular listing period upon a showing of good cause by the applicant for failure to make a timely application, as determined and approved by the board of equalization and review or, if that board is not in session, by the board of county commissioners. An untimely application approved under this subsection applies only to property taxes levied by the county or municipality in the calendar year in which the untimely application is filed. Decisions of the county board may be appealed to the Property Tax Commission. Persons may apply for this property tax relief by entering the appropriate information on a form made available by the assessor under G.S. 105-282.1."

SECTION 2. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2010.

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Became law upon approval of the Governor at 1:42 p.m. on the 22nd day of July, 2010.

Session Law 2010-141

S.B. 829

AN ACT TO REGULATE REAL ESTATE APPRAISAL MANAGEMENT COMPANIES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 93E of the General Statutes is amended by adding a new Article to read:

"Article 2.

"Real Estate Appraisal Management Companies.

"§ 93E-2-1. Registration required of real estate appraisal management companies; exceptions.

Beginning January 1, 2011, it shall be unlawful for any person, corporation, partnership, sole proprietorship, subsidiary, unit, or any other business entity in this State to do any of the following without first registering with the Board under the provisions of this Article:

- (1) Directly or indirectly engage or attempt to engage in business as an appraisal management company.

- (2) Advertise or make a representation that the person or entity is engaging in or conducting business as an appraisal management company.
- (3) In any way act as or provide the services of an appraisal management company.

"§ 93E-2-2. Definitions.

(a) The following definitions apply in this Article:

- (1) Appraisal management company. – A corporation, partnership, sole proprietorship, subsidiary, unit, or other business entity that utilizes an appraisal panel or fee panel and performs, directly or indirectly, appraisal management services.

An appraisal management company does not include any of the following:

- a. Any agency of the federal government or any State or municipal government.
 - b. An appraiser who enters into an agreement, whether written or otherwise, with another appraiser for the performance of an appraisal, and upon completion of the appraisal, the appraisal report is signed both by the appraiser who completed the appraisal and the appraiser who requested the completion of the appraisal, except that an appraisal management company may not avoid the requirements of this Article by requiring that an employee of the appraisal management company who is an appraiser sign an appraisal report that is completed by an appraiser who is a member of the appraisal panel of the appraisal management company.
 - c. Any state or federally chartered bank, farm credit system, savings institution, or credit union.
 - d. Any licensed real estate broker performing only activities in accordance with Article 1 of this Chapter.
 - e. Any officer or employee of an exempt entity described in this subdivision when acting in the scope of employment for the exempt entity.
 - f. Any person licensed to practice law in this State, a court-appointed personal representative or trustee who orders an appraisal in connection with a bona fide client relationship in which the person directly contracts with an independent appraiser.
- (2) Appraisal management services. – Direct or indirect performance of any of the following functions on behalf of a lender, financial institution, client, or any other person:
 - a. Administer an appraiser panel.
 - b. Recruit, qualify, and/or verify licensing or certification of appraisers who are or may become part of an appraiser panel.
 - c. Negotiate fees and service level expectations with appraisers who are part of an appraiser panel.
 - d. Receive an order for an appraisal from one person and deliver the order for the appraisal to an appraiser that is part of an appraiser panel for completion.
 - e. Take and determine the status of orders for appraisals.
 - f. Conduct quality control of a completed appraisal performed by an appraiser who is part of an appraiser panel prior to the delivery of the appraisal to the person that ordered the appraisal.
 - g. Provide a completed appraisal performed by an appraiser who is part of an appraiser panel to one or more persons who have ordered an appraisal.

- (3) Appraiser panel or fee panel. – A network of licensed or certified appraisers who are independent contractors to the appraisal management company that have:
- a. Responded to an invitation, request, or solicitation from an appraisal management company, in any form, to perform appraisals for persons that have ordered appraisals through the appraisal management company or to perform appraisals for the appraisal management company directly, on a periodic basis, as requested and assigned by the appraisal management company; and
 - b. Been selected and approved by an appraisal management company to perform appraisals for any client or the appraisal management company that has ordered an appraisal through the appraisal management company or to perform appraisals for the appraisal management company directly, on a periodic basis, as assigned by the appraisal management company.
- (4) Appraisal review. – The act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal assignment, except that an examination of an appraisal for grammatical, typographical, or other similar errors shall not be an appraisal review.
- (5) Board. – The North Carolina Appraisal Board under Article 1 of this Chapter.
- (6) Employee. – An individual who has an employment relationship acknowledged by both the individual and the company and is treated as an employee for purposes of compliance with federal income tax laws.
- (7) Registrant. – A real estate appraisal management company registered pursuant to this Article.
- (b) The definitions contained in G.S. 93E-1-4 also apply in this Article.

"§ 93E-2-3. Rule-making authority.

The Board shall have the authority to adopt rules that are reasonably necessary to implement, administer, and enforce the provisions of this Article.

"§ 93E-2-4. Qualifications for registration; duties of registrants.

(a) Any person or entity desiring to be registered as an appraisal management company in this State shall make written application to the Board on forms prescribed by the Board setting forth the applicant's qualifications for registration. The application shall be accompanied by the applicable fee under G.S. 93E-2-6 and any other information the Board deems necessary pursuant to rules adopted by the Board. Upon receipt of a properly completed application and fee and upon a determination by the Board that the applicant is of good moral character, the Board shall issue to the applicant a certificate of registration authorizing the applicant to act as a real estate appraisal management company in this State.

(b) The registration required by subsection (a) of this section shall include the following information:

- (1) Legal name of the entity seeking registration.
- (2) Business address of the entity seeking registration.
- (3) Phone contact information of the entity seeking registration.
- (4) If the entity is not a corporation that is domiciled in this State, the name and contact information for the company's agent for service of process in this State.
- (5) The name, address, and contact information for any individual or any corporation, partnership, or other business entity that owns ten percent (10%) or more of the appraisal management company.
- (6) The name, address, and contact information for the compliance manager.

- (7) A certification that the entity has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company holds a license in good standing in this State pursuant to the North Carolina Appraisers Act if a license or certification is required to perform appraisals.
- (8) A certification that the entity has a system in place to require that appraisers inform the appraisal management company of their areas of geographic competency, the types of properties the appraiser is competent to appraise, and the methodologies the appraiser is competent to perform.
- (9) A certification that the entity has a system in place to review the work of all independent appraisers that are performing real estate appraisal services for the appraisal management company on a periodic basis to validate that the real estate appraisal services are being conducted in accordance with the Uniform Standards of Professional Appraisal Practice.
- (10) A certification that the entity maintains a detailed record of each service request that it receives and the independent appraiser that performs the residential real estate appraisal services for the appraisal management company.
- (11) An irrevocable Uniform Consent to Service of Process.
- (12) Any other information required by the Board pursuant to G.S. 93E-2-3.
- (c) Any registrant having a good faith belief that a real estate appraiser licensed in this State has violated applicable law or the Uniform Standards of Professional Appraisal Practice or engaged in unethical conduct shall promptly file a complaint with the Board.
- (d) Registered appraisal management companies shall pay fees to an appraiser within 30 days of the date the appraisal is transmitted by the real estate appraiser to the registrant, except in cases of noncompliance with the conditions of the engagement. In such cases, the registrant shall notify the real estate appraiser in writing that the fees will not be paid.
- (e) To qualify to be registered as an appraisal management company, each individual who owns, directly or indirectly, more than ten percent (10%) of the appraisal management company shall be of good moral character, as determined by the Board, and shall submit all information the Board deems necessary pursuant to the rules adopted by the Board. Additionally, each owner shall certify that he or she has never had a license to act as an appraiser refused, denied, cancelled, or revoked by the State of North Carolina or any other state.
- (f) A registered appraisal management company shall not enter into any contracts or agreements with an independent appraiser for the performance of residential real estate appraisal services for properties located in this State unless the independent appraiser is licensed or certified in good standing pursuant to the North Carolina Appraisers Act.

"§ 93E-2-5. Compliance manager.

Each appraisal management company registered under this Article shall designate a compliance manager who is responsible for ensuring the company operates in compliance with this Article. The compliance manager shall be a certified real estate appraiser on active status and in good standing, certified under Article 1 of this Chapter or under the comparable laws of another state. The appraisal management company shall file a form with the Board indicating the appraisal management company's designation of compliance manager and the individual's acceptance of the responsibility. An appraisal management company shall notify the Board of any change in the appraisal management company's compliance manager. Any appraisal management company that does not comply with this section shall have the appraisal management company's registration suspended pursuant to G.S. 93E-2-8 until the appraisal management company complies with this section. An individual operating an appraisal management company as a sole proprietorship shall be considered the compliance manager for purposes of this Article.

"§ 93E-2-6. Fees and renewals.

(a) Each application for registration as an appraisal management company under this Article shall be accompanied by a registration fee in an amount set by the Board not to exceed three thousand five hundred dollars (\$3,500). Registration issued under this Article shall expire on June 30, 2012, and on June 30 of each year thereafter. The registration shall become invalid after that date unless renewed before the expiration date by filing an application with and paying to the Board a fee in an amount set by the Board not to exceed two thousand dollars (\$2,000).

(b) All registrations reinstated after the expiration date are subject to a late filing fee of twenty dollars (\$20.00) for each month or part thereof that the registration is lapsed, not to exceed one hundred twenty dollars (\$120.00). The late filing fee shall be in addition to the required renewal fee. In the event a registrant fails to reinstate the registration within six months after the expiration date, the registration shall expire and the registrant shall be required to file a new application for registration. Reinstatement of a registration shall not be retroactive.

(c) The Board may issue a replacement registration to the registrant upon payment of fifty dollars (\$50.00) to the Board. The Board may certify the registration history of an appraisal management company registered under this Article upon payment of a fee of one hundred dollars (\$100.00) to the Board.

"§ 93E-2-7. Prohibited acts.

(a) No employee, director, officer, or agent of a registered appraisal management company or any other third party acting as joint venture partner or independent contractor shall influence or attempt to influence the development, reporting, result, or review of a real estate appraisal through coercion, extortion, collusion, compensation, inducement, intimidation, bribery, or in any other manner, including:

- (1) Withholding or threatening to withhold timely payment for a real estate appraisal report.
- (2) Withholding or threatening to withhold future business from a real estate appraiser or demoting or terminating or threatening to demote or terminate a real estate appraiser.
- (3) Expressly or impliedly promising future business, promotions, or increased compensation for a real estate appraiser.
- (4) Conditioning the ordering of a real estate appraisal report or the payment of a real estate appraisal fee, salary, or bonus on the opinion, conclusion, or valuation to be reached or on a preliminary estimate requested from a real estate appraiser.
- (5) Requesting that a real estate appraiser provide an estimated, predetermined, or desired valuation in a real estate appraisal report or provide estimated values or comparable sales at any time before the appraiser's completion of the appraisal report.
- (6) Providing to a real estate appraiser an anticipated, estimated, encouraged, or desired value for a subject property or a proposed or targeted amount to be loaned to the borrower. However, a real estate appraiser may be provided with a copy of the sales contract for purchase transactions.
- (7) Providing to a real estate appraiser, or any entity or person related to the appraiser, stock or other financial or nonfinancial benefits.
- (8) Allowing the removal of a real estate appraiser from a list of qualified appraisers used by any entity without prior written notice to the appraiser. The notice shall include written evidence of the appraiser's illegal conduct, substandard performance, or otherwise improper or unprofessional behavior or any violation of the Uniform Standards of Professional Appraisal Practice or State licensing standards.
- (9) Any other act or practice that impairs or attempts to impair a real estate appraiser's independence, objectivity, or impartiality.

- (10) Requesting or requiring a real estate appraiser to collect a fee from the borrower, homeowner, or any other person in the provision of real estate appraisal services.
 - (11) Altering, modifying, or otherwise changing a completed appraisal report submitted by an independent appraiser without the appraiser's written knowledge and consent.
 - (12) Using an appraisal report submitted by an independent appraiser for any other transaction.
 - (13) Requiring an appraiser to indemnify an appraisal management company or hold an appraisal management company harmless for any liability, damage, losses, or claims arising out of the services performed by the appraisal management company, and not the services performed by the appraiser.
 - (14) Requiring an appraiser to provide the company with the appraiser's digital signature or seal.
 - (15) Requiring or attempting to require an appraiser to prepare an appraisal if the appraiser, in the appraiser's own independent professional judgment, believes the appraiser does not have the necessary expertise for the assignment or for the specific geographic area and has notified the appraisal management company and declined the assignment.
 - (16) Requiring or attempting to require an appraiser to prepare an appraisal under a time frame that the appraiser, in the appraiser's own professional judgment, believes does not afford the appraiser the ability to meet all the relevant legal and professional obligations if the appraiser has notified the appraisal management company and declined the assignment.
- (b) Nothing in this section shall be construed as prohibiting an appraisal management company from requesting that a real estate appraiser:
- (1) Consider additional appropriate property information.
 - (2) Provide further detail, substantiation, or explanation for the real estate appraiser's value conclusion, through the registrant's established dispute process.
 - (3) Correct errors in the real estate appraisal report.

"§ 93E-2-8. Disciplinary authority.

(a) The Board may, by order, deny, suspend, revoke, or refuse to issue or renew a registration of an appraisal management company under this Article or may restrict or limit activities of a person who owns an interest in or participates in the business of an appraisal management company if the Board determines that an applicant, registrant, or any partner, member, manager, officer, director, compliance manager, or person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant or registrant has done any of the following:

- (1) Filed an application for registration that, as of its effective date or as of any date after filing, contained any statement that, in light of the circumstances under which it was made, is false or misleading with respect to any material fact.
- (2) Violated or failed to comply with any provision of this Article or any rules adopted by the Board.
- (3) Been convicted of any felony or, within the past 10 years, been convicted of any misdemeanor involving mortgage lending or real estate appraisal or any offense involving breach of trust, moral turpitude, or fraudulent or dishonest dealing.
- (4) Been permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the real estate appraisal management business.

- (5) Been the subject of an order of the Board or any other state appraiser regulatory agency denying, suspending, or revoking the person's license as a real estate appraiser.
- (6) Acted as an appraisal management company while not properly licensed by the Board.
- (7) Failed to pay the proper filing or renewal fee under this Article.

(b) The Board may, by order, summarily postpone or suspend the registration of an appraisal management company pending final determination of any proceeding under this section. Upon entering the order, the Board shall promptly notify the registrant that the order has been entered and the reasons for the order. The Board shall calendar a hearing within 15 days after the Board receives a written request for a hearing. If a registrant does not request a hearing, the order shall remain in effect until the order is modified or vacated by the Board. If a hearing is requested, after notice of and opportunity for hearing, the Board may modify or vacate the order or extend the order until the Board makes its final determination.

(c) The Board may, by order, impose a civil penalty upon a registrant or any partner, officer, director, compliance manager, or other person occupying a similar status or performing similar functions on behalf of a registrant for any violation of this Article. The civil penalty shall not exceed ten thousand dollars (\$10,000) for each violation of this Article.

(d) In addition to other powers under this Article, upon finding that any action of a person is in violation of this Article, the Board may order the person to cease from the prohibited action. If the person subject to the order fails to appeal the order of the Board or the person appeals the order and the appeal is denied or dismissed and the person continues to engage in the prohibited action in violation of the Board's order, the person shall be subject to a civil penalty of up to twenty-five thousand dollars (\$25,000) for each violation of the order. The penalty provision of this section shall be in addition to and not in lieu of any other provision of law applicable to a registrant for the registrant's failure to comply with an order of the Board.

(e) Unless otherwise provided, all actions and hearings under this Article shall be governed by Article 3A of Chapter 150B of the General Statutes.

(f) When a registrant is accused of any act, omission, or misconduct that would subject the registrant to disciplinary action, the registrant, with the consent and approval of the Board, may surrender the registrant's registration and all the rights and privileges pertaining to the registrant for a minimum period of five years. A person who surrenders a registration shall not be eligible for or submit any application for registration during the period the registration is surrendered.

(g) If the Board has reasonable grounds to believe that an appraisal management company has violated the provisions of this Article or that facts exist that would be the basis for an order against an appraisal management company, the Board may at any time, either personally or by a person duly designated by the Board, investigate or examine the books, accounts, records, and files of any registrant or other person relating to the complaint or matter under investigation. The Board may require any registrant or other person to submit a criminal history record check and a set of that person's fingerprints in connection with any examination or investigation. Refusal to submit the requested criminal history record check or a set of fingerprints shall be grounds for disciplinary action. The reasonable cost of the investigation or examination shall be charged against the registrant.

(h) The Board shall have the power to issue subpoenas requiring the attendance of persons and the production of papers and records before the Board in any hearing, investigation, inquiry, or other proceeding conducted by the Board. Upon the production of any papers, records, or documents, the Board shall have the power to authorize true copies of the papers, records, or documents to be substituted in the permanent record of the matter in which the books, records, or documents shall have been introduced in evidence.

(i) Upon a request by the Board and with reasonable notice, an appraisal management company shall produce within this State all books and records related to real estate appraisal management services provided for properties located in North Carolina.

"§ 93E-2-9. Records.

(a) The Board shall maintain a list of all applicants for registration under this Article that includes for each applicant the date of application, the name and primary business location of the applicant, and whether the registration was granted or refused.

(b) The Board shall maintain a current roster showing the names and places of business of all registered appraisal management companies that lists the appraisal management companies' respective officers and directors. The rosters shall: (i) be kept on file in the office of the Board; (ii) contain information regarding all orders or other action taken against the company, its officers, and other persons; and (iii) be open to public inspection.

(c) Every registered appraisal management company shall maintain the accounts, correspondence, memoranda, papers, books, and other records related to services provided by the appraisal management company as prescribed in rules adopted by the Board, including in electronic form. All records shall be preserved for five years unless the Board, by rule, prescribes otherwise for particular types of records.

(d) If the information contained in any document filed with the Board is or becomes inaccurate or incomplete in any material respect, the appraisal management company shall promptly file a correcting amendment to the information contained in the document.

"§ 93E-2-10. Penalty; injunctive relief.

(a) Any person violating the provisions of this Article shall be guilty of a Class 1 misdemeanor.

(b) The Board may appear in its own name in superior court in actions for injunctive relief to prevent any person from violating the provisions of this Article or rules adopted by the Board. The superior court shall have the power to grant these injunctions whether criminal prosecution has been or may be instituted as a result of the violations or whether the person is the holder of a registration issued by the Board under this Article.

"§ 93E-2-11. Criminal history record checks of applicants or registrants for registration as appraisal management companies.

(a) Definitions. – The following definitions shall apply in this section:

(1) Applicant. – A person applying for registration as an appraisal management company pursuant to G.S. 93E-2-4.

(2) Criminal history. – A history of conviction of a state or federal crime, whether a misdemeanor or felony, that bears on an applicant's fitness for registration to act as a real estate appraisal management company. The crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60,

Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act in Article 5 of Chapter 90 of the General Statutes and alcohol-related offenses, including sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states.

(b) The Board may require that an applicant for registration as an appraisal management company or a registrant consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny registration to an applicant or registrant. The Board shall ensure that the State and national criminal history of an applicant or registrant is checked. The Board shall be responsible for providing to the North Carolina Department of Justice the fingerprints of the applicant or registrant to be checked, a form signed by the applicant or registrant consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories, and any additional information required by the Department of Justice in accordance with G.S. 114-19.28. The Board shall keep all information obtained pursuant to this section confidential. The Board shall collect any fees required by the Department of Justice and shall remit the fees to the Department of Justice for expenses associated with conducting the criminal history record check.

(c) If an applicant's or registrant's criminal history record check reveals one or more convictions listed under subdivision (a)(2) of this section, the conviction shall not automatically bar registration. The Board shall consider all of the following factors regarding the conviction:

- (1) The level of seriousness of the crime.
- (2) The date of the crime.
- (3) The age of the person at the time of the conviction.
- (4) The circumstances surrounding the commission of the crime, if known.
- (5) The nexus between the criminal conduct of the person and the job duties of the position to be filled.
- (6) The person's prison, jail, probation, parole, rehabilitation, and employment records since the date the crime was committed.
- (7) The subsequent commission by the person of a crime listed in subdivision (a)(2) of this section.

If, after reviewing these factors, the Board determines that the applicant's or registrant's criminal history disqualifies the applicant or registrant for registration, the Board may deny registration of the applicant or registrant. The Board may disclose to the applicant or registrant information contained in the criminal history record check that is relevant to the denial. The Board shall not provide a copy of the criminal history record check to the applicant or registrant. The applicant or registrant shall have the right to appear before the Board to appeal the Board's decision. However, an appearance before the full Board shall constitute an exhaustion of administrative remedies in accordance with Chapter 150B of the General Statutes.

(d) Limited Immunity. – The Board, its officers, and employees, acting in good faith and in compliance with this section, shall be immune from civil liability for denying registration to an applicant or registrant based on information provided in the applicant's or registrant's criminal history record check."

SECTION 2. Article 4 of Chapter 114 of the General Statutes is amended by adding a new section to read:

"§ 114-19.28. Criminal history record checks of applicants or registrants for registration as real estate appraisal management companies.

The Department of Justice may provide to the North Carolina Appraisal Board from the State and National Repositories of Criminal Histories the criminal history of any applicant or

registrant for registration under Article 2 of Chapter 93E of the General Statutes. Along with the request, the Board shall provide to the Department of Justice the fingerprints of the applicant or registrant, a form signed by the applicant or registrant consenting to the criminal history record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Justice. The applicant's or registrant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Justice may charge a fee to offset the cost incurred by the Department to conduct a criminal history record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information."

SECTION 3. G.S. 93E-1-5(a) reads as rewritten:

"(a) There is created the North Carolina Appraisal Board for the purposes set forth in this Chapter. The Board shall consist of nine members. The Governor shall appoint five members of the Board, and the General Assembly shall appoint four members in accordance with G.S. 120-121, two upon the recommendation of the President Pro Tempore of the Senate and two upon the recommendation of the Speaker of the House of Representatives. Members appointed by the Governor shall be appointed from geographically diverse areas of the State. The appointees recommended by the Speaker of the House of Representatives and four of the appointees of the Governor shall be persons who have been engaged in the business of real estate appraising in this State for at least five years immediately preceding their appointment and are also State-licensed or State-certified real estate appraisers. One of the appointees of the Governor shall be a person representing either the real estate appraisal management industry or the banking industry. No more than three of the appointees may be members of the same appraiser trade organization at any one time. The appointees recommended by the President Pro Tempore of the Senate shall be a person not involved directly or indirectly in the real estate, real estate appraisal, or the real estate lending industry. Members of the Board shall serve three-year terms, so staggered that the terms of three members expire in one year, the terms of three members expire in the next year, and the terms of three members expire in the third year of each three-year period. The members of the Board shall elect one of their members to serve as chairman of the Board for a term of one year. The Governor may remove any member of the Board appointed by the Governor for misconduct, incompetency, or neglect of duty. The General Assembly may remove any member appointed by it for the same reasons. Successors shall be appointed by the appointing authority making the original appointment. All vacancies occurring on the Board shall be filled, for the unexpired term, by the appointing authority making the original appointment. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122. Initial terms of office commenced July 1, 1994."

SECTION 4. G.S. 93E-2-3, as enacted by Section 1 of this act, is effective when it becomes law. The remainder of this act becomes effective January 1, 2011.

In the General Assembly read three times and ratified this the 1st day of July, 2010.

Became law upon approval of the Governor at 1:48 p.m. on the 22nd day of July, 2010.

Session Law 2010-142

H.B. 1802

AN ACT TO AMEND OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL RESOURCES REPORTING REQUIREMENTS AND TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS TO VARIOUS LAWS RELATED TO THE ENVIRONMENT, ENERGY, AND NATURAL RESOURCES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

PART I. REPORTS CONSOLIDATION.

SECTION 1. G.S. 130A-309.06(c)(13) is repealed.

SECTION 2. G.S. 130A-310.57 reads as rewritten:

"§ 130A-310.57. (Effective until December 31, 2017) Reports.

The Department shall submit an annual report on the mercury switch removal program under this Part to the Environmental Review ~~Commission~~Commission, ~~and~~ the Senate and House of Representatives Appropriations Subcommittees on Natural and Economic ~~Resources~~Resources, and the Fiscal Research Division of the General Assembly on or before 1, October of each year. The report shall include, at a minimum, all of the following:

- (1) A detailed description of the mercury recovery performance ratio achieved by the mercury switch removal program.
- (1a) A detailed description of the mercury switch collection system developed and implemented by vehicle manufacturers in accordance with the NVMSRP.
- (2) In the event that a mercury recovery performance ratio of at least 0.90 of the national mercury recovery performance ratio as reported by the NVMSRP is not achieved, a description of additional or alternative actions that may be implemented to improve the mercury switch removal program.
- (3) The number of mercury switches collected and a description of how the mercury switches were managed.
- (4) A statement that details the costs required to implement the mercury switch removal program including a summary of receipts and disbursements from the Mercury Switch Removal Account."

SECTION 3. G.S. 143-214.13 reads as rewritten:

"§ 143-214.13. Ecosystem Enhancement Program: reporting requirement.

(a) The Department of Environment and Natural Resources shall report each year by November 1 to the Environmental Review Commission and to the Joint Legislative Commission on Governmental Operations regarding its progress in implementing the Ecosystem Enhancement Program and its use of the funds in the Ecosystem Restoration Fund. The report shall document statewide wetlands losses and gains and compensatory mitigation performed under G.S. 143-214.8 through G.S. 143-214.12. The report shall also provide an accounting of receipts and disbursements of the Ecosystem Restoration Fund, an analysis of the per-acre cost of wetlands restoration, and a cost comparison on a per-acre basis between the State's Ecosystem Enhancement Program and private mitigation banks. The Department shall also send a copy of its report to the Fiscal Research Division of the General Assembly.

(b) The Department shall maintain an inventory of all property that is held, managed, maintained, enhanced, restored, or used to create wetlands under the Ecosystem Enhancement Program. The inventory shall also list all conservation easements held by the Department. The inventory shall be included in the annual report required under subsection (a) of this section."

SECTION 4. G.S. 143B-336.1 reads as rewritten:

"§ 143B-336.1. Special Zoo Fund.

A special continuing and nonreverting fund, to be called the Special Zoo Fund, is created. The North Carolina Zoological Park shall retain unbudgeted receipts at the end of each fiscal year, beginning June 30, 1989, and deposit these receipts into this Fund. This Fund shall be

used for maintenance, repairs, and renovations of exhibits in existing habitat clusters and visitor services facilities, construction of visitor services facilities and support facilities such as greenhouses and temporary animal holding areas, for the replacement of tram equipment as required to maintain adequate service to the public, and for marketing the Zoological Park. The Special Zoo Fund may also be used to match private funds that are raised for these purposes. Funds may be expended for these purposes by the Department of Environment and Natural Resources on the advice of the North Carolina Zoological Park Council and with the approval of the Office of State Budget and Management. The Department of Environment and Natural Resources shall provide ~~an annual~~ a report on or before October 1 of each year to the Office of State Budget and ~~Management~~ Management, and to the Fiscal Research Division of the Legislative Services Office - General Assembly, and to the Joint Legislative Commission on Governmental Operations on the use of fees collected pursuant to this section."

SECTION 5. G.S. 143B-344.21 reads as rewritten:

"§ 143B-344.21. Reports to General Assembly.

The Commission shall prepare and submit a report outlining the needs of the North Carolina State Museum of Natural Sciences and recommendations for improvement of the effectiveness of the North Carolina State Museum of Natural Sciences for the purpose hereinabove set forth to the 1995 General Assembly, and to each succeeding General Assembly, to the Fiscal Research Division of the General Assembly, and to the Joint Legislative Commission on Governmental Operations ~~a report outlining the needs of the North Carolina State Museum of Natural Sciences and their recommendation for improvement of the effectiveness of the North Carolina State Museum of Natural Sciences for the purpose hereinabove set forth~~ on or before October 1 of each year."

SECTION 6. S.L. 2002-4, Section 11, as amended by S.L. 2006-79, reads as rewritten:

"SECTION 11. The Environmental Management Commission shall study the desirability of requiring and the feasibility of obtaining reductions in emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO₂) beyond those required by G.S. 143-215.107D, as enacted by Section 1 of this act. The Environmental Management Commission shall consider the availability of emissions reduction technologies, increased cost to consumers of electric power, reliability of electric power supply, actions to reduce emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO₂) taken by states and other entities whose emissions negatively impact air quality in North Carolina or whose failure to achieve comparable reductions would place the economy of North Carolina at a competitive disadvantage, and the effects that these reductions would have on public health, the environment, and natural resources, including visibility. In its conduct of this study, the Environmental Management Commission may consult with the Utilities Commission and the Public Staff. The Environmental Management Commission shall report its findings and recommendations to the General Assembly and the Environmental Review Commission ~~annually~~ biennially ~~beginning 1 September 2007~~ 1 September 2011."

PART II. TECHNICAL CORRECTIONS.

SECTION 7. G.S. 114-4.2D reads as rewritten:

"§ 114-4.2D. Employment of attorney for Energy Policy Council and Energy Efficiency Program of the Department of Administration Commerce.

The Attorney General shall assign an attorney ~~on his staff~~ to work full time with the Energy Policy Council and Energy Efficiency Program of the Department of ~~Administration Commerce~~. Such attorney shall be subject to all provisions of Chapter 126 of the General Statutes relating to the State Personnel System. Such attorney shall also perform such additional duties as may be assigned ~~to him~~ by the Attorney General."

SECTION 8. The title of Article 19 of Chapter 120 of the General Statutes reads as rewritten:

"Article 19.

~~Commission on Agriculture and Forestry Awareness Study Commission.~~"

SECTION 9. G.S. 120-150 reads as rewritten:

"§ 120-150. **Creation; appointment of members.**

There is created an Agriculture and Forestry Awareness Study Commission. Members of the Commission shall be citizens of North Carolina who are interested in the vitality of the agriculture and forestry sectors of the State's economy. Members shall be as follows:

- (1) Three appointed by the ~~Governor;~~ Governor.
- (2) Three appointed by the President Pro Tempore of the ~~Senate;~~ Senate.
- (3) Three appointed by the Speaker of the ~~House;~~ House.
- (4) The ~~chairman~~ chairs of the House Agriculture ~~Committee;~~ Committee.
- (5) The ~~chairman~~ chairs of the Senate ~~Agriculture Committee;~~ Committee on Agriculture, Environment, and Natural Resources.
- (6) The Commissioner of Agriculture or the Commissioner's ~~designee;~~ designee.
- (7) A member of the Board of Agriculture designated by the ~~chairman~~ chair of the Board of ~~Agriculture;~~ Agriculture.
- (8) The President of the North Carolina Farm Bureau Federation, Inc., or the President's ~~designee;~~ designee.
- (9) The ~~Master~~ President of the North Carolina State Grange or the ~~Master's~~ President's ~~designee;~~ designee.
- (10) The Secretary of Environment and Natural Resources or the Secretary's ~~designee; and~~ designee.
- (11) The President of the North Carolina Forestry Association, Inc., or the President's designee.

Members shall be appointed for two-year terms beginning October 1 of each odd-numbered year. The Chairs of the House Agriculture Committee and the Chairs of the Senate Committee on Agriculture, Environment, and Natural Resources shall serve as cochairs. ~~The cochairmen of the Commission shall be the chairmen of the Senate and House Agriculture Committees respectively."~~

SECTION 10. G.S. 130A-309.10(l) reads as rewritten:

"(l) Oyster shells that are delivered to a landfill shall be stored at the landfill for at least 90 days or until they are removed for recycling. If oyster shells that are stored at a landfill are not removed for recycling within 90 days of delivery to the landfill, then, notwithstanding subdivision ~~(42)~~ (13) of subsection (f) of this section, the oyster shells may be disposed of in the landfill."

SECTION 11. G.S. 130A-309.12(b) reads as rewritten:

- "(b) The Solid Waste Management Trust Fund shall consist of the following:
- (1) Funds appropriated by the General Assembly.
 - (2) Contributions and grants from public or private sources.
 - (3) ~~Five percent (5%)~~ Eight percent (8%) of the proceeds of the scrap tire disposal tax imposed under Article 5B of Chapter 105 of the General Statutes.
 - (4) Eight percent (8%) of the proceeds of the white goods disposal tax imposed under Article 5C of Chapter 105 of the General Statutes.
 - (5) Twelve and one-half percent (12.5%) of the proceeds of the solid waste disposal tax imposed under Article 5G of Chapter 105 of the General Statutes."

SECTION 12. G.S. 130A-310.11(b) reads as rewritten:

"(b) Funds credited to the Inactive Hazardous Sites Cleanup Fund pursuant to G.S. 130A-295.9 shall be used only as provided in G.S. 130A-295.9(1) and ~~G.S. 130A-310.5(e);~~ G.S. 130A-310.6(c)."

SECTION 13. G.S. 143-355.4(b) reads as rewritten:

"(b) To be eligible for State water infrastructure funds from the Drinking Water State Revolving Fund or the Drinking Water Reserve ~~Fund~~ or any other grant or loan of funds allocated by the General Assembly whether the allocation of funds is to a State agency or to a nonprofit organization for the purpose of extending waterlines or expanding water treatment capacity, a local government or large community water system must demonstrate that the system:

...."

SECTION 14. G.S. 153B-2 reads as rewritten:

"§ 153B-2. Definitions.

The following definitions apply in this ~~Article~~Chapter:

- (1) Commission. – The Mountain Resources Commission created by this Chapter.
- (2) Council. – The Mountain Area Resources Technical Advisory Council.
- (3) Important mountain resources. – The natural and cultural resources of the mountain region of Western North Carolina, including, but not limited to, State and federal public lands, wildlife habitat, farms, forestland and rural landscapes, mountain vistas, mountain streams and rivers, mountain lakes, and historical and archeological resources.
- (4) Mountain region of Western North Carolina. – The area encompassed by the counties of Alexander, Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Cleveland, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Surry, Swain, Transylvania, Watauga, Wilkes, Yadkin, and Yancey in the State.
- (5) Secretary. – The Secretary of ~~the Department of~~ Environment and Natural Resources."

SECTION 15. G.S. 153B-3(d) reads as rewritten:

"(d) Membership. – The Commission shall consist of 17 members as follows:

...

(d1) Officers; Terms. – The members of the Commission shall elect a chair, vice-chair, and any other officers they consider necessary and shall determine the length of the term of office, not to exceed two years, of each officer. A majority of the Commission shall constitute a quorum. Each member appointed to the Commission shall be appointed to serve a four-year term. Any vacancy on the Commission shall be filled by the original appointing authority for the remainder of the unexpired term. Initial terms commence September 1, 2009."

SECTION 16. G.S. 153B-4 reads as rewritten:

"§ 153B-4. Mountain Area Resources Technical Advisory Council.

...

(d) Members; Multiple Offices. – Membership on the ~~Mountain Area Resources Technical Advisory Council~~ is hereby declared to be an office that may be held concurrently with other elective or appointive offices (except the office of Commission member) in addition to the maximum number of offices permitted to be held by one person under G.S. 128-1.1.

(e) ~~Chairman~~Chair and Vice ~~Chairman~~Chair. – A ~~chairman~~chair and vice ~~chairman~~chair shall be elected annually by the Council.

(f) Compensation. – The members of the ~~Advisory~~ Council who are not State employees may receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5. All expenses shall be paid from funds available to the Commission through the Mountain Area Resources Fund, but no expenses shall be paid if the Mountain Area Resources Fund lacks the necessary funds."

SECTION 17. Section 3(d) of S.L. 2005-190 reads as rewritten:

"SECTION 3.(d) Eligibility under the Clean Water Revolving Loan and Grant Act. – The definitions set out in G.S. 159G-3 apply to this subsection. The operator of a wastewater treatment works that is owned by an agency of the State may apply for a loan or grant under ~~Chapter 159G of the General Statutes~~G.S. 159G-20 on the same basis as any other applicant if

the operator is a local government unit and if the local government unit operates the wastewater treatment works pursuant to a contract with the State agency that contemplates that the local government unit will eventually acquire ownership of the wastewater treatment works."

PART III. EFFECTIVE DATE.

SECTION 18. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law upon approval of the Governor at 1:50 p.m. on the 22nd day of July, 2010.

Session Law 2010-143

H.B. 1743

AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO DEVELOP BASINWIDE HYDROLOGIC MODELS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-350 reads as rewritten:

"§ 143-350. Definitions.

As used in this Article:

...

- (3) "Essential water use" means the use of water necessary for firefighting, health, and safety; water needed to sustain human and animal life; and water necessary to satisfy federal, State, and local laws for the protection of public health, safety, welfare, the environment, and natural resources; and a minimum amount of water necessary to ~~maintain~~ support and sustain the economy of the State, region, or area.

...."

SECTION 2. G.S. 143-355 is amended by adding a new subsection to read:

"(o) Basinwide Hydrologic Models. – The Department shall develop a basinwide hydrologic model for each of the 17 major river basins in the State as provided in this subsection.

- (1) Definitions. – As used in this subsection:

- a. "Ecological flow" means the stream flow necessary to protect ecological integrity.
- b. "Ecological integrity" means the ability of an aquatic system to support and maintain a balanced, integrated, adaptive community of organisms having a species composition, diversity, and functional organization comparable to prevailing ecological conditions and, when subject to disruption, to recover and continue to provide the natural goods and services that normally accrue from the system.
- c. "Groundwater resource" means any water flowing or lying under the surface of the earth or contained within an aquifer.
- d. "Prevailing ecological conditions" means the ecological conditions determined by reference to the applicable period of record of the United States Geological Survey stream gauge data, including data reflecting the ecological conditions that exist after the construction and operation of existing flow modification devices, such as dams, but excluding data collected when stream flow is temporarily affected by in-stream construction activity.
- e. "Surface water resource" means any lake, pond, river, stream, creek, run, spring, or other water flowing or lying on the surface of the earth.

- (2) Schedule. – The Department shall develop a schedule for basinwide hydrologic model development. In developing the schedule, the Department shall give priority to developing hydrologic models for river basins or portions of river basins that are experiencing or are likely to experience water supply shortages, where the ecological integrity is threatened or likely to become threatened, or for which an existing hydrologic model has not been developed by the Department or other persons or entities.
- (3) Model. – Each basinwide hydrologic model shall:
- a. Include surface water resources within the river basin, groundwater resources within the river basin to the extent known by the Department, transfers into and out of the river basin that are required to be registered under G.S. 143-215.22H, other withdrawals, ecological flow, instream flow requirements, projections of future withdrawals, an estimate of return flows within the river basin, inflow data, local water supply plans, and other scientific and technical information the Department deems relevant.
 - b. Be designed to simulate the flows of each surface water resource within the basin that is identified as a source of water for a withdrawal registered under G.S. 143-215.22H in response to different variables, conditions, and scenarios. The model shall specifically be designed to predict the places, times, frequencies, and intervals at which any of the following may occur:
 1. Yield may be inadequate to meet all needs.
 2. Yield may be inadequate to meet all essential water uses.
 3. Ecological flow may be adversely affected.
 - c. Be based solely on data that is of public record and open to public review and comment.
- (4) Ecological flow. – The Department shall characterize the ecology in the different river basins and identify the flow necessary to maintain ecological integrity. The Department shall create a Science Advisory Board to assist the Department in characterizing the natural ecology and identifying the flow requirements. The Science Advisory Board shall include representatives from the Divisions of Water Resources and Water Quality of the Department, the North Carolina Wildlife Resources Commission, the North Carolina Marine Fisheries Commission, and the Natural Heritage Program. The Department shall also invite participation by the United States Fish and Wildlife Service; the National Marine Fisheries Service; representatives of organizations representing agriculture, forestry, manufacturing, electric public utilities, and local governments, with expertise in aquatic ecology and habitat; and other individuals or organizations with expertise in aquatic ecology and habitat. The Department shall ask the Science Advisory Board to review any report or study submitted to the Department for consideration that is relevant to characterizing the ecology of the different river basins and identifying flow requirements for maintenance of ecological integrity. The Department shall consider such other information, including site specific analyses, that either the Board or the Department considers relevant to determining ecological flow requirements.
- (5) Interstate cooperation. – To the extent practicable, the Department shall work with neighboring states to develop basinwide hydrologic models for each river basin shared by North Carolina and another state.
- (6) Approval and modification of hydrologic models. –
- a. Upon completion of a hydrologic model, the Department shall:
 1. Submit the model to the Commission for approval.

2. Publish in the North Carolina Register notice of its recommendation that the Commission approve the model and of a 60-day period for providing comment on the model.
 3. Provide electronic notice to persons who have requested electronic notice of the notice published in the North Carolina Register.
 - b. Upon receipt of a hydrologic model, the Commission shall:
 1. Receive comment on the model for the 60-day period noticed in the North Carolina Register.
 2. Act on the model following the 60-day comment period.
 - c. The Department shall submit any significant modification to an approved hydrologic model to the Commission for review and approval under the process used for initial approval of the model.
 - d. A hydrologic model is not a rule, and Article 2A of Chapter 150B of the General Statutes does not apply to the development of a hydrologic model.
- (7) Existing hydrologic models. – The Department shall not develop a hydrologic model for a river basin for which a hydrologic model has already been developed by a person or entity other than the Department, if the Department determines that the hydrologic model meets the requirements of this subsection. The Department may adopt a hydrologic model that has been developed by another person or entity that meets the requirements of this subsection in lieu of developing a hydrologic model as required by this subsection. The Department may make any modifications or additions to a hydrologic model developed by another person or entity that are necessary to meet the requirements of this subsection.
- (8) Construction of subsection. – Nothing in this subsection shall be construed to vary any existing, or impose any additional regulatory requirements, related to water quality or water resources.
- (9) Report. – The Department shall report to the Environmental Review Commission on the development of basinwide hydrologic models no later than November 1, of each year."

SECTION 3. The first report required by G.S. 143-355(o), as enacted by Section 2 of this act, is due no later than November 1, 2011.

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

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Became law upon approval of the Governor at 1:52 p.m. on the 22nd day of July, 2010.

Session Law 2010-144

H.B. 1746

AN ACT TO: (1) DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, IN CONJUNCTION WITH OTHER INTERESTED PARTIES, TO ESTABLISH A TASK FORCE TO DEVELOP A STATEWIDE SURVEY TO SUPPLEMENT THE CURRENT INFORMATION USED TO ASSESS THE STATE'S WATER AND WASTEWATER INFRASTRUCTURE NEEDS, DEVELOP A PLAN FOR INCORPORATING THE INFORMATION COMPILED FROM THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY SURVEY INTO THE STATE WATER SUPPLY PLAN, AND DEVELOP RECOMMENDATIONS REGARDING A STATEWIDE WATER AND WASTEWATER INFRASTRUCTURE RESOURCE AND FUNDING DATABASE; AND (2) DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND THE LOCAL GOVERNMENT COMMISSION OF THE DEPARTMENT OF STATE TREASURER TO JOINTLY EVALUATE THE

POTENTIAL BENEFITS OF MONITORING THE FINANCIAL CONDITION OF PUBLIC WATER SYSTEMS AND WASTEWATER SYSTEMS, AS RECOMMENDED BY THE LEGISLATIVE STUDY COMMISSION ON WATER AND WASTEWATER INFRASTRUCTURE.

Whereas, the two primary sources of data currently available to determine the State's water and wastewater needs include the United States Environmental Protection Agency surveys of publicly owned water and wastewater systems conducted every four years by the Department of Environment and Natural Resources and the North Carolina Rural Economic Development Center Water 2030 Initiative; and

Whereas, the Water 2030 Initiative, completed in 2005, provides a snapshot of projected water and wastewater infrastructure needs through 2030, but was funded as a onetime overview, and has not been fully updated since 2005; and

Whereas, while both the United States Environmental Protection Agency surveys and Water 2030 Initiative are useful tools, there continue to be gaps in the information used to determine the State's water and wastewater infrastructure needs, particularly with regard to economic development and growth-related infrastructure needs, water system efficiency measures, and costs related to the development of new water sources; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) Task Force. – The Department of Environment and Natural Resources, the Department of Commerce, the Department of State Treasurer, the Clean Water Management Trust Fund, the State Water Infrastructure Commission, the Office of Information Technology Services, the North Carolina League of Municipalities, the North Carolina Association of County Commissioners, the Rural Economic Development Center, and the Environmental Finance Center at the School of Government at the University of North Carolina at Chapel Hill shall establish a task force to improve the collection and utilization of information related to State water and wastewater infrastructure needs. The Department of Environment and Natural Resources shall be the lead agency for the task force. The task force may also work with other interested stakeholders in its discretion. The responsibilities and duties of the task force shall include all of the following:

- (1) To develop a statewide survey to build on the base of the existing United States Environmental Protection Agency water and wastewater infrastructure survey process that will provide a more accurate assessment of statewide water and wastewater infrastructure needs.
 - a. The survey shall be designed to address the following information gaps that have been identified in the current information sources:
 1. Information on water and wastewater infrastructure needs related to economic development and population growth.
 2. Information on water and wastewater system service areas.
 3. Information on drinking water needs relevant to determining the need and the cost of proposed reservoir construction.
 4. Information on infrastructure needs to address failing water and wastewater systems.
 5. Information on the infrastructure needs related to water system efficiency to address the issue of water loss.
 - b. The task force shall consider how often the information provided by the survey should be updated.
 - c. The task force shall consider requesting information to update the Water 2030 Initiative as part of the survey design.
 - d. The task force shall consider how often to update the survey, and how best to formulate and summarize the survey results on the State's combined water and wastewater infrastructure needs in a concise and

easily understood format for use by the General Assembly. The task force shall prepare a model report based on this format.

- (2) To develop a plan to incorporate relevant information obtained from the existing United States Environmental Protection Agency survey and any statewide survey developed pursuant to subdivision (1) of this section into the State water supply plan developed pursuant to G.S. 143-355(m). In devising the plan to incorporate the needs survey information into the State water supply plan, the task force shall consider possible modifications to the information collected as part of the local water supply plans or the methodology used to prepare the local water supply plans that would make it easier to incorporate the needs survey information into the State water supply plan.
- (3) To recommend a plan for the establishment and maintenance of a statewide water and wastewater infrastructure resource and funding database, or alternative information systems or processes that are capable of consolidating and integrating statewide information on water and wastewater infrastructure needs, resources, and funding and making this information more accessible to applicants, government agencies, and policymakers. The task force shall consider the relative merits of a database and any proposed alternatives, taking into account estimated costs and the ability of each to meet the goals outlined in this section. In analyzing a database, the task force shall identify options for database system design and structure and delineate the categories of information to be compiled and indexed.

SECTION 1.(b) Task Force Report. – The Department of Environment and Natural Resources shall report the findings and recommendations of the task force to the Legislative Study Commission on Water and Wastewater Infrastructure by November 1, 2010. The report shall include the estimated cost to implement the recommendations and any legislative changes required to implement the recommendations.

SECTION 2.(a) The Department of Environment and Natural Resources and the Local Government Commission of the Department of State Treasurer shall jointly evaluate the costs and benefits of requiring each public water system or wastewater system in the State to demonstrate that the system raises sufficient revenue to cover the costs associated with proper operation of the system, including the costs of maintenance, repair, and replacement of collection, treatment, and distribution infrastructure.

- (1) The Department of Environment and Natural Resources and the Local Government Commission shall specifically consider increasing their oversight role to include the following actions:
 - a. Review grant applications submitted by a system to determine the portion of the proposed grant match that is funded from local revenues as opposed to another grant.
 - b. Develop benchmarks that a system must meet to ensure that the system is operating in a financially sound manner.
- (2) The Department of Environment and Natural Resources and the Local Government Commission shall specifically evaluate the desirability of requiring each public water system and wastewater system in the State to conduct the following actions:
 - a. Submit an annual audit statement to State water and wastewater infrastructure funding agencies to which the system is applying for loan or grant funds for the purpose of reporting on the operation of the system and to demonstrate whether the water or wastewater rates of each system are sufficient to maintain system operations and meet debt service obligations.

- b. Implement remedial measures in the event that the audit statement indicates a shortfall, including the submission of a written explanation for the revenue shortfall from the governing body of the system and the development of a plan to ensure that system revenues cover system costs.
 - c. Maintain a capital reserve fund.
 - d. Provide notification to funding agencies when a system is failing to operate in compliance with applicable State and federal water quality standards.
- (3) The Department of Environment and Natural Resources and the Local Government Commission shall identify and consider other actions or measures that would improve the oversight of the financial condition of public water systems and wastewater systems.

SECTION 2.(b) For the purposes of this act, "public water system" has the same meaning as in G.S. 130A-313(10), and "wastewater system" has the same meaning as in G.S. 159G-20(25).

SECTION 2.(c) The Department of Environment and Natural Resources and the Local Government Commission shall jointly report their findings and recommendations to the Legislative Study Commission on Water and Wastewater Infrastructure no later than November 1, 2010.

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

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Became law upon approval of the Governor at 1:54 p.m. on the 22nd day of July, 2010.

Session Law 2010-145

H.B. 1714

AN ACT TO DIRECT THE MARINE FISHERIES COMMISSION TO ADOPT RULES RELATED TO THE SUSPENSION, REVOCATION, AND REISSUANCE OF LICENSES AND TO MAKE CONFORMING CHANGES, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE.

The General Assembly of North Carolina enacts:

SECTION 1. The Marine Fisheries Commission shall adopt rules pursuant to and consistent with G.S. 113-171, as amended by Section 2 of this act, and G.S. 143B-289.52 for the suspension, revocation, and reissuance of marine resources licenses and permits issued under Articles 14A, 14B, and 25A of Chapter 113 of the General Statutes. Rules adopted pursuant to this section shall not become effective prior to October 1, 2012. In adopting rules pursuant to this section, the Commission shall consider all of the following:

- (1) Whether the rules should differentiate between minor and major violations.
- (2) How to define minor and major violations.
- (3) How service of revocation could be made more efficient.
- (4) How the rules should treat violations related to recreational fishing licenses and permits.
- (5) Whether violations related to littering or assault on a marine patrol inspector should be treated as grounds for suspension or revocation.
- (6) Whether suspension and revocation provisions should be strengthened in cases of harvesting shellfish from polluted waters.

SECTION 2. G.S. 113-171 reads as rewritten:

"§ 113-171. Suspension, revocation, and reissuance of licenses.

(a) Upon receipt of reliable notice that a person licensed under this ~~Article~~ Article, Article 14B, or Article 25A of Chapter 113 of the General Statutes to take resources under the jurisdiction of the Marine Fisheries Commission has had imposed against the person a

conviction of a criminal offense within the jurisdiction of the Department under the provisions of this Subchapter or of rules of the Commission adopted under the authority of this Subchapter, the Secretary must ~~suspend or revoke~~ suspend, revoke, and reissue all licenses held by the person in accordance with the terms of this ~~section~~ section and rules adopted by the Commission. Reliable notice includes information furnished the Secretary in prosecution or other reports from inspectors. As used in this section, a conviction includes a plea of guilty or nolo contendere, any other termination of a criminal prosecution unfavorably to the defendant after jeopardy has attached, or any substitute for criminal prosecution whereby the defendant expressly or impliedly confesses the defendant's guilt. In particular, procedures whereby bond forfeitures are accepted in lieu of proceeding to trial and cases indefinitely continued upon arrest of judgment or prayer for judgment continued are deemed convictions. The Secretary may act to suspend or revoke licenses upon the basis of any conviction in which:

- (1) No notice of appeal has been given;
- (2) The time for appeal has expired without an appeal having been perfected; or
- (3) The conviction is sustained on appeal. Where there is a new trial, finality of any subsequent conviction will be determined in the manner set out above.

(b) The Secretary must initiate an administrative procedure designed to give the Secretary systematic notice of all convictions of criminal offenses by licensees covered by subsection (a) of this section above and keep a file of all convictions reported. ~~Upon receipt of notice of conviction, the Secretary must determine whether it is a first, a second, a third, or a fourth or subsequent conviction of some offense covered by subsection (a). In the case of second convictions, the Secretary must suspend all licenses issued to the licensee for a period of 10 days. In the case of third convictions, the Secretary must suspend all licenses issued to the licensee for a period of 30 days. In the case of fourth or subsequent convictions, the Secretary must revoke all licenses issued to the licensee. Where several convictions result from a single transaction or occurrence, they are to be treated as a single conviction so far as suspension or revocation of the licenses of any licensee is concerned. Anyone convicted of taking or knowingly possessing, transporting, buying, selling, or offering to buy or sell oysters or clams from areas closed because of suspected pollution will be deemed by the Secretary to have been convicted of two separate offenses on different occasions for license suspension or revocation purposes.~~

(c) ~~Where a license has been suspended or revoked, the former licensee is not eligible to apply for reissuance of license or for any additional license authorized in this Article during the suspension or revocation period. Licenses must be returned to the licensee by the Secretary or the Secretary's agents at the end of a period of suspension. Where there has been a revocation, application for reissuance of license or for an additional license may not be made until six months following the date of revocation. In such case of revocation, the eligible former licensee must satisfy the Secretary that the licensee will strive in the future to conduct the operations for which the license is sought in accord with all applicable laws and rules. Upon the application of an eligible former licensee after revocation, the Secretary, in the Secretary's discretion, may issue one license sought but not another, as deemed necessary to prevent the hazard of recurring violations of the law.~~

(d) ~~Upon receiving reliable information of a licensee's conviction of a second or subsequent criminal offense covered by subsection (a) of this section, the Secretary shall promptly cause the licensee to be personally served with written notice of suspension or revocation, as the case may be. The written notice may be served upon any responsible individual affiliated with the corporation, partnership, or association where the licensee is not an individual. The notice of suspension or revocation may be served by an inspector or other agent of the Department, must state the ground upon which it is based, and takes effect immediately upon personal service. The agent of the Secretary making service shall then or subsequently, as may be feasible under the circumstances, collect all license certificates and plates and other forms or records relating to the license as directed by the Secretary. It is unlawful for any licensee willfully to evade the personal service prescribed in this subsection.~~

(e) A licensee served with a notice of suspension or revocation may obtain an administrative review of the suspension or revocation by filing a petition for a contested case under G.S. 150B-23 within 20 days after receiving the notice. The only issue in the hearing shall be whether the licensee was convicted of a criminal offense for which a license must be suspended or revoked. A license remains suspended or revoked pending the final decision by the Secretary.

(f) If the Secretary refuses to reissue the license of or issue an additional license to an applicant whose license was revoked, the applicant may contest the decision by filing a petition for a contested case under G.S. 150B-23 within 20 days after the Secretary makes the decision. The Commission shall make the final agency decision in a contested case under this subsection. An applicant whose license is denied under this subsection may not reapply for the same license for at least six months.

(g) The Commission may adopt rules to provide for the disclosure of the identity of any individual or individuals in responsible positions of control respecting operations of any licensee that is not an individual. For the purposes of this section, individuals in responsible positions of control are deemed to be individual licensees and subject to suspension and revocation requirements in regard to any applications for license they may make – either as individuals or as persons in responsible positions of control in any corporation, partnership, or association. In the case of individual licensees, the individual applying for a license or licensed under this ~~Article~~ Article, Article 14B, or Article 25A of Chapter 113 of the General Statutes to take resources under the jurisdiction of the Marine Fisheries Commission must be the real party in interest.

(h) In determining whether a conviction is a second or subsequent offense under the provisions of this section, the Secretary may not consider convictions for:

- (1) Offenses that occurred three years prior to the effective date of this Article; or
- (2) Offenses that occurred more than three years prior to the time of the latest offense the conviction for which is in issue as a subsequent conviction."

SECTION 3. Section 2 of this act becomes effective October 1, 2012. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of July, 2010.

Became law upon approval of the Governor at 1:57 p.m. on the 22nd day of July, 2010.

Session Law 2010-146

H.B. 617

AN ACT TO ALLOW ALL-TERRAIN VEHICLES TO BE USED BY DISABLED SPORTSMEN TO CROSS PUBLIC ROADWAYS.

The General Assembly of North Carolina enacts:

SECTION 1. Part 10C of Article 3 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-171.26. Motorized all-terrain vehicle use by disabled sportsmen.

(a) Persons qualified under the Disabled Sportsmen Program, pursuant to G.S. 113-296, are authorized to transverse public roadways using an all-terrain vehicle while engaging in licensed hunting or fishing activities. Use of the all-terrain vehicle shall be limited to driving across the roadway, in a perpendicular fashion, without travel in either direction along the roadway.

(b) This Part and all other State laws governing the operation of all-terrain vehicles apply to the operation of all-terrain vehicles authorized by this section.

(c) An all-terrain vehicle operated pursuant to this section shall be equipped with operable front and rear lights and a horn.

(d) A person operating an all-terrain vehicle pursuant to this section shall observe posted speed limits and shall not exceed the manufacturer's recommended speed for the vehicle.

(e) A person operating an all-terrain vehicle pursuant to this section shall carry evidence of membership in the Disabled Sportsmen Program and the appropriate license to engage in the hunting or fishing activity."

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

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Became law upon approval of the Governor at 2:01 p.m. on the 22nd day of July, 2010.

Session Law 2010-147

H.B. 1973

AN ACT TO MODIFY EXISTING ECONOMIC DEVELOPMENT INCENTIVES AND TO INCENT NEW ECONOMIC DEVELOPMENT OPPORTUNITIES; TO PROVIDE FUNDING FOR THE DNA DATABASE AND DATABANK; AND TO ENCOURAGE THE USE OF MULTIPLE AWARD SCHEDULE CONTRACTS WHEN ISSUING REQUESTS FOR PROPOSALS FOR STATE CONTRACTS.

The General Assembly of North Carolina enacts:

PART I: EXTEND AND REVISE TAX CREDITS FOR GROWING BUSINESSES

SECTION 1.1. G.S. 105-129.82(a) reads as rewritten:

"(a) Sunset. – This Article is repealed effective for business activities that occur on or after January 1, ~~2011-2013.~~"

SECTION 1.2. G.S. 143B-437.010(a) reads as rewritten:

"(a) Agrarian Growth Zone Defined. – An agrarian growth zone is an area that meets all of the following conditions:

- (1) It is comprised of one or more contiguous census tracts, census block groups, or both, in the most recent federal decennial census.
- (2) All of the area is located in whole within a county that has no municipality with a population in excess of 10,000.
- (3) Every census tract and census block group that comprises the area either has more than twenty percent (20%) of its population below the poverty level or is adjacent to another census tract or census block group in the zone that has more than twenty percent (20%) of its population below the poverty level according to the most recent federal decennial census.
- (4) The zone as a whole has more than twenty percent (20%) of its population below the poverty level according to the most recent federal decennial census."

SECTION 1.3. G.S. 105-129.81 is amended by adding a new subdivision to read:

"(9a) Environmental disqualifying event. – Any of the following occurrences:

- a. During the tax year in which the activity occurred for which a credit is being claimed, a civil penalty was assessed against the taxpayer by the Department of Environment and Natural Resources for failure to comply with an order issued by an agency of the Department to abate or remediate a violation of any program administered by the agency.
- b. During the tax year in which the activity occurred for which a credit is being claimed or in the prior two tax years, any of the following:
 1. A finding was made by the Department of Environment and Natural Resources that the taxpayer knowingly and willfully, as defined in G.S. 143-215.6B, including all limitations thereto, committed a violation of any program implemented by an agency of the Department.

2. An assessment for damages to fish or wildlife pursuant to G.S. 143-215.3(a)(7) was made against the taxpayer.
 3. A judicial order for injunctive relief was issued against the taxpayer in connection with a violation of any program implemented by an agency of the Department of Environment and Natural Resources.
- c. During the tax year in which the activity occurred for which the credit is being claimed or in the prior four tax years, a criminal penalty was imposed on the taxpayer in connection with a violation of any program implemented by an agency of the Department of Environment and Natural Resources."

SECTION 1.4. G.S. 105-129.83(e) and (i) read as rewritten:

"(e) Environmental Impact. – A taxpayer is eligible for a credit allowed under this Article only if the taxpayer certifies that, at the time the taxpayer claims the credit, ~~the taxpayer has no pending administrative, civil, or criminal enforcement action based on alleged significant violations of any program implemented by an agency of the Department of Environment and Natural Resources and has had no final determination of responsibility for any significant administrative, civil, or criminal violation of any program implemented by an agency of the Department of Environment and Natural Resources within the last five years. A significant violation is a violation or alleged violation that does not satisfy any of the conditions of G.S. 143-215.6B(d). The Secretary of Environment and Natural Resources shall notify the Department of Revenue annually of every person that currently has any of these pending actions and every person that has had any of these final determinations within the last five years.~~there has not been a final determination unfavorable to the taxpayer with respect to an environmental disqualifying event. For the purposes of this section, a 'final determination unfavorable to the taxpayer' occurs when there is no further opportunity for the taxpayer to seek administrative or judicial appeal, review, certiorari, or rehearing of the environmental disqualifying event and the disqualifying event has not been reversed or withdrawn. No later than January 31 of each year, the Secretary of Environment and Natural Resources shall provide an annual report to the Department listing all environmental disqualifying events for which a final determination unfavorable to the taxpayer was made in the prior calendar year and shall provide the name of the taxpayer involved and the date that the disqualifying event occurred.

...

(i) Forfeiture. – A taxpayer forfeits a credit allowed under this Article if the taxpayer was not eligible for the credit for the calendar year in which the taxpayer engaged in the activity for which the credit was claimed. A taxpayer forfeits a credit previously allowed under this Article if a final determination unfavorable to the taxpayer with respect to an environmental disqualifying event is made that is applicable to the year in which the activity occurred for which the credit was claimed. In addition, a taxpayer forfeits a credit for investment in real property under G.S. 105-129.89 if the taxpayer fails to timely create the number of required new jobs or to timely make the required level of investment under G.S. 105-129.89(b). A taxpayer that forfeits a credit under this Article is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.21, computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236."

SECTION 1.5. G.S. 143B-437.02(g) reads as rewritten:

"(g) Environmental Impact. – A business is eligible for consideration for site development under this part only if the business certifies that, at the time of the application, the business ~~has no pending administrative, civil, or criminal enforcement action based on alleged significant violations of any program implemented by an agency of the Department of~~

~~Environment and Natural Resources, and has had no final determination of responsibility for any significant administrative, civil, or criminal violation of any program implemented by an agency of the Department of Environment and Natural Resources within the last five years. A significant violation is a violation or alleged violation that does not satisfy any of the conditions of G.S. 143-215.6B(d). The Secretary of Environment and Natural Resources must notify the Department of Commerce annually of every person that currently has any of these pending actions and every person that has had any of these final determinations within the last five years.~~ satisfies the environmental impact standard under G.S. 105-129.83."

SECTION 1.6. G.S. 143B-437.012(h) reads as rewritten:

"(h) Environmental Impact. – A business is eligible for consideration for a grant under this section only if the business ~~has no pending administrative, civil, or criminal enforcement action based on alleged significant violations of any program implemented by an agency of the Department of Environment and Natural Resources and has had no final determination of responsibility for any significant administrative, civil, or criminal violation of any program implemented by an agency of the Department of Environment and Natural Resources within the last three years with respect to the location for which the grant is made. For the purposes of this subsection, a significant violation is a violation or alleged violation that does not satisfy any of the conditions of G.S. 143-215.6B(d).~~ certifies that, at the time of the application, the business satisfies the environmental impact standard under G.S. 105-129.83."

SECTION 1.7. Sections 1.3 and 1.4 of this Part are effective for credits claimed for taxable years beginning on or after January 1, 2007. Sections 1.5 and 1.6 of this Part are effective when they become law and apply to all agreements in effect on or entered into on or after that date.

PART II: EXPAND TAX CREDITS FOR PRODUCTION COMPANIES

SECTION 2.1. G.S. 105-130.47 reads as rewritten:

"§ **105-130.47. Credit for qualifying expenses of a production company.**

(a) Definitions. – The following definitions apply in this section:

- (1) Highly compensated individual. – An individual who directly or indirectly receives compensation in excess of one million dollars (\$1,000,000) for personal services with respect to a single production. An individual receives compensation indirectly when a production company pays a personal service company or an employee leasing company that pays the individual.
- (2) Live sporting event. – A scheduled sporting competition, game, or race that is not originated by a production company, but originated solely by an amateur, collegiate, or professional organization, institution, or association for live or tape-delayed television or satellite broadcast. A live sporting event does not include commercial advertising, an episodic television series, a television pilot, a music video, a motion picture, or a documentary production in which sporting events are presented through archived historical footage or similar footage taken at least 30 days before it is used.
- (3) Production company. – Defined in G.S. 105-164.3.
- (4) Qualifying expenses. – The sum of the following amounts spent in this State by a production company in connection with a production, less the amount in excess of one million dollars (\$1,000,000) paid to a highly compensated individual:
 - a. Goods and services leased or purchased. For goods with a purchase price of twenty-five thousand dollars (\$25,000) or more, the amount included in qualifying expenses is the purchase price less the fair market value of the good at the time the production is completed.

- b. Compensation and wages on which withholding payments are remitted to the Department of Revenue under Article 4A of this Chapter.
- c. The cost of production-related insurance coverage obtained on the production. Expenses for insurance coverage purchased from a related member are not qualifying expenses.
- d. Employee fringe contributions, including health, pension, and welfare contributions.
- e. Per diems, stipends, and living allowances paid for work being performed in this State.

(5) Related member. – Defined in G.S. 105-130.7A.

(b) Credit. – A taxpayer that is a production company and has qualifying expenses of at least two hundred fifty thousand dollars (\$250,000) with respect to a production is allowed a credit against the taxes imposed by this Part equal to ~~fifteen percent (15%)~~ twenty-five percent (25%) of the production company's qualifying expenses. For the purposes of this section, in the case of an episodic television series, an entire season of episodes is one production. The credit is computed based on all of the taxpayer's qualifying expenses incurred with respect to the production, not just the qualifying expenses incurred during the taxable year.

~~(b1) Alternative Credit. – In lieu of the credit allowed under subsection (b) of this section, a taxpayer that is a production company and has qualifying expenses of at least two hundred fifty thousand dollars (\$250,000) with respect to a production may elect to take a credit against the taxes imposed by this Part equal to twenty five percent (25%) of the production company's qualifying expenses less the difference between the amount of tax paid on purchases subject to the tax under G.S. 105-187.51 and the amount of sales or use tax that would have been due had the purchases been subject to the sales or use tax at the combined general rate, as defined in G.S. 105-164.3. The credit is computed based on all of the taxpayer's qualifying expenses incurred with respect to the production, not just the qualifying expenses incurred during the taxable year. The taxpayer shall elect whether to claim the credit allowed under this subsection or the one allowed under subsection (b) of this section at the time the taxpayer files the return on which the credit is claimed. This election is binding.~~

(c) Pass-Through Entity. – Notwithstanding the provisions of G.S. 105-131.8 and G.S. 105-269.15, a pass-through entity that qualifies for a credit provided in this section does not distribute the credit among any of its owners. The pass-through entity is considered the taxpayer for purposes of claiming a credit allowed by this section. If a return filed by a pass-through entity indicates that the entity is paying tax on behalf of the owners of the entity, a credit allowed under this section does not affect the entity's payment of tax on behalf of its owners.

(d) Return. – A taxpayer may claim a credit allowed by this section on a return filed for the taxable year in which the production activities are completed. The return must state the name of the production, a description of the production, and a detailed accounting of the qualifying expenses with respect to which a credit is claimed. The qualifying expenses are subject to audit by the Secretary before the credit is allowed.

(e) Credit Refundable. – If a credit allowed by this section exceeds the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, the Secretary must refund the excess to the taxpayer. The refundable excess is governed by the provisions governing a refund of an overpayment by the taxpayer of the tax imposed in this Part. In computing the amount of tax against which multiple credits are allowed, nonrefundable credits are subtracted before refundable credits.

(f) Limitations. – The amount of credit allowed under this section with respect to a production that is a feature film may not exceed ~~seven-twenty million five hundred thousand dollars (\$7,500,000)~~ (\$20,000,000). No credit is allowed under this section for any production that satisfies one of the following conditions:

- (1) It is political advertising.
- (2) It is a television production of a news program or live sporting event.
- (3) It contains material that is obscene, as defined in G.S. 14-190.1.
- (4) It is a radio production.

(g) Substantiation. – A taxpayer allowed a credit under this section must maintain and make available for inspection any information or records required by the Secretary of Revenue. The taxpayer has the burden of proving eligibility for a credit and the amount of the credit. The Secretary may consult with the North Carolina Film Office of the Department of Commerce and the regional film commissions in order to determine the amount of qualifying expenses.

(h) Report. – The Department of Revenue must publish by May 1 of each year the following information, itemized by taxpayer for the 12-month period ending the preceding December 31:

- (1) The location of sites used in a production for which a credit was taken.
- (2) The qualifying expenses for which a credit was taken, classified by whether the expenses were for goods, services, or compensation paid by the production company.
- (3) The number of people employed in the State with respect to credits taken.
- (4) The total cost to the General Fund of the credits taken.

(i) Repealed by Session Laws 2006-220, s. 2, effective for taxable years beginning on or after January 1, 2007.

(j) NC Film Office. – To claim a credit under this section, a taxpayer must notify the Division of Tourism, Film, and Sports Development in the Department of Commerce of the taxpayer's intent to claim the production tax credit. The notification must include the title of the production, the name of the production company, a financial contact for the production company, the proposed dates on which the production company plans to begin filming the production, and any other information required by the Division. For productions that have production credits, a taxpayer claiming a credit under this section must acknowledge in the production credits both the North Carolina Film Office and the regional film office responsible for the geographic area in which the filming of the production occurred.

(k) Sunset. – This section is repealed for qualifying expenses occurring on or after January 1, 2014."

SECTION 2.2. G.S. 105-151.29 reads as rewritten:

"§ 105-151.29. **Credit for qualifying expenses of a production company.**

(a) Definitions. – The following definitions apply in this section:

- (1) Highly compensated individual. – An individual who directly or indirectly receives compensation in excess of one million dollars (\$1,000,000) for personal services with respect to a single production. An individual receives compensation indirectly when a production company pays a personal service company or an employee leasing company that pays the individual.
- (2) Live sporting event. – A scheduled sporting competition, game, or race that is not originated by a production company, but originated solely by an amateur, collegiate, or professional organization, institution, or association for live or tape-delayed television or satellite broadcast. A live sporting event does not include commercial advertising, an episodic television series, a television pilot, a music video, a motion picture, or a documentary production in which sporting events are presented through archived historical footage or similar footage taken at least 30 days before it is used.
- (3) Production company. – Defined in G.S. 105-164.3.
- (4) Qualifying expenses. – The sum of the following amounts spent in this State by a production company in connection with a production, less the amount paid in excess of one million dollars (\$1,000,000) to a highly compensated individual:

- a. Goods and services leased or purchased. For goods with a purchase price of twenty-five thousand dollars (\$25,000) or more, the amount included in qualifying expenses is the purchase price less the fair market value of the good at the time the production is completed.
- b. Compensation and wages on which withholding payments are remitted to the Department of Revenue under Article 4A of this Chapter.
- c. The cost of production-related insurance coverage obtained on the production. Expenses for insurance coverage purchased from a related member are not qualifying expenses.
- d. Employee fringe contributions, including health, pension, and welfare contributions.
- e. Per diems, stipends, and living allowances paid for work being performed in this State.

(5) Related member. – Defined in G.S. 105-130.7A.

(b) Credit. – A taxpayer that is a production company and has qualifying expenses of at least two hundred fifty thousand dollars (\$250,000) with respect to a production is allowed a credit against the taxes imposed by this Part equal to ~~fifteen percent (15%)~~ twenty-five percent (25%) of the production company's qualifying expenses. For the purposes of this section, in the case of an episodic television series, an entire season of episodes is one production. The credit is computed based on all of the taxpayer's qualifying expenses incurred with respect to the production, not just the qualifying expenses incurred during the taxable year.

~~(b1) Alternative Credit. — In lieu of the credit allowed under subsection (b) of this section, a taxpayer that is a production company and has qualifying expenses of at least two hundred fifty thousand dollars (\$250,000) with respect to a production may elect to take a credit against the taxes imposed by this Part equal to twenty five percent (25%) of the production company's qualifying expenses less the difference between the amount of tax paid on purchases subject to the tax under G.S. 105-187.51 and the amount of sales or use tax that would have been due had the purchases been subject to the sales or use tax at the combined general rate, as defined in G.S. 105-164.3. The credit is computed based on all of the taxpayer's qualifying expenses incurred with respect to the production, not just the qualifying expenses incurred during the taxable year. The taxpayer shall elect whether to claim the credit allowed under this subsection or the one allowed under subsection (b) of this section at the time the taxpayer files the return on which the credit is claimed. This election is binding.~~

(c) Pass-Through Entity. – Notwithstanding the provisions of G.S. 105-131.8 and G.S. 105-269.15, a pass-through entity that qualifies for a credit provided in this section does not distribute the credit among any of its owners. The pass-through entity is considered the taxpayer for purposes of claiming a credit allowed by this section. If a return filed by a pass-through entity indicates that the entity is paying tax on behalf of the owners of the entity, a credit allowed under this section does not affect the entity's payment of tax on behalf of its owners.

(d) Return. – A taxpayer may claim a credit allowed by this section on a return filed for the taxable year in which the production activities are completed. The return must state the name of the production, a description of the production, and a detailed accounting of the qualifying expenses with respect to which a credit is claimed. The qualifying expenses are subject to audit by the Secretary before the credit is allowed.

(e) Credit Refundable. – If a credit allowed by this section exceeds the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, the Secretary must refund the excess to the taxpayer. The refundable excess is governed by the provisions governing a refund of an overpayment by the taxpayer of the tax imposed in this Part. In computing the amount of tax against which multiple credits are allowed, nonrefundable credits are subtracted before refundable credits.

(f) Limitations. – The amount of credit allowed under this section with respect to a production that is a feature film may not exceed ~~seven-twenty million five hundred thousand~~ dollars ~~(\$7,500,000).~~ ~~(\$20,000,000).~~ No credit is allowed under this section for any production that satisfies one of the following conditions:

- (1) It is political advertising.
- (2) It is a television production of a news program or live sporting event.
- (3) It contains material that is obscene, as defined in G.S. 14-190.1.
- (4) It is a radio production.

(g) Substantiation. – A taxpayer allowed a credit under this section must maintain and make available for inspection any information or records required by the Secretary of Revenue. The taxpayer has the burden of proving eligibility for a credit and the amount of the credit. The Secretary may consult with the North Carolina Film Office of the Department of Commerce and the regional film commissions in order to determine the amount of qualifying expenses.

(h) Report. – The Department of Revenue must publish by May 1 of each year the following information, itemized by taxpayer for the 12-month period ending the preceding December 31:

- (1) The location of sites used in a production for which a credit was taken.
- (2) The qualifying expenses for which a credit was taken, classified by whether the expenses were for goods, services, or compensation paid by the production company.
- (3) The number of people employed in the State with respect to credits taken.
- (4) The total cost to the General Fund of the credits taken.

(i) Repealed by Session Laws 2006-220, s. 4, effective for taxable years beginning on and after January 1, 2007.

(j) NC Film Office. – To claim a credit under this section, a taxpayer must notify the Division of Tourism, Film, and Sports Development in the Department of Commerce of the taxpayer's intent to claim the production tax credit. The notification must include the title of the production, the name of the production company, a financial contact for the production company, the proposed dates on which the production company plans to begin filming the production, and any other information required by the Division. For productions that have production credits, a taxpayer claiming a credit under this section must acknowledge in the production credits both the North Carolina Film Office and the regional film office responsible for the geographic area in which the filming of the production occurred.

(k) Sunset. – This section is repealed for qualifying expenses occurring on or after January 1, 2014."

SECTION 2.3. G.S. 105-187.51 is amended by adding a new subsection to read:

"§ 105-187.51. **Tax imposed on mill machinery.**

(a) Scope. – A privilege tax is imposed on the following persons:

- (1) A manufacturing industry or plant that purchases mill machinery or mill machinery parts or accessories for storage, use, or consumption in this State. A manufacturing industry or plant does not include the following:
 - a. ~~a~~ A delicatessen, cafe, cafeteria, restaurant, or another similar retailer that is principally engaged in the retail sale of foods prepared by it for consumption on or off its premises.
 - b. A production company.
- (2) A contractor or subcontractor that purchases mill machinery or mill machinery parts or accessories for use in the performance of a contract with a manufacturing industry or plant.
- (3) A subcontractor that purchases mill machinery or mill machinery parts or accessories for use in the performance of a contract with a general contractor that has a contract with a manufacturing industry or plant.

(b) Rate. – The tax is one percent (1%) of the sales price of the machinery, part, or accessory purchased. The maximum tax is eighty dollars (\$80.00) per article. As used in this section, the term "accessories" does not include electricity."

SECTION 2.4. This Part becomes effective January 1, 2011. Sections 2.1 and 2.2 of this Part apply to taxable years beginning on or after January 1, 2011. Section 2.3 of this Part applies to purchases and sales made on or after January 1, 2011.

PART III: TAX CREDIT FOR DEVELOPING INTERACTIVE DIGITAL MEDIA

SECTION 3.1. The title of Article 3F of Chapter 105 of the General Statutes reads as rewritten:

"Article 3F.

~~Research and Technology Development.~~"

SECTION 3.2. G.S. 105-129.50 reads as rewritten:

"§ 105-129.50. **Definitions.**

The definitions in section 41 of the Code apply in this Article. In addition, the following definitions apply in this Article:

- (1) ~~through (3)~~-Reserved.
- (2) Full-time job. – Defined in G.S. 105-129.81.
- (3) Reserved.
- (4) North Carolina university research expenses. – Any amount the taxpayer paid or incurred to a research university for qualified research performed in this State or basic research performed in this State.
- (4a) Participating community college. – A community college, as defined in G.S. 115D-2, that offers an associate in applied science degree in simulation and game development.
- (5) Period of measurement. – Defined in the Small Business Size Regulations of the federal Small Business Administration.
- (6) Qualified North Carolina research expenses. – Qualified research expenses, other than North Carolina university research expenses, for research performed in this State.
- (7) Receipts. – Defined in the Small Business Size Regulations of the federal Small Business Administration.
- (8) Related person. – Defined in G.S. 105-163.010.
- (9) Research university. – An institution of higher education that meets one or both of the following conditions:
 - a. It is classified as one of the following in the most recent edition of "A Classification of Institutions of Higher Education", the official report of The Carnegie Foundation for the Advancement of Teaching:
 1. Doctoral/Research Universities, Extensive or Intensive.
 2. Masters Colleges and Universities, I or II.
 3. Baccalaureate Colleges, Liberal Arts or General.
 - b. It is a constituent institution of The University of North Carolina.
- (10) Small business. – A business whose annual receipts, combined with the annual receipts of all related persons, for the applicable period of measurement did not exceed one million dollars (\$1,000,000)."

SECTION 3.3. G.S. 105-129.51 reads as rewritten:

"§ 105-129.51. ~~Administration;~~ Taxpayer standards and sunset.

(a) A taxpayer is eligible for ~~the a~~ credit allowed in this Article if it satisfies the requirements of G.S. 105-129.83(c), (d), (e), ~~and (f)(f), and (g)~~ relating to wage standard, health insurance, environmental impact, ~~and~~ safety and health programs, and overdue tax debts, respectively.

(b) This Article is repealed for taxable years beginning on or after January 1, 2014.

(c) Repealed by Session Laws 2004-124, s. 32D.4, effective for taxable years beginning on or after January 1, 2006."

SECTION 3.4. G.S. 150-129.52 reads as rewritten:

"§ **105-129.52. Tax election; cap.**

(a) Tax Election. – ~~The A~~ credit allowed in this Article is allowed against the franchise tax levied in Article 3 of this Chapter or the income taxes levied in Article 4 of this Chapter. The taxpayer must elect the tax against which a credit will be claimed when filing the return on which the credit is first claimed. This election is binding. Any carryforwards of a credit must be claimed against the same tax.

(b) Cap. – A credit allowed in this Article may not exceed fifty percent (50%) of the amount of tax against which it is claimed for the taxable year, reduced by the sum of all other credits allowed against that tax, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of credit, including carryforwards, claimed by the taxpayer under this Article against each tax for the taxable year. Any unused portion of a credit allowed in this Article may be carried forward for the succeeding 15 years."

SECTION 3.5. G.S. 105-129.54, as amended by Section 1.7 of Senate Bill 1215 of the 2010 Session of the 2009 General Assembly, reads as rewritten:

"§ **105-129.54. Report.**

The Department must include in the economic incentives report required by G.S. 105-256 the following information itemized by credit and by taxpayer:

- (1) The number of taxpayers that took a credit allowed in this Article, Article. The credit allowed under G.S. 105-129.55 must be itemized by the categories of small business, low-tier, ~~other, and university research.~~ university research, Eco-Industrial Park, and other. The credit allowed under G.S. 105-129.56 must be itemized by the categories of higher education collaboration and other.
- (2) The amount of each credit taken in each category.
- (3) The total cost to the General Fund of the credits taken."

SECTION 3.6. Article 3F of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ **105-129.56. Interactive digital media.**

(a) IDM Defined. – Interactive digital media is a product that meets all of the following requirements:

- (1) It is produced for distribution on electronic media, including distribution by file download over the Internet.
- (2) It contains a computer-controlled virtual universe with which an individual who uses the program may interact in order to achieve a goal.
- (3) It contains a significant amount of at least three of the following five types of data: animated images, fixed images, sound, text, and 3D geometry.

(b) Credit. – A taxpayer that develops in this State interactive digital media or a digital platform or engine for use in interactive digital media is allowed a credit equal to a percentage of the taxpayer's expenses that exceed fifty thousand dollars (\$50,000) and that are paid during the taxable year in developing the media, platform, or engine. The percentage that applies to the expenses is determined under subsection (c) of this section. The expenses to which the credit applies are as follows:

- (1) Compensation and wages for a full-time job on which withholding payments are remitted to the Department under Article 4A of this Chapter.
- (2) Employee fringe contributions on compensation and wages included under subdivision (1) of this subsection, including health, pension, and welfare contributions.
- (3) Amounts paid to a participating community college or a research university for services performed in this State.

- (c) Percentage. – The percentage of the credit allowed under this section is as follows:
- (1) Higher education collaboration. – Twenty percent (20%) for allowable expenses paid to a participating community college or a research university.
 - (2) Other. – Fifteen percent (15%) for allowable expenses not covered in subdivision (1) of this subsection.
- (d) Limitations. – The amount of credit allowed a taxpayer under this section may not exceed seven million five hundred thousand dollars (\$7,500,000). The credit allowed by this section does not apply to interactive digital media that meets any of the following descriptions:
- (1) It is developed by the taxpayer for internal use.
 - (2) It is an interpersonal communications service, such as videoconferencing, wireless telecommunications, a text-based channel, or a chat room.
 - (3) It is an Internet site that is primarily static and primarily designed to provide information about one or more persons, businesses, companies, or firms.
 - (4) It is a gambling or casino game.
 - (5) It is political advertising.
 - (6) It contains material that is obscene, as defined in G.S. 14-190.1, or that is harmful to minors, as defined in G.S. 14-190.13.
- (e) No Double Benefit. – A taxpayer that claims a credit under this section may not claim any of the following with respect to the expenses used to determine the credit under this section:
- (1) A credit allowed under any other section of this Chapter.
 - (2) A grant from the Job Development Investment Grant Program, set out in Part 2G of Article 10 of Chapter 143B of the General Statutes.
 - (3) A grant from the One North Carolina Fund, set out in Part 2H of Article 10 of Chapter 143B of the General Statutes."

SECTION 3.7. This Part is effective for taxable years beginning on or after January 1, 2011.

PART IV: EXTEND SUNSET FOR TAX CREDIT FOR RECYCLING OYSTER SHELLS

SECTION 4.1. G.S. 105-130.48(f) reads as rewritten:

"(f) Sunset. – This section is repealed effective for taxable years beginning on or after ~~January 1, 2011.~~ January 1, 2013."

SECTION 4.2. G.S. 105-151.30(f) reads as rewritten:

"(f) Sunset. – This section is repealed effective for taxable years beginning on or after ~~January 1, 2011.~~ January 1, 2013."

SECTION 4.3. This Part is effective when it becomes law.

PART V: CREATE ECONOMIC DEVELOPMENT INCENTIVES FOR ECO-PARKS

SECTION 5.1. G.S. 143B-437.08 is amended by adding a new subsection to read:

"(j) Exception for Eco-Industrial Park. – An Eco-Industrial Park has a development tier one designation. An Eco-Industrial Park is an industrial park that the Secretary of Commerce has certified meets the following requirements:

- (1) It has at least 100 developable acres.
- (2) It is located in a county that is not required under G.S. 143-215.107A to perform motor vehicle emissions inspections.
- (3) Each building located in the industrial park is constructed in accordance with energy-efficiency and water-use standards established in G.S. 143-135.37 for construction of a major facility.

- (4) Each business located in the park is in a clean-industry sector according to the Toxic Release Inventory by the United States Environmental Protection Agency."

SECTION 5.2. G.S. 143B-437.4 reads as rewritten:

"§ 143B-437.4. **NC Green Business Fund established as a special revenue fund and grant program.**

(a) ~~Establishment.~~—Fund. — The NC Green Business Fund is established as a special revenue fund in the Department of Commerce, and the Department shall be responsible for administering the Fund.

(b) Purposes. — Moneys in the NC Green Business Fund shall be allocated pursuant to this subsection. The Department of Commerce shall make grants from the Fund to private businesses with less than 100 employees, nonprofit organizations, local governments, and State agencies to encourage the expansion of small to medium size businesses with less than 100 employees to help grow a green economy in the State. Moneys in the NC Green Business Fund shall be used for projects that will focus on the following three priority ~~areas~~areas listed in this subsection. In selecting between projects that are within a priority area, a project that is located in an Eco-Industrial Park certified under G.S. 143B-437.08 has priority over a comparable project that is not located in a certified Eco-Industrial Park. The priority areas are:

- (1) To encourage the development of the biofuels industry in the State. The Department of Commerce may make grants available to maximize development, production, distribution, retail infrastructure, and consumer purchase of biofuels in North Carolina, including grants to enhance biofuels workforce development.
- (2) To encourage the development of the green building industry in the State. The Department of Commerce may make grants available to assist in the development and growth of a market for environmentally conscious and energy efficient green building processes. Grants may support the installation, certification, or distribution of green building materials; energy audits; and marketing and sales of green building technology in North Carolina, including grants to enhance workforce development for green building processes.
- (3) To attract and leverage private-sector investments and entrepreneurial growth in environmentally conscious clean technology and renewable energy products and businesses, including grants to enhance workforce development in such businesses.

(c) Cap and Matching Funds. — The Department of Commerce may set a cap on a grant from the NC Green Business Fund and may require a private business to provide matching funds for a grant from the Fund. A grant to a project located in an Eco-Industrial Park certified under G.S. 143B-437.08 is not subject to a cap or a requirement to provide matching funds."

SECTION 5.3. G.S. 143B-437.52(b) reads as rewritten:

"(b) ~~Cap.~~—Cap and Priority. — The maximum number of grants the Committee may award in each calendar year is 25. In selecting between applicants, a project that is located in an Eco-Industrial Park certified under G.S. 143B-437.08 has priority over a comparable project that is not located in a certified Eco-Industrial Park."

SECTION 5.4. G.S. 105-129.16A(c) is amended by adding a new subdivision to read:

"(c) Ceilings. — The credit allowed by this section may not exceed the applicable ceilings provided in this subsection.

- ...
- (3) Eco-Industrial Park. — A ceiling of five million dollars (\$5,000,000) applies to each installation of renewable energy property placed in service at an Eco-Industrial Park certified under G.S. 143B-437.08 for a business purpose described in subdivision (1) of this subsection."

SECTION 5.5. G.S. 105-129.55 reads as rewritten:

"§ **105-129.55. Credit for North Carolina research and development.**

(a) ~~Qualified North Carolina Research Expenses.~~ – A taxpayer that has qualified North Carolina research expenses for the taxable year is allowed a credit equal to a percentage of the expenses, determined as provided in this ~~subsection-section~~. Only one credit is allowed under this ~~subsection-section~~ with respect to the same expenses. If more than one subdivision of this ~~subsection-section~~ applies to the same expenses, then the credit is equal to the higher percentage, not both percentages combined. If part of the taxpayer's qualified North Carolina research expenses qualifies under more than one subdivision (2) of this ~~subsection and the remainder qualifies under subdivision (3) of this subsection-section~~, the applicable percentages apply separately to each part of the expenses.

- (1) ~~Small business.~~ – If the taxpayer was a small business as of the last day of the taxable year, the applicable percentage is three and one-quarter percent (3.25%).
- (2) ~~Low-tier research.~~ – For expenses with respect to research performed in a development tier one area, the applicable percentage is three and one-quarter percent (3.25%).
- (2a) University research. – For North Carolina university research expenses, the applicable percentage is twenty percent (20%).
- (2b) Eco-Industrial Park. – For expenses with respect to research performed in an Eco-Industrial Park certified under G.S. 143B-437.08, the applicable percentage is thirty-five percent (35%).
- (3) ~~Other research.~~ – For expenses not covered under another subdivision (4) or (2) of this ~~subsection-section~~, the percentages provided in the table below apply to the taxpayer's qualified North Carolina research expenses during the taxable year at the following levels:

Expenses Over	Up To	Rate
-0-	\$50 million	1.25%
\$50 million	\$200 million	2.25%
\$200 million	–	3.25%

(b) ~~North Carolina University Research Expenses.~~ – ~~A taxpayer that has North Carolina university research expenses for the taxable year is allowed a credit equal to twenty percent (20%) of the expenses.~~"

SECTION 5.6. Sections 5.1, 5.4, and 5.5 of this Part are effective for taxable years beginning on or after January 1, 2011. The remainder of this Part is effective when it becomes law. Sections 5.2 and 5.3 of this Part apply to grant applications submitted on or after July 1, 2010.

PART VI: SALES TAX EXEMPTION FOR WOOD CHIPPER

SECTION 6.1. G.S. 105-164.13 is amended by adding a new subdivision to read:

"§ **105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

- ...
 - (4g) A wood chipper that meets all of the following requirements:
 - a. It is designed to be towed by a motor vehicle.
 - b. It is assigned a 17-digit vehicle identification number by the National Highway Transportation Safety Association.
 - c. It is sold to a person who purchases a motor vehicle in this State that is to be registered in another state and who uses the purchased motor

vehicle to tow the wood chipper to the state in which the purchased motor vehicle is to be registered.

...."

SECTION 6.2. This Part becomes effective July 1, 2009, and applies to sales made on or after that date.

PART VII: FUNDING FOR THE DNA DATABASE AND DATABANK

SECTION 7.1. If Senate Bill 1383 or House Bill 1403, 2010 Regular Session of the 2009 General Assembly, become law, then G.S. 7A-304(a) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected, except that when the judgment imposes an active prison sentence, costs shall be assessed and collected only when the judgment specifically so provides, and that no costs may be assessed when a case is dismissed.

...

(9) For the support and services of the State Bureau of Investigation DNA Database and DNA Databank, the sum of two dollars (\$2.00). This amount is annually appropriated to the Department of Justice for this purpose. Notwithstanding the provisions of subsection (e) of this section, this cost does not apply to infractions."

SECTION 7.2. Any additional costs needed for the implementation of the provisions of the DNA Database Act of 2010 as enacted by Senate Bill 1383 or House Bill 1403, 2010 Regular Session of the 2009 General Assembly, that are not specifically provided for by this Part shall be provided by the Department of Justice from other funds appropriated to the Department. The Department of Justice shall pursue and apply for funds to supplement any amounts needed to implement the provisions of the DNA Database Act of 2010 from grants, the federal government, or any other available sources.

SECTION 7.3. This Part becomes effective October 1, 2010, and applies to court costs imposed or collected on or after that date, except that in misdemeanor cases disposed of on or after that date by written appearance, waiver of trial or hearing, and plea of guilty or admission of responsibility pursuant to G.S. 7A-180(4) or G.S. 7A-273(2) in which the citation or other criminal process was issued before that date, the cost shall be the lesser of the cost specified in G.S. 7A-304(a), as amended by this Part, or the cost specified in the notice portion of the defendant's or respondent's copy of the citation or other criminal process, if any costs are specified in that notice.

PART VIII: ENCOURAGE THE USE OF MULTIPLE AWARD SCHEDULE CONTRACTS

SECTION 8.1. The General Assembly makes the following findings:

- (1) A multiple award schedule contract is one that allows multiple vendors to be awarded a State contract for goods or services by providing their total catalogue for lines of equipment and attachments to eligible purchasers, including State agencies, departments, institutions, public school districts, political subdivisions, and higher education facilities.
- (2) A multiple award schedule contract allows multiple vendors to compete and be awarded a contract based upon the value of their products or services.
- (3) A properly administered multiple award schedule contract allows the State to evaluate vendors based on a variety of factors, including discounts, total life cycle costs, service, warranty, distribution channel, and past vendor performance.

- (4) Under appropriate circumstances, multiple award schedule contracts result in competitive pricing, transparency, administrative savings, expedited procurement, and flexibility for State purchasers.

SECTION 8.2. The North Carolina Department of Administration is strongly encouraged to consider the use of multiple award schedule contracts when issuing requests for proposals for State term contracts.

SECTION 8.3. This Part is effective when it becomes law.

PART IX: EFFECTIVE DATE

SECTION 9. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of July, 2010. Became law upon approval of the Governor at 2:41 p.m. on the 22nd day of July, 2010.

Session Law 2010-148

H.B. 1035

AN ACT TO INCREASE THE PERFORMANCE AND PAYMENT BONDING REQUIREMENT FOR CONSTRUCTION PROJECT CONTRACTS AWARDED BY STATE DEPARTMENTS, STATE AGENCIES, AND THE UNIVERSITY OF NORTH CAROLINA THAT EXCEED FIVE HUNDRED THOUSAND DOLLARS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 44A-26 reads as rewritten:

"§ 44A-26. **Bonds required.**

(a) When the total amount of construction contracts awarded for any one project exceeds three hundred thousand dollars (\$300,000), a performance and payment bond as set forth in (1) and (2) is required by the contracting body from any contractor or construction manager at risk with a contract more than fifty thousand dollars ~~(\$50,000)-(\$50,000); provided that, for State departments, State agencies, and The University of North Carolina and its constituent institutions, a performance and payment bond is required in accordance with this subsection if the total amount of construction contracts awarded for any one project exceeds five hundred thousand dollars (\$500,000).~~ In the discretion of the contracting body, a performance and payment bond may be required on any construction contract as follows:

- (1) A performance bond in the amount of one hundred percent (100%) of the construction contract amount, conditioned upon the faithful performance of the contract in accordance with the plans, specifications and conditions of the contract. Such bond shall be solely for the protection of the contracting body that is constructing the project.
- (2) A payment bond in the amount of one hundred percent (100%) of the construction contract amount, conditioned upon the prompt payment for all labor or materials for which a contractor or subcontractor is liable. The payment bond shall be solely for the protection of the persons furnishing materials or performing labor for which a contractor, subcontractor, or construction manager at risk is liable.

(b) The performance bond and the payment bond shall be executed by one or more surety companies legally authorized to do business in the State of North Carolina and shall become effective upon the awarding of the construction contract."

SECTION 1.1. The Department of Administration, State Building Commission, is directed to simplify the process of prequalification for publicly funded construction projects and to report to the Joint Legislative Commission on Governmental Operations on the steps it is taking to implement this objective by December 31, 2010.

SECTION 1.2. The Department of Transportation ("DOT"), The University of North Carolina and its constituent institutions ("UNC"), and the Department of Administration ("DOA") shall monitor all projects in those agencies and institutions that are let without a performance or payment bond to determine the number of defaults on those projects, the cost to complete each defaulted project, and each project's contract price. Beginning March 1, 2011, and annually thereafter, DOT, UNC, and DOA shall report this information to the Joint Legislative Committee on Governmental Operations.

SECTION 2. This act becomes effective October 1, 2010, and applies to construction contracts awarded on or after that date.

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law upon approval of the Governor at 2:43 p.m. on the 22nd day of July, 2010.

Session Law 2010-149

H.B. 1748

AN ACT TO DIRECT THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES AND THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO: (1) CONTINUE TO WORK WITH THE NORTH CAROLINA FARM BUREAU FEDERATION, OTHER AGRICULTURAL ORGANIZATIONS, AND FARMERS IN THE STATE TO DEVELOP A PLAN TO IDENTIFY AND REPORT AGRICULTURAL WATER INFRASTRUCTURE NEEDS; (2) ENCOURAGE VOLUNTARY PRACTICES THAT CONSERVE AND PROTECT WATER RESOURCES; AND (3) DESIGN A COST-SHARE PROGRAM TO ASSIST FARMERS AND AGRICULTURAL LANDOWNERS WHO IMPLEMENT BEST MANAGEMENT PRACTICES TO CONSERVE AND PROTECT WATER RESOURCES RELATED TO AGRICULTURAL USE, AS RECOMMENDED BY THE LEGISLATIVE STUDY COMMISSION ON WATER AND WASTEWATER INFRASTRUCTURE.

Whereas, North Carolina recognizes that water is our most basic and precious natural resource; and

Whereas, North Carolina has experienced several years of extreme drought over the past decade and will likely continue to experience extreme drought in the future; and

Whereas, North Carolina should identify and promote best management practices and leadership efforts in water efficiency and water conservation; and

Whereas, agriculture is one of the largest industries in the State, with an annual economic impact of over \$70 billion each year and employing over 640,000 people; and

Whereas, agriculture suffers acutely from the effects of water scarcity and drought, while at the same time playing an important role in the sustainable management of available water resources; and

Whereas, farmers and agricultural landowners can play an important role in helping to protect current and future water resources; and

Whereas, the United States Environmental Protection Agency conducts an assessment of the national public water system capital improvement needs every four years as part of its Drinking Water Infrastructure Needs Survey and Assessment, but this survey does not consider agricultural water infrastructure needs; and

Whereas, the Department of Agriculture and Consumer Services, in conjunction with the Division of Soil and Water Conservation of the Department of Environment and Natural Resources, the North Carolina Farm Bureau Federation, other agricultural organizations, and farmers are currently in the process of developing a strategic plan for protecting agricultural water resources; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Agriculture and Consumer Services and the Division of Soil and Water Conservation of the Department of Environment and Natural

Resources shall continue to work with the North Carolina Farm Bureau Federation, other agricultural organizations, and farmers to develop a plan that will identify agricultural water infrastructure needs that are not accounted for in the surveys of water infrastructure needs conducted by the United States Environmental Protection Agency. The plan shall include the following:

- (1) A mechanism for reporting the results of the data gathered to the General Assembly in a manner that is helpful in assessing legislative and budgetary issues that the General Assembly may need to address.
- (2) Methods to identify current and future agricultural water-use needs and methods to ensure that those needs are met.
- (3) Methods to identify best management practices for water conservation and water efficiency by agricultural water users in the State.
- (4) A schedule to update the plan on a regular basis.

SECTION 2. The Department of Agriculture and Consumer Services and the Department of Environment and Natural Resources shall work with farmers and agricultural landowners to encourage voluntary practices that conserve water, increase the efficiency of private water use, and increase the water storage capacity of agricultural lands. The Department of Agriculture and Consumer Services and the Department of Environment and Natural Resources shall jointly design a cost-share program to provide technical and financial support to farmers and agricultural landowners who want to implement best management practices to protect water resources related to agricultural use.

SECTION 3. The Department of Agriculture and Consumer Services and the Department of Environment and Natural Resources shall report to the Legislative Study Commission on Water and Wastewater Infrastructure by November 1, 2010, on the development of the plan to identify agricultural water infrastructure needs, the identification of best management practices for water conservation and water efficiency by agricultural water users in the State, and the design of the cost-share program. The report shall include the estimated costs of implementing the plan and cost-share program, the proposed methodology and time frame for implementing the plan and cost-share program, possible sources of funding for the cost-share program, and any legislative changes needed to implement the plan and cost-share program.

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

In the General Assembly read three times and ratified this the 1st day of July, 2010.

Became law upon approval of the Governor at 2:53 p.m. on the 22nd day of July, 2010.

Session Law 2010-150

H.B. 1747

AN ACT TO REQUIRE A LOCAL GOVERNMENT THAT PROVIDES PUBLIC WATER SERVICE OR A COMMUNITY WATER SYSTEM TO REVISE ITS LOCAL WATER SUPPLY PLAN TO ADDRESS FORESEEABLE FUTURE WATER NEEDS WHEN EIGHTY PERCENT OF THE WATER SYSTEM'S AVAILABLE WATER SUPPLY HAS BEEN ALLOCATED OR WHEN SEASONAL DEMAND EXCEEDS NINETY PERCENT, AS RECOMMENDED BY THE LEGISLATIVE STUDY COMMISSION ON WATER AND WASTEWATER INFRASTRUCTURE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-355(l) reads as rewritten:

"(l) Local Water Supply Plans. – Each unit of local government that provides public water service or that plans to provide public water service and each large community water system shall, either individually or together with other units of local government and large community water systems, prepare a local water supply plan and submit it to the Department for approval. The Department shall provide technical assistance with the preparation of plans to

units of local government and large community water systems upon request and to the extent that the Department has resources available to provide assistance. At a minimum, each unit of local government and large community water system shall include in local water supply plans all information that is readily available to it. Plans shall include present and projected population, industrial development, and water use within the service area; present and future water supplies; an estimate of the technical assistance that may be needed at the local level to address projected water needs; current and future water conservation and water reuse programs; a description of how the local government or large community water system will respond to drought and other water shortage emergencies and continue to meet essential public water supply needs during the emergency; and any other related information as the Department may require in the preparation of a State water supply plan. A unit of local government or large community water system shall submit a revised plan that specifies how the water system intends to address foreseeable future water needs when eighty percent (80%) of the water system's available water supply based on calendar year average daily demand has been allocated to current or prospective water users or the seasonal demand exceeds ninety percent (90%). Local plans shall be revised to reflect changes in relevant data and projections at least once each five years unless the Department requests more frequent revisions. The revised plan shall include the current and anticipated reliance by the local government unit or large community water system on surface water transfers as defined by G.S. 143-215.22G. Local plans and revised plans shall be submitted to the Department once they have been approved by each unit of local government and large community water system that participated in the preparation of the plan."

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

In the General Assembly read three times and ratified this the 1st day of July, 2010.

Became law upon approval of the Governor at 2:54 p.m. on the 22nd day of July, 2010.

Session Law 2010-151

H.B. 1744

AN ACT TO MODIFY THE COMMON CRITERIA APPLICABLE TO LOANS AND GRANTS FOR WATER AND WASTEWATER INFRASTRUCTURE PROJECTS TO: (1) CLARIFY THAT LEAKING WATERLINES ARE A PRIORITY FOR BOTH WATER QUANTITY AND WATER QUALITY PURPOSES; (2) INCLUDE ASSET MANAGEMENT PLANNING, REGIONALIZATION, STATE WATER SUPPLY PLANNING, AND DROUGHT MANAGEMENT IN THE LIST OF COMMON CRITERIA THAT RECEIVE PRIORITY FOR FUNDING; (3) ESTABLISH A SLIDING SCALE SYSTEM FOR DETERMINING THE PRIORITY GIVEN TO PROJECTS THAT EXCEED THE HIGH-UNIT-COST THRESHOLD; AND (4) PROVIDE THAT A PROJECT THAT DEMONSTRATES IT IS NOT FEASIBLE TO REGIONALIZE SHALL BE GIVEN THE SAME PRIORITY AS A PROJECT THAT INCLUDES REGIONALIZATION, AS RECOMMENDED BY THE LEGISLATIVE STUDY COMMISSION ON WATER AND WASTEWATER INFRASTRUCTURE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 159G-20 is amended by adding a new subdivision to read:

"(28) Asset management plan. – The strategic and systematic application of management practices applied to the infrastructure assets of a local government unit in order to minimize the total costs of acquiring, operating, maintaining, improving, and replacing the assets while at the same time maximizing the efficiency, reliability, and value of the assets."

SECTION 2. G.S. 159G-23 reads as rewritten:

"§ 159G-23. Common criteria for loan or grant from Wastewater Reserve or Drinking Water Reserve.

The criteria in this section apply to a loan or grant from the Wastewater Reserve or the Drinking Water Reserve. The Division of Water Quality and the Division of Environmental Health must each establish a system of assigning points to applications based on the following criteria:

- (1) Public necessity. – An applicant must explain how the project promotes public health and protects the environment. A project that improves a system that is not in compliance with permit requirements or is under orders from the Department, enables a moratorium to be lifted, or replaces failing septic tanks with a wastewater collection system has priority.
- (2) Effect on impaired waters. – A project that improves designated impaired waters of the State has priority.
- (3) Efficiency. – A project that achieves efficiencies in meeting the State's water infrastructure needs or reduces vulnerability to drought consistent with Part 2A of Article 21 and Article 38 of Chapter 143 of the General Statutes by one of the following methods has priority:
 - a. The combination of two or more wastewater or public water systems into a regional wastewater or public water system by merger, consolidation, or another means.
 - b. Conservation or reuse of water, including bulk water reuse facilities and waterlines to supply reuse water for irrigation and other approved uses.
 - c. Construction of an interconnection between water systems intended for use in drought or other water shortage emergency.
 - d. Repair or replacement of leaking ~~waterlines~~waterlines to improve water conservation and efficiency or to prevent contamination.
 - e. Replacement of meters and installation of new metering systems.
- (4) Comprehensive land-use plan. – A project that is located in a city or county that has adopted or has taken significant steps to adopt a comprehensive land-use plan under Article 18 of Chapter 153A of the General Statutes or Article 19 of Chapter 160A of the General Statutes has priority over a project located in a city or county that has not adopted a plan or has not taken steps to do so. The existence of a plan has more priority than steps taken to adopt a plan, such as adoption of a zoning ordinance. A plan that exceeds the minimum State standards for protection of water resources has more priority than one that does not. A project is considered to be located in a city or county if it is located in whole or in part in that unit. A land-use plan is not considered a comprehensive land-use plan unless it has provisions that protect existing water uses and ensure compliance with water quality standards and classifications in all waters of the State affected by the plan.
- (5) Flood hazard ordinance. – A project that is located in a city or county that has adopted a flood hazard prevention ordinance under G.S. 143-215.54A has priority over a project located in a city or county that has not adopted an ordinance. A plan that exceeds the minimum standards under G.S. 143-215.54A for a flood hazard prevention ordinance has more priority than one that does not. A project is considered to be located in a city or county if it is located in whole or in part in that unit. If no part of the service area of a project is located within the 100-year floodplain, the project has the same priority under this subdivision as if it were located in a city or county that has adopted a flood hazard prevention ordinance. The most recent maps

- prepared pursuant to the National Flood Insurance Program or approved by the Department determine whether an area is within the 100-year floodplain.
- (6) Sound management. – A project submitted by a local government unit that has demonstrated a willingness and ability to meet its responsibilities through sound fiscal policies and efficient operation and management has priority.
- (6a) Asset management plan. – A project submitted by a local government unit with more than 1,000 service connections that has developed and is implementing an asset management plan has priority over a project submitted by a local government unit with more than 1,000 service connections that has not developed or is not implementing an asset management plan.
- (7) Capital improvement plan. – A project that implements the applicant's capital improvement plan for the wastewater system or public water system it manages has priority over a project that does not implement a capital improvement plan. To receive priority, a capital improvement plan must set out the applicant's expected water infrastructure needs for at least 10 years.
- (8) Coastal habitat protection. – A project that implements a recommendation of a Coastal Habitat Protection Plan adopted by the Environmental Management Commission, the Coastal Resources Commission, and the Marine Fisheries Commission pursuant to G.S. 143B-279.8 has priority over other projects that affect counties subject to that Plan.
- (9) High-unit-cost threshold. – A high-unit-cost project has priority over projects that are not high-unit-cost projects. The priority given to a high-unit-cost project shall be set using a sliding scale based on the amount by which the applicant exceeds the high-unit-cost threshold.
- (10) Regionalization. – A project to provide for the planning of regional public water and wastewater systems, to provide for the orderly coordination of local actions relating to public water and wastewater systems, or to help realize economies of scale in regional public water and wastewater systems through consolidation, management, merger, or interconnection of public water and wastewater systems has priority. If an applicant demonstrates that it is not feasible for the project to include regionalization, the funding agency shall assign the project the same priority as a project that includes regionalization.
- (11) State water supply plan. – A project that addresses a potential conflict between local plans or implements a measure in which local water supply plans could be better coordinated, as identified in the State water supply plan pursuant to G.S. 143-355(m), has priority.
- (12) Water conservation measures for drought. – A project that includes adoption of water conservation measures by a local government unit that are more stringent than the minimum water conservation measures required pursuant to G.S. 143-355.2 has priority."

SECTION 3. This act becomes effective July 1, 2010, and applies to applications for loans and grants submitted on or after that date.

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Became law upon approval of the Governor at 3:00 p.m. on the 22nd day of July, 2010.

Session Law 2010-152

S.B. 900

AN ACT TO PROVIDE FOR STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION, STATUTORY OVERSIGHT COMMITTEES AND COMMISSIONS, AND OTHER AGENCIES, COMMITTEES, AND COMMISSIONS.

The General Assembly of North Carolina enacts:

PART I. TITLE

SECTION 1. This act may be known as "The Studies Act of 2010."

PART II. LEGISLATIVE RESEARCH COMMISSION

SECTION 2.1. The Legislative Research Commission may study the topics listed below. When applicable, the bill or resolution that originally proposed the issue or study and the name of the sponsor are listed. Unless otherwise specified, the listed bill or resolution refers to the measure introduced in the 2009 or 2010 session of the 2009 General Assembly. The Commission may consider the original bill or resolution in determining the nature, scope, and aspects of the study

SECTION 2.2. Allowing State Personnel Commission to Transfer Annual and Sick Leave From a city or County (S.B. 1386 – East) – The Commission may study the issue of allowing the State Personnel Commission to transfer an employee's accrued annual and sick leave from a city or county, and allowing such transfers for employees shifting employment between units of local government. In conducting the study, the Commission may consider the fiscal impact of allowing the transfers, including any impact on the Teachers' and State Employees' Retirement System and Local Governmental Employees' Retirement System.

SECTION 2.3. Consolidation of State Agencies and Departments (S.B. 1427 – Brock) – The Commission may study issues relating to whether some State agencies and departments can be consolidated to achieve increased efficiency and cost savings.

SECTION 2.4. Flexibility for Certified Nurse Midwives (S.B. 940 – Davis) – The Commission is authorized to study whether certified nurse midwives should be given more flexibility in the practice of midwifery. In conducting the study, the Commission may consider whether a certified nurse midwife should be allowed to practice midwifery in collaboration with, rather than under the supervision of, a physician licensed to practice medicine under Article 1 of Chapter 90 of the General Statutes who is actively engaged in the practice of obstetrics.

SECTION 2.5. Televising House of Representatives and Senate Sessions (Stevens, McKissick) – The Commission may study the feasibility of televising all House of Representatives and Senate sessions and, in conducting the study, may appoint an advisory committee composed of members of the Legislative Services Commission, other legislators, and members of the public. The study may also include the feasibility of streaming video content over the Internet. The study may include various options for handling the project, including the UNC Center for Public Television and the Agency for Public Telecommunications. The study may examine newer technologies for more cost-efficient means of handling the broadcasts.

SECTION 2.6. Reserved.

SECTION 2.7. Reserved.

SECTION 2.8. Efficient E-Commerce in State Government (S.B. 1425 – Brock) – The Commission may:

- (1) Review the current payments and collections made by the State that have the greatest potential to benefit from increased automation.
- (2) Examine best practices in the use of electronic funds transfers and direct depositing for State government financial transactions.

- (3) Identify goals and objectives for a coordinated State program to make State government e-commerce more effective and cost-efficient through paperwork reduction and lower transaction and personnel costs.
- (4) Consider any other matters related to improving State government e-commerce and lower the cost of financial transactions.

SECTION 2.9. Fur-Bearer and Fox Management (Faison) – The Commission may study the effectiveness of the North Carolina Wildlife Resources Commission's implementation of G.S. 113-291.4(e). The Commission may solicit input from interested parties, including hunters, trappers, public health authorities, local governments, the North Carolina Department of Agriculture and Consumer Services, and private landowners.

SECTION 2.10. Pre-Eschat Procedures (Stein) – The Commission may study the need for statutory changes to the law governing location of the legitimate owner of unclaimed property prior to the assumption of the abandonment of the property by the State Treasurer, and to permit a person holding unclaimed property to recover a reasonable charge for complying with the good faith effort requirement of G.S. 116B-59.

SECTION 2.11. Changing Demographics in the State Community College and University Systems (S.B. 1457 – Allran) – The Commission may study issues relating to the changing demographics in the State's community college and university systems. The Commission may consider how, over the last decade, the populations attending the State's community colleges and universities have changed with regard to all of the following:

- (1) Age.
- (2) Reasons for attendance.
- (3) Students enrolling who have prior educational experience.
- (4) Students enrolling through college transfer programs from community colleges.
- (5) Any other issue the Commission deems relevant to the study.

SECTION 2.12. Ownerless Dogs and Cats, Commercial Dog Breeding (S.B. 1332 – McKissick, Jones; S.B. 460 – Davis; H.B. 208 – Harrison, Wray, Cotham, Carney) – The Commission may study issues related to ownerless dogs and cats, and the State's role in ensuring the humane treatment of dogs and cats by breeders, shelters, and other facilities that house dogs and cats.

SECTION 2.13. Use of Military Veteran Contractors (H.B. 912 – Killian) – The Commission may study methods to encourage State and local government to use military veteran contractors.

SECTION 2.14. Requiring Long-Term Care Facilities to Carry Liability Insurance (H.J.R. 1768 – Harrison, Insko, Jeffus) – The Commission may study whether long-term care facilities should be required to carry liability insurance. In conducting the study, the Commission should consider:

- (1) Whether the laws of this State adequately protect the ability of residents of long-term care facilities who are harmed by a wrongful act of the facility from receiving just compensation because of bankruptcy or other actions by the facility's owners to unjustly shield personal or business assets.
- (2) Whether as a condition of licensure, long-term care facilities should carry liability insurance.
- (3) Whether other states require long-term care facilities to carry liability insurance as a requirement for licensure.

SECTION 2.15. Insurance Coverage Options for Fresh Produce Growers (Wray) – The Commission may study the issue of adequate insurance coverage options for fresh produce growers.

SECTION 2.16. Use of "Most Favored Nation" Clauses (H.B. 2004 – Insko) – The Committee may study the use of "Most Favored Nation" (MFN) clauses in contracts. In conducting the study, the Committee should consider:

- (1) The extent to which MFN clauses are included in contracts in our State, and in the nation as a whole.
- (2) The most common forms and elements of MFN clauses included in contracts.
- (3) The effect of inclusion of MFN clauses in contracts.
- (4) The effect that prohibiting the use of MFN clauses in contracts has had in those states that have prohibited their use.
- (5) Any other issue relating to the use or prohibition of MFN clauses in contracts that the Committee deems appropriate.

SECTION 2.17. Regulation of Beauty Pageants for Youth Under Thirteen Years of Age (H.B. 1348 – Mobley) – The Commission may study the regulation of beauty pageants for youth under 13 years of age in North Carolina.

SECTION 2.18. State Boards and Commissions – The Commission may study consolidation or elimination of State Boards and Commissions.

SECTION 2.19. Supportive Housing Initiative (Insko) – The Commission may study the feasibility and cost-effectiveness of establishing a statewide supportive housing initiative for individuals with mental health, developmental, or substance abuse disabilities. The study should examine whether this type of initiative could achieve each of the following goals with respect to this population:

- (1) Fewer emergency room visits and hospital admissions.
- (2) Fewer and shorter stays in psychiatric hospitals.
- (3) Improved treatment outcomes and overall quality of life.
- (4) Improved levels of functioning within the community setting.
- (5) Expanded funding resources for necessary and appropriate treatment, through Medicaid and other available sources.
- (6) Decreased arrest, incarceration, and recidivism rates.
- (7) Decreased rates of homelessness.
- (8) Improved safety within the community setting for both clients and the public.
- (9) Decreased rates of unemployment and improved supports for maintaining employment consistent with individual preferences and skills.

The Commission should address all of the following in its findings and recommendations:

- (1) A recommendation as to whether and how a statewide supportive housing initiative could achieve each of the goals referenced in subdivisions (1) through (9) above.
- (2) The number of supportive housing units that would be necessary for successful implementation of a statewide supportive housing initiative in North Carolina.
- (3) The amount of capital investment that would be necessary for initiating and maintaining a statewide supportive housing initiative.
- (4) Different funding resources that could be used to pay for ongoing operational costs of a statewide supportive housing initiative.
- (5) The potential cost-savings to be achieved by the State through implementation of a statewide supportive housing initiative.

SECTION 2.20. Broadband-Smart Grid (S.B.1440 – Queen) – The Commission may study public and private telecommunications issues, including the following:

- (1) Issues relating to the interoperability of telecommunications and smart grid applications in homes and businesses and the relationship of such interoperability to the North Carolina economy and its potential advantages and savings to the people and enterprises of the State.
- (2) Incentives and other funding mechanisms to advance the use of smart meters as well as last mile broadband deployment and their relationship to other

- software and manufactured devices that will allow North Carolinians to manage their energy usage more efficiently.
- (3) The economic impact on North Carolina should the intersection of energy and broadband initiatives in homes and businesses result in a new major and innovative economic thrust to advance the State's competition in the global economy.
 - (4) State building design standards relative to smart grid and broadband deployments.
 - (5) The use of teleconferencing and telehealth by educational and health-related institutions and the feasibility of using those technologies to reduce energy costs related to travel and operations.
 - (6) State policies that inhibit smart grid advances at the transmission level and programs that could increase the use of distributed energy devices from smart appliances, electric vehicles, alternative energy, and other relevant devices.
 - (7) The intersection of smart grid and telecommunications advanced applications and devices.
 - (8) Any other matters pertaining to advancing smart grid and broadband technologies in the State.

PART III. JOINT LEGISLATIVE HEALTH CARE OVERSIGHT COMMITTEE STUDIES

SECTION 3.1. The Joint Legislative Health Care Oversight Committee may study the topics listed in this Part and report its findings, together with any recommended legislation, to the 2011 Regular Session of the General Assembly upon its convening.

SECTION 3.2. State Diabetes Coordinator (England) – The Committee may study the issue of the feasibility of establishing a State Diabetes Coordinator as a way to help address the growing epidemic of diabetes in the State. The coordinator could be charged to advise ways to save lives, improve the quality of life, and save money for taxpayers and patients by reducing the rates of diabetes and its complications.

SECTION 3.3. Review of Collaborative Project for Reducing Medical Malpractice Claims (Glazier) – The Committee may review the collaborative project for reducing medical malpractice costs and claims.

SECTION 3.4. Monitor Impact of Revised Requirements for Personal Care Services (Adams) – The Committee may study and monitor the impact that the revised eligibility requirements for Personal Care Services has on seniors and disabled citizens, including the number of persons who are refused services and the reasons therefore and the time frame between request for services and the initiation of services.

PART IV. JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE STUDIES

SECTION 4.1. The Joint Legislative Transportation Oversight Committee may study the topics listed in this Part and report its findings, together with any recommended legislation, to the 2011 Regular Session of the General Assembly upon its convening.

SECTION 4.2. Untitled Vehicles Removed and Sold for Scrap (Gibson) – The Committee, in consultation with the Division of Motor Vehicles, may study the issue of the untitled vehicles being removed and sold for scrap without sufficient notice to the owner.

SECTION 4.3. Welcome Centers and Visitor Centers (H.B. 2046 – Tucker, Cole) – The Committee, in consultation with the Department of Transportation and the Department of Commerce, may study issues related to the location, funding, construction, maintenance, and operation of visitor centers and welcome centers in the State.

SECTION 4.4. Debt Agreements (H.B. 1800 – Crawford) – The Committee, as a part of the study authorized under Section 28.7(e) of Senate Bill 897, may study the issue of the

appropriate scope of the power of the Department of Transportation to enter into debt and debt-like agreements pursuant to G.S. 136-18(39).

SECTION 4.5. Street Construction/Developer Responsibility (S.B. 761 – Brown, Cole) – The Committee may study whether to limit the responsibility of developers for the cost of street or highway construction to the amount necessary to serve the projected traffic generated by a development.

PART V. JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE STUDIES

SECTION 5.1. The Joint Legislative Education Oversight Committee may study the topics listed in this Part and report its findings, together with any recommended legislation, to the 2011 Regular Session of the General Assembly upon its convening.

SECTION 5.2. Virtual School of Engineering (Shaw) – The Committee may study the feasibility of establishing a Virtual School of Engineering. The purpose of the study is to determine the cost and feasibility of developing and maintaining a Virtual School of Engineering, including the effectiveness of linking the constituent institutions to the established UNC Schools of Engineering by offering engineering classes through satellite and online courses, whether an engineering curriculum lends itself to such a model, and any other related issues deemed relevant by the Committee.

SECTION 5.3. Graduation Disparity (S.B. 1417 – Graham) – The Committee may examine each of the following:

- (1) Minority graduation statistics.
- (2) National best practices for educating minority students.
- (3) Current statewide efforts to increase high school retention of minority students.
- (4) Teaching methodologies specifically designed for minority students.
- (5) Existing technical and career curriculum.
- (6) Innovative practices or solutions that have demonstrated success in other states.

The Committee may develop a comprehensive statewide plan and recommendations for increasing the number of minority individuals who complete high school.

SECTION 5.4. Maximum Age for Enrollment in Public Schools (H.J.R. 1948 – Fisher, Gill, Yongue, Farmer-Butterfield) – The Committee may study whether the maximum initial age for enrollment in the public schools shall be lowered from age seven to age six.

PART VI. ENVIRONMENTAL REVIEW COMMISSION STUDIES

SECTION 6.1. The Environmental Review Commission may study the topics listed in this Part and report its findings, together with any recommended legislation, to the 2011 Regular Session of the General Assembly upon its convening.

SECTION 6.2. Impact of Environmental Toxins on Human Health (S.B. 1416 – Bingham; H.B. 2015 – Harrison, Glazier, Fisher, Insko) – The Commission may study the impact of environmental toxins on human health and report its findings and recommendations, including any proposals for legislation or administrative action, to the General Assembly no later than the convening of the 2012 Session of the 2011 General Assembly. The findings and recommendations may include all of the following:

- (1) A survey of legislation in other states that ban toxins and chemicals, along with an assessment of the effectiveness of the legislation.
- (2) A survey of how other states have set up entities within state government to review and regulate toxins and chemicals that have or will be introduced into the stream of commerce.
- (3) A review of incentives proposed or enacted in other states to promote the growth of the green chemistry sector, including a special analysis of documented environmental, public health, and economic benefits, including job creation, within the states.

- (4) Identification of current State and federal programs for the review and regulation of environmental toxins and chemicals and recommend any supplementary programs the Commission determines to be necessary for the protection of human health.
- (5) A cost-benefit and economic impact analysis for any recommendation made pursuant to this act.

SECTION 6.3. Water Quality Cost Share (S.B. 1385 – McKissick) – The Commission may study the costs and benefits of improving water quality in reservoirs, rivers, and other water resources shared by local governments. In its study the Commission may consider the water quality issues for local governments located both upstream and downstream from water resources, the wastewater treatment standards that local governments both upstream and downstream must meet, the cost of complying with water quality and wastewater treatment standards, and the benefits received by local governments by complying with those standards. The Commission may also consider possible alternatives to the current rate structure, treatment programs, and technology used by the State and local governments with regard to water quality and wastewater treatment. The Commission may also consider any other issue that it deems relevant to this study.

SECTION 6.4. Oil and Gas Exploration in the Triassic Basin (Gibson, Love) – The Committee may study the issue of oil and gas exploration in the Triassic Basin.

SECTION 6.5. Issues Related to the Use and Storage of Reclaimed Water (H.B. 643 – Tucker) – The Commission, in consultation with the Department of Environment and Natural Resources, may study issues related to the use and storage of reclaimed water. In its study, the Commission may examine the following issues:

- (1) The feasibility and desirability of implementation of reclaimed water programs by municipal wastewater treatment facilities for nonconsumptive indoor use and outdoor use. The Commission may consider any of the following factors:
 - a. The implementation and efficacy of reclaimed water policies, programs, ordinances, standards, rules, and regulations established in other states, municipalities, and countries.
 - b. Minimum effluent standards for reclaimed water sufficient to address any public health, safety, or environmental risks that may be caused by use of or contact with reclaimed water.
 - c. Potential uses for reclaimed water for nonconsumptive indoor use including, but not limited to: toilet flushing, fire protection, and decorative water features.
 - d. Potential uses for reclaimed water for outdoor use including, but not limited to: commercial and residential landscaping, lawn irrigation, agricultural irrigation; wetland and stream augmentation; and planned direct or indirect potable reuse.
- (2) The feasibility and desirability of storage of reclaimed water in aquifers by municipal wastewater treatment facilities. The Commission may consider any of the following factors:
 - a. Whether the current practice of land application of wastewater by municipal wastewater treatment facilities requires too much land to be practicable in the long term.
 - b. Whether the current practice of land application of wastewater by municipal wastewater treatment facilities is better suited to certain parts of the State or to areas of certain geological or topographical conditions.
 - c. Whether there are any alternative methods of disposing of wastewater by municipal wastewater treatment system facilities and

- the costs and benefits of employing any such alternative methods either on a statewide basis or in any specific area of the State.
- (3) Whether reclaimed water can be safely stored in and recovered from aquifers. The Commission may consider any of the following factors:
 - a. The benefits and costs of using reclaimed water in aquifers for use as a barrier to saltwater intrusion.
 - b. Whether current federal or State laws, including the Underground Injection Control Program of the federal Safe Drinking Water Act and current regional or watershed-based water management strategies, apply to aquifer storage and recovery in North Carolina and are sufficient to address any public health, safety, or environmental risks that may be caused by aquifer storage and recovery.
 - c. Regulations necessary to assure the protection of public health, safety, and the environment if storage of reclaimed water in aquifers is determined to be in the best interest of the State.
 - d. Any other topics the Commission deems appropriate to assure that aquifer storage and recovery systems will not be a detriment to public health, safety, or the environment.
 - (4) Such other matters as the Commission deems appropriate in the conduct of this study.

SECTION 6.6. Reserved.

SECTION 6.7. Gas Leases in the Central Shale Belt (Gibson, Love) – The Commission may study the issue of gas leases in the central shale belt, located in the Chatham and Moore County area.

SECTION 6.8. Carbon Sequestration Potential of Natural and Working Landscapes and Other Carbon Offset Opportunities (S.B. 1220 – Stein, Albertson; H.B. 1809 – Harrison, Underhill, Wilkins) – The Commission may study the carbon sequestration potential of natural and working landscapes in the State and the feasibility and advisability of establishing a carbon offset program.

PART VII. REVENUE LAWS STUDY COMMITTEE STUDIES

SECTION 7.1. The Revenue Laws Study Committee may study the topics listed in this Part and report its findings, together with any recommended legislation, to the 2011 Regular Session of the General Assembly upon its convening.

SECTION 7.2. Reserved.

SECTION 7.3. Ticket Resale (Gibson) – The Committee may study issues related to ticket resale, including the need for consumer protections in the primary market for event ticket sales; transparency of ticket distribution by artists, promoters, and their agents; freedom of transferability for tickets purchased by consumers; and open interoperability of ticket sale and resale market systems.

SECTION 7.4. Local Cable Service Franchise Agreements (Fisher) – The Committee may study the issue of whether and to what extent cable service providers, who entered into local cable service franchise agreements with local governments, and their successors in interest, should be required to continue, maintain and operate institutional networks and electronic transmission facilities pursuant to the terms and conditions of the local franchise agreement as a condition of holding a State cable service franchise.

SECTION 7.5.(a) Local Government Owned and Operated Communication Systems – The Committee may continue its study begun in 2009 of local government owned and operated communication systems. As part of its study, the Committee should determine the following:

- (1) The extent to which current law authorizes units of local government to offer communication services not traditionally thought of as cable television services.
- (2) The requirements and standards that should apply to a unit of local government and to a private provider when the local unit offers a communication service that is offered by a private provider.
- (3) Whether varying or different provisions are needed to accommodate communication systems placed in service or financed under G.S. 160A-20 by cities before the effective date of this act.
- (4) Policies and incentives that can be established to facilitate the offering and expansion of communication service by both public and private service providers, including public-private ventures and other opportunities.

SECTION 7.5.(b) In conducting the study described in subsection (a) of this section, the Committee cochairs are authorized to appoint an advisory subcommittee and to ask the Local Government Commission to designate an individual to participate in the subcommittee's deliberations in an exofficio, nonvoting capacity. The subcommittee may consist of no more than 12 members and may include individuals who are not members of the Committee or of the General Assembly, eight of whom represent the following interests:

- (1) A cable service provider.
- (2) A wireless telecommunications service provider.
- (3) A local exchange provider that is not a wireless telecommunications service provider.
- (4) A local exchange provider that is a wireless telecommunications service provider.
- (5) A city that operates a cable system and an electric power system as a public enterprise.
- (6) A city that operates a cable system as a public enterprise and does not operate an electric power system as a public enterprise.
- (7) A city that is a member of a joint agency established under G.S. 160A-462 for the operation of a cable system as a public enterprise.
- (8) The North Carolina League of Municipalities.

PART VIII. JOINT LEGISLATIVE UTILITY REVIEW COMMITTEE STUDIES

SECTION 8.1. The Joint Legislative Utility Review Committee may study the topics listed in this Part and report its findings, together with any recommended legislation, to the 2011 Regular Session of the General Assembly upon its convening.

SECTION 8.2. Gas Leases in the Central Shale Belt (Gibson, Love) – The Committee may study the issue of gas leases in the central shale belt, located in the Chatham and Moore County area.

PART IX. JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE STUDIES

SECTION 9.1. Operation of the Child Nutrition Program (S.B. 1152 – Purcell, Dannelly, Davis, Preston, Tillman, Walters; H.B. 1777 – Yongue, Brown, Insko, Parfitt) – The Joint Legislative Program Evaluation Oversight Committee may include in the 2010 Work Plan for the Program Evaluation Division of the General Assembly a study of the operation of the Child Nutrition Program. The Division may examine (i) the guidelines for assessing indirect costs to local child nutrition programs in local school administrative units and (ii) the financial impact upon local child nutrition programs and local school administrative units of a policy prohibiting the assessment of indirect costs to a child nutrition program until that program has achieved and sustained a three-month operating balance.

SECTION 9.2. Chapter 150B Contested Cases (S.B. 1305 – Nesbitt; H.B. 1892 – Insko, Braxton, Justus) – The Joint Legislative Program Evaluation Oversight Committee may

include in the 2010 Work Plan for the Program Evaluation Division of the General Assembly a study of Chapter 150B contested cases. The Division may study the number of decisions rendered by administrative law judges that are overturned as a final agency decision. For these cases the Division may evaluate the nature of the case, the basis of the reversal, the number of cases appealed to superior court, and the results of those appeals.

PART X. JOINT LEGISLATIVE CORRECTIONS, CRIME CONTROL, AND JUVENILE JUSTICE OVERSIGHT COMMITTEE STUDIES

SECTION 10.1. The Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee may study the topics listed in this Part and report its findings, together with any recommended legislation, to the 2011 Regular Session of the General Assembly upon its convening.

SECTION 10.2. Unsecured Bonds (Love) – The Committee may study the factors used in determining the release of defendants with unsecured bonds; the frequency of using unsecured bonds for the release of defendants; the failure to appear rates under unsecured bonds, when a failure to appear has occurred; the amount of time it takes and the entity most likely to apprehend the defendant after the bond is forfeited; and the likelihood of converting forfeiture or judgment to revenue.

PART XI. JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE TO STUDY IMPACT OF EXEMPTING WILDLIFE RESOURCES COMMISSION AND MARINE FISHERIES COMMISSION FROM THE LEGISLATIVE DISAPPROVAL PROCESS

SECTION 11.1. The Joint Legislative Administrative Procedure Oversight Committee may study the impact of exempting the Wildlife Resources Commission and the Marine Fisheries Commission from the legislative disapproval process under the Administrative Procedure Act. In conducting the study, the Committee may consider the number of bills to disapprove rules adopted by either of the two Commissions that have been introduced since 2003, the effect of the delayed effective dates on the enforcement capabilities of the two Commissions, and alternatives available to the public for objecting to rules adopted by either of the two Commissions. The Joint Legislative Administrative Procedure Oversight Committee may report its findings and recommendations to the 2011 General Assembly.

PART XII. Reserved.

PART XIII. STATE BOARD OF EDUCATION TO STUDY ISSUES RELATED TO SPORTS INJURIES AT MIDDLE SCHOOL AND HIGH SCHOOL LEVELS (H.B. 1837 – Cotham, Fisher, Glazier, Rapp)

SECTION 13.1. The State Board of Education shall study issues relating to sports injuries for all sports at the middle school and high school levels, focusing on the prevention and treatment of injuries. In conducting the study, the Board should consult with school administrators, representatives of the North Carolina High School Athletic Association, high school athletic directors, middle school coaches, athletic trainers, and doctors with expertise in the area of sports medicine. All State departments and agencies and local governments and their subdivisions shall furnish the Board with any information in their possession or available to them.

SECTION 13.2. The State Board of Education shall submit a final report of the results of its study and its recommendations to the 2011 General Assembly upon its convening.

PART XIV. STATE BOARD OF EDUCATION TO ESTABLISH A BLUE RIBBON TASK FORCE TO STUDY THE IMPACTS OF RAISING THE COMPULSORY PUBLIC SCHOOL ATTENDANCE AGE (S.B. 1249 – Davis; H.B. 1879 – Parmon, Bryant, Hurley, Hall)

SECTION 14.1. The State Board of Education shall establish a Blue Ribbon Task Force to study the impacts of raising the compulsory public school attendance age prior to completion of a high school diploma from 16 to 17 or 18. In its study, the Board of Governors shall consider all of the following:

- (1) What impacts, including fiscal impacts, has raising the compulsory school attendance age had in states which have raised the compulsory school attendance age in the last 15 years.
- (2) What conclusions can be drawn as to the impact the compulsory school attendance age has made in the dropout and high school completion rates for states who require compulsory school attendance to ages 16, 17, and 18, respectively.
- (3) What best practices for working with at-risk populations of students who remain in school have been employed in states that have raised the compulsory attendance age in the last 15 years.
- (4) What would be the fiscal impact in raising the compulsory school attendance age from 16 to 17 and 16 to 18, respectively, for each local administrative school unit in North Carolina.

SECTION 14.2. No later than November 15, 2010, the State Board of Education shall submit a report of its study to the Joint Legislative Commission on Dropout Prevention and High School Graduation and the Joint Legislative Education Oversight Committee, including its findings and recommendations.

PART XV. EXECUTIVE COMMITTEE FOR HIGHWAY SAFETY IN THE DEPARTMENT OF TRANSPORTATION TO STUDY RECOMMENDATIONS FOR ADDITIONAL LEGISLATION TO ADDRESS THE CAUSES OF TEEN DRIVING FATALITIES (S.B. 900 – Rouzer)

SECTION 15. The Executive Committee for Highway Safety in the Department of Transportation shall report to the General Assembly by April 30, 2011, its recommendations for additional legislation to address the causes of teen driving fatalities.

PART XVI. NORTH CAROLINA INSTITUTE OF MEDICINE TO STUDY THE NEEDS OF YOUNG CHILDREN WITH MENTAL HEALTH PROBLEMS AND THEIR FAMILIES (S.B. 1321 – Nesbitt; H.B. 1903 – Insko)

SECTION 16.1. The North Carolina Institute of Medicine may convene a Task Force to study the needs of young children with mental health problems and their families. The Task Force shall:

- (1) Examine the current mental health needs of young children, defined as children from birth to age five.
- (2) Examine existing public and private systems of mental health care that are currently available to families of young children with mental health problems.
- (3) Identify evidence-based and promising universal, selective, and indicated prevention strategies to promote the emotional well-being of young children.
- (4) Identify strategies for early screening and identification of young children with mental health risk factors or mental health problems. The screening and identification strategies shall address the impact of parents' behavioral health problems on the mental health of their young children.
- (5) Review evidence-based and promising interventions and systems to promote the positive mental health and emotional well-being of young children and their families.
- (6) Identify strategies to ensure that children who are at high risk of developing mental health problems and their families have access to a comprehensive range of treatments and services, coordinated across agencies and service

systems that are (i) culturally, linguistically, and developmentally sensitive; (ii) individualized; (iii) family-centered; (iv) home-, school-, and community-based; and (v) evidence-based.

- (7) Examine workforce adequacy and training needs of mental health professionals and other professionals who provide services to young children and their families.
- (8) Examine the adequacy of State and other funding to support a comprehensive array of evidence-based services.
- (9) Recommend strategies to develop, evaluate, and disseminate treatment and service delivery models to meet young children's mental health needs.
- (10) Examine any other issue that the NCIOM deems relevant to the study.

SECTION 16.2. The NCIOM shall make an interim report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services no later than January 15, 2012, which may include legislative and other recommendations, and shall issue its final report with findings, recommendations, and any proposed legislation to the 2013 General Assembly upon its convening.

PART XVII. DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF MEDICAL ASSISTANCE, TO STUDY THE FEASIBILITY OF REQUIRING PROVIDERS ENROLLED IN COMMUNITY CARE OF NORTH CAROLINA TO IMPLEMENT BODY MASS INDEX SCREENING FOR CHILDREN AT RISK OF BECOMING OBESE AND WHO ARE RECEIVING MEDICAID OR PARTICIPATING IN NORTH CAROLINA HEALTH CHOICE FOR CHILDREN PROGRAM (S.B. 1286 – Purcell; H.B. 1904 – England, Hughes, Weiss, Yongue)

SECTION 17.1. The Department of Health and Human Services, Division of Medical Assistance, may explore the feasibility of requiring Community Care of North Carolina (CCNC) to implement body mass index (BMI) screening for children at risk of becoming obese and developing diabetes or other chronic diseases, who are receiving Medicaid or participating in the North Carolina Health Choice for Children Program.

SECTION 17.2. As part of its exploration into the feasibility of requiring BMI screening pursuant to Section 17.1, the Department shall work toward the development of each of the following items:

- (1) Establishing performance goals within each CCNC network that includes each of the following components:
 - a. Care management for children who are at risk of becoming obese and developing diabetes or other chronic diseases.
 - b. Annual BMI screening to identify the percentage of children who have a BMI test and the percentage of children who have a decrease in BMI levels.
- (2) Developing a uniform protocol across the CCNC network to ensure the integrity and confidentiality of information collected through BMI screening.
- (3) Implementing reliable methods of collecting data utilizing fitness assessment and reporting programs for youth that include health-related physical fitness tests to assess aerobic capacity; muscular strength, muscular endurance, and flexibility; and body composition.

SECTION 17.3. If the study is undertaken, not later than September 1, 2011, the Department shall report its findings and recommendations to the Legislative Task Force on Childhood Obesity, if reestablished for the 2011-2012 Session, to the Public Health Commission, and to the Fiscal Research Division.

PART XVIII. TASK FORCE/STUDY OF ALTERNATIVES TO HOSPITALIZATION OF FREQUENT USERS OF PSYCHIATRIC HOSPITALS IN NORTH CAROLINA

SECTION 18.1. The Department of Health and Human Services shall conduct a study and propose recommendations by January 31, 2011, regarding the cost-effectiveness of supportive housing as an alternative to institutionalization of the MH/DD/SA populations.

SECTION 18.2. The study shall be conducted by a task force appointed by the Secretary of Health and Human Services.

SECTION 18.3. The Task Force shall include the following:

- (1) Five representatives from various areas of the Department of Health and Human Services.
- (2) One representative from the Housing Trust Fund.
- (3) Six representatives from Local Management Entities.
- (4) Two representatives from the North Carolina Department of Correction.
- (5) One representative from the Division of Medical Assistance.
- (6) One representative from Community Care of North Carolina.
- (7) Two representatives from private providers of housing services for the mentally ill.
- (8) Two representatives from public housing agencies.
- (9) Two consumer representatives — a direct consumer and a family member, from a MH/DD/SA consumer/advocacy group.

SECTION 18.4. The Secretary of Health and Human Services shall appoint two cochairs of the Task Force.

SECTION 18.5. The Task Force will propose a plan focusing on the following goals:

- (1) Develop a cost-effective system of care for the MH/DD/SA population.
- (2) Decrease the need for hospital admission of target population.
- (3) Decrease the length of stay in psychiatric hospitals.
- (4) Decrease incarceration rate of the MH/DD/SA populations.
- (5) Decrease emergency room use by the MH/DD/SA populations.
- (6) Improve level of functioning of the MH/DD/SA populations.
- (7) Explore funding possibilities from Medicaid and other sources.
- (8) Decrease homelessness among the MH/DD/SA populations.
- (9) Maintain MH/DD/SA patients in community setting.
- (10) Decrease impact on law enforcement.
- (11) Make our communities safer for both consumers and others.
- (12) Reduce recidivism for the MH/DD/SA population.

SECTION 18.6. The Task Force shall:

- (1) Identify frequent users of psychiatric beds (State and community) and emergency departments.
- (2) For the above group, determine:
 - a. Their housing situation.
 - b. Incarceration history.
 - c. Recidivism rates.
 - d. Treatment offered and treatment compliance.
 - e. Other factors as determined by Task Force.
- (3) Review existing State and national initiatives in this area.
- (4) Use information from subdivisions (1) and (2) of this section to do the following:
 - a. Study current practices and issues related to placement of MH/DD/SA populations following discharge from psychiatric facilities.
 - b. Develop a business case for the development of a statewide supportive housing initiative to benefit MH/DD/SA populations.

- c. Calculate the number of supportive housing units needed in the State.
 - d. Calculate the level of capital investment needed for this multiyear initiative.
 - e. Propose different methods that could be used to pay for ongoing operational costs.
 - f. Examine the potential cost-saving attained through this strategy.
 - g. Calculate the level of capital investment needed for this multiyear initiative.
- (5) Other tasks as identified by the Task Force.

PART XIX. DEPARTMENT OF CULTURAL RESOURCES TO STUDY THE FEASIBILITY OF DESIGNATING THE ENDOR IRON FURNACE AS A STATE HISTORIC SITE (S.B. 1353 – Atwater; H.B. 1927 – Love)

SECTION 19. The Department of Cultural Resources shall study the feasibility of designating the Endor Iron Furnace as a State Historic Site. The Department shall submit the results of its study to the 2011 General Assembly upon its convening.

PART XX. DIVISION OF MARINE FISHERIES OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO STUDY THE FISHERY MANAGEMENT PLAN DEVELOPMENT PROCESS (S.B. 1271 – Albertson; H.B. 1711 – Wainwright, Spear, Underhill)

SECTION 20. The Division of Marine Fisheries of the Department of Environment and Natural Resources shall study the Fishery Management Plan development process. The Division shall specifically consider how the process could be made more efficient without impairing public input into the process. The Division shall report its findings and recommendations, including any legislative proposals, to the Joint Legislative Commission on Seafood and Aquaculture no later than October 1, 2010.

PART XXI. EXTEND THE NORTH CAROLINA ZOOLOGICAL PARK FUNDING AND ORGANIZATION STUDY COMMITTEE (S.B. 1179 – Brunstetter; H.B. 1720 – Brubaker, E. Warren, Harrison)

SECTION 21. Section 5.11 of S.L. 2009-329 reads as rewritten:

"**SECTION 5.11.** Report. – The Committee shall report its findings and recommendations to the ~~2010-2011~~ Regular Session of the ~~2009-2011~~ General Assembly and the Environmental Review Commission on or before ~~May 1, December 31~~, 2010, at which time the Committee shall terminate."

PART XXII. LEGISLATIVE STUDY COMMISSION ON URBAN GROWTH AND INFRASTRUCTURE ISSUES REPORT DATE

SECTION 22. Section 36.6 of S.L. 2008-181 reads as rewritten:

"**SECTION 36.6.** The Commission shall report the results of its study and its recommendations to the 2009 General Assembly upon its convening. The Commission shall submit its final report on or before the date of the convening of the 2011 General Assembly. The Commission shall expire upon the delivering of its final report, or the convening of the 2011 General Assembly, whichever occurs first."

PART XXIII. STATE INVESTMENT STUDY REPORTING DATE (S.B. 1217 – Hartsell; H.B. 1811 – Michaux)

SECTION 23. Section 47.4 of S.L. 2009-574 reads as rewritten:

"**SECTION 47.4.** The Commission shall make an interim report to the 2010 Regular Session of the 2009 General Assembly prior to its convening, and shall make a final report to the ~~2010~~ 2011 Regular Session of the 2011 General Assembly. The report shall include any proposed legislation."

PART XXIV. EXTEND JOINT SELECT COMMITTEE ON PRESERVATION OF BIOLOGICAL EVIDENCE (Glazier)

SECTION 24. Section 7(d) of S.L. 2009-203 reads as rewritten:

"**SECTION 7.(d)** The Committee shall submit a final report on the results of its study, including any proposed legislation, to the General Assembly on or before ~~April 1, 2010~~ the convening of the Regular Session of the 2011 General Assembly. The Committee shall file a copy of its report with the President Pro Tempore's office, the Speaker's office, and the Legislative Library. The Committee shall terminate ~~on April 1, 2010~~ upon the convening of the Regular Session of the 2011 General Assembly, or upon the filing of its final report, whichever occurs first."

PART XXV. EXTEND GENERAL STATUTES COMMISSION STUDIES (S.B. 1164 – Hartsell; Ross)

SECTION 25.1. Section 2 of S.L. 2009-281 reads as rewritten:

"**SECTION 2.** The General Statutes Commission shall study and recommend to the ~~2010~~ 2011 Regular Session of the ~~2009-2011~~ General Assembly ways to ensure that the General Statutes properly and uniformly refer to federal or state military organizations. These may include a single term that will include all organizations that compose the reserve components of the armed forces. The recommendations may include a process to be authorized by the General Assembly whereby changes that do not change the law can be made administratively by the Attorney General."

SECTION 25.2. Section 1 of S.L. 2009-273 reads as rewritten:

"**SECTION 1.** The General Statutes Commission shall study and recommend ~~to the 2010 Regular Session of the 2009 General Assembly and the 2011 Regular Session of the General Assembly~~ ways to make the General Statutes and the North Carolina Constitution gender neutral. These may include recommending legislative changes needed to make the General Statutes and the Constitution gender neutral and a process to be authorized by the General Assembly whereby changes that do not change the law can be made administratively by the Attorney General to make the General Statutes gender neutral."

PART XXVI. REESTABLISH LEGISLATIVE TASK FORCE ON CHILDHOOD OBESITY (S.B. 1153 – Purcell; H.B. 1827 – Yongue, Brown, Hughes, Insko)

SECTION 26. Part XLIX of S.L. 2009-574 reads as rewritten:

"PART XLIX. LEGISLATIVE TASK FORCE ON CHILDHOOD OBESITY (Yongue)

"**SECTION 49.1.** There is created the Legislative Task Force on Childhood Obesity.

"**SECTION 49.2.** The Task Force shall consist of 12 members as follows:

- (1) Six members of the House of Representatives.
- (2) Six members of the Senate.

"**SECTION 49.3.** The Speaker of the House of Representatives shall designate one Representative as cochair, and the President Pro Tempore of the Senate shall designate one Senator as cochair. Terms of the initial members begin on appointment and continue until the convening of the 2011 Session of the General Assembly. Subsequent appointments begin during the 2011 Session of the General Assembly and continue until the Task Force terminates. Vacancies on the Task Force shall be filled by the same appointing authority that made the initial appointment. A quorum of the Task Force shall be a majority of its members.

"**SECTION 49.4.** The Task Force shall include, but should not be limited to, study of issues relating to childhood obesity. In the course of the study, the Task Force shall consider and recommend to the General Assembly strategies for addressing the problem of childhood obesity and encouraging healthy eating and increased physical activity among children through:

- (1) Early childhood intervention;
- (2) Childcare facilities;
- (3) Before and after-school programs;

- (4) Physical education and physical activity in schools;
- (5) Higher nutrition standards in schools;
- (6) Comprehensive nutrition education in schools;
- (7) Increased access to recreational activities for children;
- (8) Community initiatives and public awareness; and
- (9) Other means.

"SECTION 49.5. The Task Force shall encourage input from public nonprofit organizations, promoting healthy lifestyles for children, addressing the problems related to childhood obesity, encouraging healthy eating, and increasing physical activity among children.

"SECTION 49.6. Members of the Task Force shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate. The Task Force, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Task Force may meet at anytime upon the joint call of the cochairs. The Task Force may meet in the Legislative Building or the Legislative Office Building.

With approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to assist the Task Force in its work. The House of Representatives' and the Senate's Directors of Legislative Assistants shall assign clerical staff to the Task Force, and the expenses relating to the clerical employees shall be borne by the Task Force. The Task Force may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02. If the Task Force hires a consultant, the consultant shall not be a State employee or a person currently under contract with the State to provide services.

All State departments and agencies and local governments and their subdivisions shall furnish the Task Force with any information in their possession or available to them.

"SECTION 49.7. The Task Force shall submit a ~~final~~ report of the results of its study and its recommendations to the 2010 Regular Session of the 2009 General Assembly. The Task Force may make a report of the results of its study and recommendations to the 2011 General Assembly and shall submit a report to the 2012 Regular Session of the 2011 General Assembly. The Task Force shall terminate ~~on May 1, 2010, or upon the filing of its final report, whichever occurs first~~ upon the convening of the 2012 Regular Session of the 2011 General Assembly."

PART XXVII. JOINT LEGISLATIVE STUDY COMMITTEE ON THE CONSOLIDATION OF EARLY CHILDHOOD EDUCATION AND CARE (S.B. 1116 – Blue, Purcell, Swindell; H.B. 1781 – Rapp, Glazier, Insko)

SECTION 27.1. Committee Established. – There is created the Joint Legislative Study Committee on the Consolidation of Early Childhood Education and Care. The Committee shall consist of 18 members to be appointed as follows:

- (1) Five members of the House of Representatives appointed by the Speaker of the House of Representatives.
- (2) Five members of the Senate appointed by the President Pro Tempore of the Senate.
- (3) Seven ex-officio nonvoting members as follows:
 - a. The Secretary of the Department of Health and Human Services.
 - b. The Chairman of the State Board of Education.
 - c. The President of the North Carolina Partnership for Children, Inc.
 - d. The Executive Director of the Office of Early Learning at the Department of Public Instruction.
 - e. The Director of the Head Start State Collaboration Office at the Office of Early Learning at the Department of Public Instruction.
 - f. The President of the Child Care Services Association.
 - g. The Executive Director of the North Carolina Licensed Child Care Association.

- (4) A developmental pediatrician appointed by the Governor as a nonvoting member.

The Speaker of the House of Representatives shall designate one Representative as cochair, and the President Pro Tempore of the Senate shall designate one Senator as cochair. Vacancies on the Committee shall be filled by the same appointing authority making the initial appointment.

The Committee, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Committee may meet at any time upon the joint call of the cochairs. The Committee may meet in the Legislative Building or the Legislative Office Building. The Committee may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. The House of Representatives and the Senate's Directors of Legislative Assistants shall assign clerical staff to the Committee, and the expenses relating to the clerical employees shall be borne by the Committee. Members of the Committee shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 27.2. Duties. – The Committee shall continue the work of the Task Force on the Consolidation of Early Childhood Education and Care created under S.L. 2009-451 by continuing to work toward the development of an integrated system of early childhood education and care. To that end, the Committee may consult with and receive reports from the appropriate State departments, agencies, and board representatives on issues related to early childhood education and care and consider any other issues the Committee deems relevant.

SECTION 27.3. Report. – The Commission may make a final report, including any proposed legislation, to the 2011 General Assembly upon its convening. The Commission shall terminate upon filing its final report or upon the convening of the 2011 General Assembly, whichever is earlier.

PART XXVIII. EXTEND POVERTY REDUCTION AND ECONOMIC RECOVERY LEGISLATIVE STUDY COMMISSION (H.B. 1845 – Pierce, Bryant, Jones, Stewart)

SECTION 28. Section 41.7 of S.L. 2008-181 reads as rewritten:

"SECTION 41.7. The Commission shall submit its final report ~~by the 2010 Regular Session of the 2009 General Assembly and may make interim reports it deems necessary. The Commission's final report shall include the results of the Commission's review and specific legislative recommendations to the 2011 General Assembly.~~ The Commission shall terminate upon filing its final report, or upon the convening of the ~~2010 Regular Session of the 2009-2011~~ General Assembly, whichever occurs first."

PART XXIX. AGRISCIENCE AND BIOTECHNOLOGY REGIONAL SCHOOL PLANNING COMMISSION (S.B. 1199 – Swindell)

SECTION 29.1. There is established the Agriscience and Biotechnology Regional School Planning Commission. The purpose of the Commission shall be to develop and plan a regional school of agriscience and biotechnology to open in the 2011-2012 school year. The Commission shall be located administratively in the Department of Public Instruction but shall exercise its powers and duties independently of the Department of Public Instruction. The Department of Public Instruction shall provide for the administrative costs of the Commission and shall provide staff to the Commission.

SECTION 29.2. The Commission shall consist of up to nine members appointed by the chair of the State Board of Education. Appointments shall be made no later than September 1, 2010.

SECTION 29.3. The Agriscience and Biotechnology Regional School Planning Commission shall develop a plan for a regional school of agriscience and biotechnology to

open in the 2011-2012 school year and shall ensure that the model is replicable, sustainable, and scaleable. In the development of its plan, the Commission shall:

- (1) Consider the regional school's governance, funding for operational and capital needs, personnel, admissions and assignment of students, transportation, school food services, and other issues the Commission deems relevant.
- (2) Solicit proposals from interested regions seeking to host the school and identify a location for the regional school.
- (3) Identify potential business partners for the regional school.
- (4) Consult with North Carolina State University and the NC Research Campus and establish connections between those institutions and the regional school.

SECTION 29.4. The Agriscience and Biotechnology Regional School Planning Commission shall report on its recommended plan to the State Board of Education, the Joint Legislative Joining Our Businesses and Schools (JOBS) Study Commission, and the Joint Legislative Education Oversight Committee by January 1, 2011.

PART XXX. GOVERNOR'S LOGISTICS TASK FORCE TO STUDY COMBINING GLOBAL TRANSPARK AUTHORITY, PORTS AUTHORITY, AND RAILROAD; AND ESTABLISHING SERVICE OF A CLASS I RAIL SERVICE TO THE GLOBAL TRANSPARK AND THE PORTS (McComas)

SECTION 30.1. The Governor's Logistics Task Force, as established by Executive Order 32, may study the following issues:

- (1) Combining the operations and governing authority of the Global TransPark Authority, the North Carolina Ports Authority, and the North Carolina Railroad to create one entity and one governing body to oversee the combined infrastructure of air cargo, rail, and sea transportation.
- (2) Establishing service of a Class I Rail service by more than one railroad to both the Global TransPark and the State Ports.

SECTION 30.2. If the Task Force undertakes this study, it shall report its findings to the Governor, the General Assembly, and the Joint Legislative Transportation Oversight Committee on or before the convening of the 2011 Regular Session of the 2011 General Assembly.

PART XXXI. WOOD AND CROP BIOMASS STRATEGIC WORKING GROUP (H.B. 2009 – Harrison, Bryant, Jones)

SECTION 31.1. The Wood and Crop Biomass Strategic Working Group, as described in H.B. 1766, is established.

PART XXXII. LEGISLATIVE STUDY COMMISSION ON PUBLIC-PRIVATE PARTNERSHIPS (Owens)

SECTION 32.1. There is established the Legislative Study Commission on Public-Private Partnerships.

SECTION 32.2. The Commission shall be composed of 16 members, as follows:

- (1) Five members of the Senate appointed by the President Pro Tempore of the Senate.
- (2) Five members of the House of Representatives, appointed by the Speaker of the House of Representatives.
- (3) Three public members, appointed by the Speaker of the House of Representatives.
- (4) Three public members, appointed by the President Pro Tempore of the Senate.

The Commission shall include, and consult with, the Secretary of Transportation, the North Carolina Turnpike Authority, the State Treasurer, the Local Government

Commission, the State Construction Office, the North Carolina Association of County Commissioners, the North Carolina League of Municipalities, and the North Carolina School Boards Association in the course of its deliberations.

Public members shall be residents of the State. Vacancies on the Commission shall be filled by the appointing authority. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair, who shall be a member of the General Assembly. A quorum of the Commission shall be 10 members.

The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet at any time upon call of the chairs. The Commission may meet in the Legislative Building or the Legislative Office Building. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Commission in its work. The House of Representatives' and Senate's Directors of Legislative Assistants shall assign clerical staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. Members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 32.3. The Commission shall study issues related to Public-Private Partnerships (PPPs), including examination of the appropriate authority for State, regional, and local government units to engage in PPPs for public capital projects through a regulatory framework.

SECTION 32.4. The Commission may make a final report, including any proposed legislation, to the 2011 General Assembly upon its convening. The Commission shall terminate upon filing its final report or upon the convening of the 2011 General Assembly, whichever is earlier.

PART XXXIII. LEGISLATIVE TASK FORCE ON PRESCRIPTION DRUG ABUSE

SECTION 33.1. There is established the Legislative Task Force on Prescription Drug Abuse.

SECTION 33.2. The Task Force shall be composed of 16 members, as follows:

- (1) Four members of the Senate, appointed by the President Pro Tempore of the Senate.
- (2) Four members of the House of Representatives, appointed by the Speaker of the House of Representatives.
- (3) Four public members, appointed by the Speaker of the House of Representatives.
- (4) Four public members, appointed by the President Pro Tempore of the Senate.

Public members shall be residents of the State. Vacancies on the Task Force shall be filled by the appointing authority. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair, who shall be a member of the General Assembly. A quorum of the Task Force shall be eight members.

The Task Force, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Task Force may meet at any time upon call of the chairs. The Task Force may meet in the Legislative Building or the Legislative Office Building. The Task Force may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Task Force in its work. The House of Representatives' and Senate's Directors of Legislative Assistants shall assign clerical staff to the Task Force, and the expenses relating to the clerical employees shall be borne by the Task

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

SECTION 33.3. The Task Force may study whether to expand access to the Controlled Substances Reporting System (CSRS) to physician employees and additional types of law enforcement officers, whether to require a photo ID when picking up prescriptions that are considered controlled substances, whether physician education and relicensure needs to include more training on decreasing substance abuse of prescription drugs, and any other matter the Task Force feels would be helpful in reducing prescription drug abuse.

SECTION 33.4. The Task Force may make a final report, including any proposed legislation, to the 2011 General Assembly upon its convening. The Task Force shall terminate upon filing its final report or upon the convening of the 2011 General Assembly, whichever is earlier.

PART XXXIV. LEGISLATIVE COMMISSION ON DIVERSITY IN THE PUBLIC SCHOOLS (Dannelly, Michaux)

SECTION 34.1. There is created the Legislative Commission on Diversity in the Public Schools.

SECTION 34.2. The Commission shall consist of 15 members as follows:

- (1) Five members of the House of Representatives appointed by the Speaker of the House of Representatives.
- (2) Five members of the Senate appointed by the President Pro Tempore of the Senate.
- (3) Five public members appointed by the Governor.

SECTION 34.3. The Speaker of the House of Representatives shall designate one Representative as cochair, and the President Pro Tempore of the Senate shall designate one Senator as cochair. Vacancies on the Commission shall be filled by the same appointing authority that made the initial appointment. A quorum of the Commission shall be a majority of its members.

SECTION 34.4. The Commission shall study the effects of student diversity in public school enrollment. As part of this study, the Commission shall:

- (1) Consider whether schools in which students of various racial, ethnic, and socioeconomic characteristics are balanced improve the quality of the learning experience and the academic achievement of all students as compared to schools with more homogeneous student enrollments.
- (2) Examine whether diverse public schools are successful in closing the achievement gap.
- (3) Explore the level of parental involvement in schools with a diverse student population.
- (4) Examine best practices for creating and maintaining student diversity in schools and school systems in other states.
- (5) Consider whether diverse public schools improve student discipline.
- (6) Consider the fiscal impact and efficiency of State funding streams given the data accumulated in subdivisions (1) through (5) of this section.
- (7) Study any other issue the Commission considers relevant.

SECTION 34.5. The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet at any time upon the joint call of the cochairs. The Commission may meet in the Legislative Building or the Legislative Office Building.

With approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to assist the Commission in its work. The House of Representatives' and the Senate's Directors of Legislative Assistants shall assign clerical staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. The Commission may contract for professional, clerical, or consultant services as

provided by G.S. 120-32.02. If the Commission hires a consultant, the consultant shall not be a State employee or a person currently under contract with the State to provide services.

All State departments and agencies and local governments and their subdivisions shall furnish the Commission with any information in their possession or available to them.

SECTION 34.6. The Commission shall submit a final report of the results of its study and its recommendations to the 2011 General Assembly. The Commission shall terminate on March 1, 2011, or upon the filing of its final report, whichever occurs first.

PART XXXV. JOINT SELECT COMMITTEE TO STUDY THE ADOPTION OF COMPARATIVE NEGLIGENCE AND ABROGATION OF JOINT AND SEVERAL LIABILITY (H.B. 813 – Glazier, Blust, Ross)

SECTION 35.1. There is established the Joint Select Committee to Study the Adoption of Comparative Negligence and Abrogation of Joint and Several Liability.

SECTION 35.2. The Commission shall be composed of 10 members, as follows:

- (1) Five members of the Senate appointed by the President Pro Tempore of the Senate.
- (2) Five members of the House of Representatives appointed by the Speaker of the House of Representatives.

Vacancies on the Committee shall be filled by the appointing authority. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair, who shall be a member of the General Assembly. A quorum of the Committee shall be a majority of its members.

The Committee, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet at any time upon call of the chairs. The Committee may meet in the Legislative Building or the Legislative Office Building.

The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. The House of Representatives' and Senate's Directors of Legislative Assistants shall assign clerical staff to the Committee, and the expenses relating to the clerical employees shall be borne by the Committee. Members of the Committee shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1.

SECTION 35.3. The Committee shall study issues related to the adoption of comparative negligence and the abrogation of joint and several liability, and any other issues related to tort liability.

SECTION 35.4. The Committee may make a final report, including any proposed legislation, to the 2011 General Assembly upon its convening. The Committee shall terminate upon filing its final report or upon the convening of the 2011 General Assembly, whichever is earlier.

PART XXXVI. RAILROADS STUDY COMMISSION (Nesbitt, Dickson)

SECTION 36.1. There is established the Railroads Study Commission.

SECTION 36.2. The Commission shall be composed of 10 members, as follows:

- (1) Five members of the Senate appointed by the President Pro Tempore of the Senate.
- (2) Five members of the House of Representatives appointed by the Speaker of the House of Representatives.

Vacancies on the Commission shall be filled by the appointing authority. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair, who shall be a member of the General Assembly. A quorum of the Commission shall be six members.

The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The

Commission may meet at any time upon call of the chairs. The Commission may meet in the Legislative Building or the Legislative Office Building. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Commission in its work. The House of Representatives' and Senate's Directors of Legislative Assistants shall assign clerical staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. Members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 36.3. The Commission may study all issues related to railroads in the State, including passenger rail, freight rail, and corridor issues.

SECTION 36.4. The Commission may make a final report, including any proposed legislation, to the 2011 General Assembly upon its convening. The Commission shall terminate upon filing its final report or upon the convening of the 2011 General Assembly, whichever is earlier.

PART XXXVII. STUDY COMMISSION ON EXPANSION OF THE LIFE SCIENCES INDUSTRY AND RELATED JOB CREATION

SECTION 37.1. There is established the Study Commission on the Expansion of the Life Sciences Industry and Related Job Creation.

SECTION 37.2. The Commission shall be composed of 18 members as follows:

- (1) Five members of the Senate appointed by the President Pro Tempore of the Senate.
- (2) Five members of the House of Representatives appointed by the Speaker of the House of Representatives.
- (3) One business executive in the life sciences industry, appointed by the Speaker of the House of Representatives.
- (4) One business executive in the life sciences industry, appointed by the President Pro Tempore of the Senate.
- (5) One scientist in the life sciences industry, appointed by the Speaker of the House of Representatives.
- (6) One scientist in the life sciences industry, appointed by the President Pro Tempore of the Senate.
- (7) One other public member with substantial experience in the life sciences industry, appointed by the Speaker of the House of Representatives.
- (8) One other public member with substantial experience in the life sciences industry, appointed by the President Pro Tempore of the Senate.
- (9) Two other public members with substantial knowledge or experience in the discovery, development and commercialization of life sciences products or services, appointed by the Governor.

Public members shall be residents of the State. Vacancies on the Commission shall be filled by the appointing authority. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a co-chair, who shall be a member of the General Assembly. A quorum of the Commission shall be 10 members.

The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G. S. 120-19.1 through G.S. 120-19.4. The Commission may meet at any time upon call of the chairs. The Commission may meet in the Legislative Building or the Legislative Office Building or elsewhere in North Carolina at the discretion of the co-chairs. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02. The North Carolina Biotechnology Center shall provide professional, clerical or consultant services upon request of the co-chairs. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Commission in its work. The House of Representatives' and

Senate's Directors of Legislative Assistants shall assign clerical staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. Members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 37.3. The Commission may examine issues related to:

- (1) The need for additional sources of financing for life science companies to finance facilities and equipment for the manufacture, production or warehousing of life science products and services in North Carolina and other facilities for the production and delivery of life science products and services in North Carolina.
- (2) The legislative proposals contained in SB 580 and HB 530 in the 2009 and 2010 legislative sessions.

SECTION 37.4. The Commission shall make its final report together with any proposals to the General Assembly by February 1, 2011, and may make interim reports as necessary at other times. The Commission shall terminate upon filing its final report or February 1, 2011, whichever is earlier.

PART XXXVIII. OUT-OF-STATE TRAVEL

SECTION 38. For legislative studies authorized by this act, out-of-state travel must be authorized by the President Pro Tempore of the Senate or the Speaker of the House of Representatives, as appropriate.

PART XXXIX. BILL AND RESOLUTION REFERENCES

SECTION 39. The listing of the original bill or resolution in this act is for reference purposes only and may not be deemed to have incorporated by reference any of the substantive provisions contained in the original bill or resolution.

PART XXXX. EFFECTIVE DATE AND APPLICABILITY

SECTION 40. Except as otherwise specifically provided, this act is effective when it becomes law. If a study is authorized both in this act and in the Current Operations and Capital Improvements Appropriations Act of 2010, the study shall be implemented in accordance with the Current Operations and Capital Improvements Appropriations Act of 2010 as ratified.

In the General Assembly read three times and ratified this the 10th day of July, 2010.

Became law upon approval of the Governor at 3:05 p.m. on the 22nd day of July, 2010.

Session Law 2010-153

H.B. 455

AN ACT TO ALLOW A SALES TAX REFUND TO A JOINT GOVERNMENTAL AGENCY CREATED TO OPERATE A CABLE TELEVISION SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. A joint agency created by an interlocal agreement pursuant to G.S. 160A-462 to operate a cable system that provides video programming services is allowed a refund of sales and use tax paid by it on purchases made on or after July 1, 2007, and before June 30, 2010, to the same extent allowed to a city under G.S. 105-164.14(c). Notwithstanding G.S. 105-164.14, the joint agency must make a request for a refund in writing before January 1, 2011.

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

In the General Assembly read three times and ratified this the 10th day of July, 2010.

Became law upon approval of the Governor at 3:07 p.m. on the 22nd day of July, 2010.

Session Law 2010-154

S.B. 1337

AN ACT TO REQUIRE TRAINING OF OPERATORS OF UNDERGROUND STORAGE TANKS IN ORDER TO COMPLY WITH A REQUIREMENT OF THE FEDERAL ENERGY POLICY ACT OF 2005, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.94KK through G.S. 143-215.94MM are reserved for future codification purposes.

SECTION 2. Article 21A of Chapter 143 of the General Statutes is amended by adding a new Part to read:

"Part 2D. Training of Underground Storage Tank Operators.

"§ 143-215.94NN. Applicability.

The requirements of this Part apply to underground storage tank systems regulated under Subtitle I of the Resource Conservation and Recovery Act of 1976, Pub. L. 94-580, 90 Stat. 2795, 42 U.S.C. § 6901, et seq., as amended, except those excluded by regulation at 40 Code of Federal Regulations 280.10(b) (July 1, 2009 Edition) and those deferred by regulation at 40 Code of Federal Regulations 280.10(c) (July 1, 2009 Edition).

"§ 143-215.94OO. Definitions.

Unless a different meaning is required by the context, the definitions in G.S. 143-212 and G.S. 143-215.94A apply in this Part.

- (1) "Primary operator" means a person having primary responsibility for the daily on-site operation and maintenance of an underground storage tank system.
- (2) "Emergency response operator" means an on-site person whose responsibilities include addressing emergencies presented by a spill or release, or responding to alarms or releases from an underground storage tank system. For an unmanned facility, "emergency response operator" means the person responsible for responding to emergencies or alarms or releases at the facility.
- (3) "Underground storage tank" means: (i) any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of the underground pipes connected thereto) is ten percent (10%) or more beneath the surface of the ground; and (ii) to which this Part applies pursuant to G.S. 143-215.94NN.
- (4) "Underground storage tank system" or "tank system" means an underground storage tank, connected underground piping, underground ancillary equipment, dispenser, and containment system, if any.

"§ 143-215.94PP. Designation of operators to be trained.

(a) The owner of an underground storage tank system shall designate the primary operator of the underground storage tank system. The person designated shall be the underground storage tank operator, as defined in 40 Code of Federal Regulations Part 280 (July 1, 2009 Edition), or an employee or agent of the underground storage tank operator. There shall be a designated primary operator of the underground storage tank system at all times, until the underground storage tank system has been permanently closed. If the owner fails to designate a primary operator, the owner shall be deemed to be the primary operator of the underground storage tank system for purposes of this Part.

(b) The primary operator shall designate one or more emergency response operators who are employees or agents of the primary operator and shall be on call to respond to emergencies or alarms at the facility. If an emergency response operator is not present at the

facility at all times during which a regulated substance is being withdrawn from, or is capable of being withdrawn from, the underground storage tank system, the facility shall have an automated notification system in place that will alert the emergency response operator of an emergency or activated alarm at the facility. If the primary operator fails to designate one or more emergency response operators, the primary operator shall be deemed to be the emergency response operator of the underground storage tank system.

(c) A person may act as both the primary operator and the emergency response operator of the underground storage tank system.

"§ 143-215.94QQ. Training requirements for primary operators.

(a) The Department shall develop and implement a training program for primary operators. The training program shall provide instruction on the proper operation and maintenance of the underground storage tank system at the facility, principles of construction and safety, and all regulatory requirements associated with the underground storage tank system. The training may consist of a combination of on-site instruction and on-site testing, as well as online instruction and online testing. In order to satisfactorily complete the training, a primary operator shall, at a minimum, demonstrate all of the following:

- (1) Knowledge of the requirements for spill prevention, overfill prevention, release detection, corrosion protection, emergency response, and product compatibility.
- (2) Site-specific knowledge of the equipment used at the facility and the components of the underground storage tank system, and the methods of release detection and release prevention associated with the underground storage tank components.
- (3) Knowledge of the requirements for demonstrating financial responsibility.
- (4) Understanding of notification requirements associated with the underground storage tank system, including requirements for reporting releases and suspected releases.
- (5) Understanding of the requirements for the temporary and permanent closure of underground storage tank systems.
- (6) Knowledge of the emergency response operator training requirements, and the actions to be taken in response to emergencies and alarms.

(b) A primary operator shall be retrained if an inspection at the facility reveals that the underground storage tank system is not in substantial compliance with the requirements for: release detection, release prevention, financial responsibility, emergency response, suspected release reporting and investigation, the proximity of the underground storage tank system to water supply wells and surface water, and permitting. A primary operator who is required to be retrained shall complete the retraining within a reasonable time as determined by the Department. The retraining shall include training in the areas for which the underground storage tank system was not in compliance. The retraining may consist of a combination of on-site instruction and on-site testing, as well as in-class instruction and in-class testing, and, if available, the Department shall offer online instruction and online testing in lieu of in-class instruction and in-class testing. In-class instruction shall be provided by the Department at least once each quarter in each one of the regional offices of the Department. An operator required to be retrained pursuant to this subsection shall only be required to attend in-class instruction and in-class testing at the regional office closest to the facility for which the operator is designated.

(c) The primary operator shall maintain documentation to show that the operator has satisfactorily completed all training required by this section.

"§ 143-215.94RR. Training requirements for emergency response operators.

(a) The Department shall develop a training program for emergency response operators. In order to satisfactorily complete the training, an emergency response operator shall, at a minimum, demonstrate all of the following:

- (1) General understanding of the underground storage tank system at the facility, and knowledge of the location and proper operation of the safety and emergency response equipment.
- (2) Understanding of the actions to be taken in response to an emergency, including situations posing an immediate danger or threat to the public or to the environment and requiring immediate action.
- (3) Understanding of leak detection alarms and preparations needed to respond to alarms before a release has occurred.
- (4) Recognition of unusual operating conditions, equipment failures, or environmental conditions that may indicate a release, and knowledge of the steps to take in response to a suspected release.
- (5) Knowledge of immediate steps to take in response to a confirmed release to stop further release and to contain spills before they reach the environment.

(b) The primary operator is responsible for implementing the training program developed by the Department for emergency response operators. The primary operator shall train each emergency response operator of the underground storage tank system at the facility. Prior to training an emergency response operator, the primary operator shall have satisfactorily completed all training required by this section. The primary operator shall maintain documentation of training provided to emergency response operators.

"§ 143-215.94SS. Tank systems for emergency power generators.

This section applies only to a facility that utilizes an underground storage tank system to store fuel solely for use by emergency power generators. A primary operator that has satisfactorily completed the training required by G.S. 143-215.94QQ at a facility shall be deemed trained as the primary operator at another facility that has identical spill prevention, overfill prevention, release detection, corrosion protection, emergency response, and product compatibility requirements as the facility for which the primary operator has satisfactorily completed training.

"§ 143-215.94TT. Enforcement.

This Part may be enforced as provided in G.S. 143-215.94W, 143-215.94X, and 143-215.94Y.

"§ 143-215.94UU. Effect on other laws.

The requirements of this Part are in addition to, and not in lieu of, any other requirements applicable to underground storage tank owners or operators, as defined in 40 Code of Federal Regulations Part 280 (July 1, 2009 Edition), under law."

SECTION 3. On or before August 1, 2012, the Department shall develop an online instruction and online testing module for the retraining requirement set forth in G.S. 143-215.94QQ(b), as enacted by Section 2 of this act. Once developed, the Department shall offer the online instruction and online testing module in lieu of in-class instruction and in-class testing to satisfy the requirement.

SECTION 4. Notwithstanding G.S. 143-215.94PP, as enacted by Section 2 of this act, each owner of an underground storage tank system shall designate a primary operator or emergency response operator no later than August 1, 2010, or the owner shall be deemed to be the primary operator and emergency response operator of the underground storage tank system. Each designated primary operator and emergency response operator shall complete the training required by this section no later than August 8, 2012. For primary operators designated after August 8, 2012, the owner shall notify the Department of the designation, and the primary operator shall be trained within 30 days after assuming operation and maintenance responsibilities for the underground storage tank system. After August 8, 2012, no person may assume the responsibilities of emergency response operator without having first satisfactorily completed emergency response operator training, and the primary operator shall ensure that no person assumes the responsibilities of emergency response operator unless the person has satisfactorily completed emergency response operator training.

SECTION 5. G.S. 143-215.94E(c) reads as rewritten:

"(c) In the case of a discharge or release from a noncommercial underground storage tank or a commercial underground storage tank eligible for the Noncommercial Fund in accordance with G.S. 143-215.94D(b), where the owner or operator has been identified and has proceeded with the cleanup, the owner or operator may elect to have the Noncommercial Fund pay or reimburse the owner or operator for ~~the~~ any costs described in G.S. 143-215.94D(b1) up to a maximum of one million dollars (\$1,000,000) per discharge or release."

SECTION 6. G.S. 143-215.94E(c1) reads as rewritten:

"(c1) In the case of a discharge or release from a noncommercial underground storage tank where the owner and operator cannot be identified or located, or where the owner and operator fail to proceed as required by subsection (a) of this section, if the current landowner of the land in which the noncommercial underground storage tank is located notifies the Department in accordance with G.S. 143-215.85 and undertakes to collect and remove the discharge or release and to restore the area affected in accordance with the requirements of this Article and applicable federal and State laws, regulations, and rules, the current landowner may elect to have the Noncommercial Fund pay or reimburse the current landowner for ~~ninety percent (90%) of any costs described in subdivisions (1) and (2) of G.S. 143-215.94D(b1) that exceed five thousand dollars (\$5,000).~~ G.S. 143-215.94D(b1). Eligibility for reimbursement under this subsection may be transferred to a subsequent landowner from a ~~current landowner who has paid the costs for which the landowner is responsible under this subsection.~~ landowner. The sum of payments from the Noncommercial Fund and from all other sources shall not exceed one million dollars (\$1,000,000) per discharge or release. This subsection shall not be construed to require a current landowner to clean up a discharge or release of petroleum from an underground storage tank for which the current landowner is not otherwise responsible. This subsection does not alter any right, duty, obligation, or liability of a current landowner, former landowner, subsequent landowner, owner, or operator under other provisions of law. This subsection shall not be construed to limit the authority of the Department to engage in a cleanup under this Article or any other provision of law. The current landowner shall submit documentation of all expenditures as required by G.S. 143-215.94G(b)."

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

In the General Assembly read three times and ratified this the 7th day of July, 2010.

Became law upon approval of the Governor at 3:09 p.m. on the 22nd day of July, 2010.

Session Law 2010-155

H.B. 1765

AN ACT TO AUTHORIZE COALITIONS OF LOCAL GOVERNMENTS TO JOINTLY IMPLEMENT WATER QUALITY PROTECTION PLANS FOR THE FALLS LAKE WATERSHED; TO PROVIDE THAT AN APPLICANT FOR AN INTERBASIN TRANSFER CERTIFICATE SHALL PAY THE COSTS ASSOCIATED WITH ALL REQUIRED PUBLIC HEARINGS; TO CREATE A TEMPORARY, STREAMLINED INTERBASIN TRANSFER CERTIFICATION PROCESS FOR INTERBASIN TRANSFERS IN THE CENTRAL COASTAL PLAIN CAPACITY USE AREA AND INTO ISOLATED RIVER BASINS; TO AUTHORIZE THE ENVIRONMENTAL REVIEW COMMISSION TO STUDY CERTAIN CONDITIONS ON INTERBASIN TRANSFERS; AND TO PROVIDE THAT BENEFICIAL REUSE OF WASTEWATER INCLUDES CERTAIN FACILITIES THAT REQUIRE RELOCATION OF A DISCHARGE FROM ONE RECEIVING STREAM TO ANOTHER.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 77 of the General Statutes is amended by adding a new Article to read:

"Article 8A.

"Falls Lake Watershed Association.

"§ 77-119. Definitions.

The following definitions apply in this Article:

- (1) "Board of directors" has the same meaning as in G.S. 55A-1-40.
- (2) "Falls Lake watershed" means those natural areas of drainage including all tributaries contributing to the supply of Falls Lake, the specific limits of which are designated by the Environmental Management Commission pursuant to G.S. 143-213.
- (3) "Local government" means a county, city, town, or incorporated village that is located in whole or in part within the Falls Lake watershed. Local government also includes any water or sewer authority that is created pursuant to Article 1 of Chapter 162A of the General Statutes that provides service within the Falls Lake watershed.
- (4) "Nonprofit corporation" has the same meaning as in G.S. 55A-1-40.

"§ 77-120. Falls Lake Watershed Association criteria for creation; board of directors; purpose; meetings; and records.

(a) Local governments may elect to incorporate the Falls Lake Watershed Association nonprofit corporation or establish the Association using an existing nonprofit corporation. The Association shall only be comprised of local governments that choose to participate in the Association.

(b) Each local government that elects to participate in the Association shall appoint a representative and an alternate representative to serve on the board of directors of the Association. The first board of directors that is appointed to the Association shall adopt bylaws that govern the operation of the Association.

(c) The purposes of the Association may include, but are not limited to:

- (1) Providing a forum for sharing information in order to assist local governments in complying with State and federal laws that pertain to the water quality in the Falls Lake watershed.
- (2) Providing a mechanism for participating local governments to coordinate and fund common technical resources.
- (3) Planning for and conducting water quality monitoring in the Falls Lake watershed in coordination with the Department of Environment and Natural Resources.
- (4) Coordinating with the Department of Environment and Natural Resources in the development of a transparent and accessible system for recording and maintaining nutrient offsets and credits that complies with any rules adopted to protect and restore water quality in the Falls Lake watershed.
- (5) Providing a public forum to review and discuss innovative approaches to restore, protect, and maintain water quality in the Falls Lake watershed.
- (6) Conducting and evaluating scientific research that describes or predicts conditions related to or affecting water quality in the Falls Lake watershed, including the reservoir.

(d) The Association shall be subject to the requirements for meetings of public bodies pursuant to Article 33C of Chapter 143 of the General Statutes.

(e) The Association shall be subject to the requirements for public records pursuant to Chapter 132 of the General Statutes.

"§ 77-121. Memoranda of understanding.

To the extent allowed by law, the Department of Environment and Natural Resources may enter into memoranda of understanding with the Association to implement the purposes in G.S. 77-120(c).

"§ 77-122. Authority.

The authority granted pursuant to this Article is in addition to and not in derogation of any other authority granted to local governments under any other provision of law."

SECTION 2. G.S. 143-215.22L(e) reads as rewritten:

"(e) Public Hearing on the Draft Environmental Document. – The Commission shall hold a public hearing on the draft environmental document for a proposed interbasin transfer after giving at least 30 days' written notice of the hearing in the Environmental Bulletin and as provided in subdivisions (2) and (3) of subsection (c) of this section. The notice shall indicate where a copy of the environmental document can be reviewed and the procedure to be followed by anyone wishing to submit written comments and questions on the environmental document. The Commission shall prepare a record of all comments and written responses to questions posed in writing. The record shall include complete copies of scientific or technical comments related to the potential impact of the interbasin transfer. The Commission shall accept written comment on the draft environmental ~~documents~~ document for a minimum of 30 days following the last public hearing. The applicant who petitions the Commission for a certificate under this section shall pay the costs associated with the notice and public hearing on the draft environmental document."

SECTION 3. G.S. 143-215.22L(j) reads as rewritten:

"(j) Public Hearing on the Draft Determination. – Within 60 days of the issuance of the draft determination as provided in subsection (i) of this section, the Commission shall hold public hearings on the draft determination. At least one hearing shall be held in the affected area of the source river basin, and at least one hearing shall be held in the affected area of the receiving river basin. In determining whether more than one public hearing should be held within either the source or receiving river basins, the Commission shall consider the differing or conflicting interests that may exist within the river basins, including the interests of both upstream and downstream parties potentially affected by the proposed transfer. The public hearings shall be conducted by one or more hearing officers appointed by the Chair of the Commission. The hearing officers may be members of the Commission or employees of the Department. The Commission shall give at least 30 days' written notice of the public hearing as provided in subsection (c) of this section. The Commission shall accept written comment on the draft determination for a minimum of 30 days following the last public hearing. The Commission shall prepare a record of all comments and written responses to questions posed in writing. The record shall include complete copies of scientific or technical comments related to the potential impact of the interbasin transfer. The applicant who petitions the Commission for a certificate under this section shall pay the costs associated with the notice and public hearing on the draft determination."

SECTION 4. Section 7 of S.L. 2007-518 reads as rewritten:

"**SECTION 7.(a)** Except as provided in ~~subsection (b)~~ subsections (b), (c) and (d) of this section, this act becomes effective when it becomes law and applies to any petition for a certificate for a transfer of surface water from one river basin to another river basin first made on or after that date.

"**SECTION 7.(b)** For a petition for a certificate for transfer of surface water from one river basin to another river basin to supplement ground water supplies in the fifteen counties designated as the Central Coastal Plain Capacity Use Area under 15A NCAC 2E .0501, this act becomes effective 1 January ~~2011~~ 2013. Prior to 1 January ~~2011~~ 2013, a petition for a certificate for transfer of surface water from one river basin to another river basin to supplement ground water supplies in the fifteen counties designated as the Central Coastal Plain Capacity Use Area shall be considered and acted upon by the Environmental Management Commission pursuant to the procedures and standards set out in G.S. 143-215.22I on 1 July 2007.

"**SECTION 7.(c)** For purposes of this subsection, "isolated river basin" means each of the following river basins set out in G.S. 143-215.22G(1):

<u>g.</u>	<u>2-6</u>	<u>New River.</u>
<u>v.</u>	<u>9-4</u>	<u>Shallotte River.</u>
<u>aa.</u>	<u>12-1</u>	<u>Albemarle Sound.</u>
<u>hh.</u>	<u>17-1</u>	<u>White Oak River.</u>

For a petition for a certificate for transfer of surface water from a river basin to an isolated river basin, this act becomes effective 1 July 2020. Prior to 1 July 2020, a petition for a certificate for transfer of surface water from a river basin to an isolated river basin shall be considered and acted upon by the Environmental Management Commission pursuant to the procedures and standards set out in G.S. 143-215.22I on 1 July 2007.

"SECTION 7.(d) Notwithstanding subsection (c) of this section, an applicant for a certificate for transfer of surface water from a river basin to an isolated river basin may request that the applicant be subject to the certification process that would apply if the transfer was not into an isolated river basin."

SECTION 5. The Environmental Review Commission may study the transfer of surface water from one river basin to another. If the Commission undertakes this study, the Commission shall specifically consider whether certificates for interbasin transfers should contain conditions that require a receiving river basin to first withdraw and transfer surface water from within its major river basin before it may withdraw and transfer surface water from another river basin. The Commission shall report the results and recommendations of this study, if any, to the 2011 General Assembly.

SECTION 6. G.S. 143-355.5(a) reads as rewritten:

"(a) Water Reuse Policy. – It is the public policy of the State that the reuse of treated wastewater or reclaimed water is critical to meeting the existing and future water supply needs of the State. The General Assembly finds that reclaimed water systems permitted and operated under G.S. 143-215.1(d2) in an approved wastewater reuse program can provide water for many beneficial purposes in a way that is both environmentally acceptable and protective of public health. This finding includes and applies to conjunctive facilities that require the relocation of a discharge from one receiving stream to another under all of the following conditions:

- (1) The relocation is necessary to create an approved comprehensive wastewater reuse program.
- (2) The reuse program provides significant reuse benefits.
- (3) The relocated discharge will comply with all applicable water quality standards; will not result in degradation of water quality in the receiving waters; will not contribute to water quality impairment in the receiving watershed; and will result in net benefits to water quality, such as the elimination of a wastewater discharge in a nutrient sensitive river basin."

SECTION 7. This act is effective when it becomes law. Sections 2 and 3 apply to the costs, including costs of notice, associated with public hearings held on or after that date.

In the General Assembly read three times and ratified this the 10th day of July, 2010.

Became law upon approval of the Governor at 3:10 p.m. on the 22nd day of July, 2010.

Session Law 2010-156

H.B. 1824

AN ACT TO PROVIDE AN ADDITIONAL METHOD OF TRAPPING COYOTES AND TO INCREASE THE AVAILABILITY OF DEPREDATION PERMITS FOR COYOTES TO LIVESTOCK AND POULTRY OWNERS, AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON COYOTE NUISANCE REMOVAL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-291.6 is amended by adding a new subsection to read:

"(h) A person who has been issued a depredation permit for coyotes under G.S. 113-274(c) may use a Collarum™ trap, or similar trap approved by the Wildlife Resources Commission, solely for the purpose of taking coyotes under that permit. The person authorized to use these traps pursuant to this subsection shall provide information on the effectiveness and efficiency of the traps as requested by the Commission. To minimize the risk of harm to

nontargeted species, any such trap set shall be attended daily and any nontarget animal caught released."

SECTION 2. G.S. 113-274(c)(1a) reads as rewritten:

"(1a) Depredation Permit. – Authorizes the taking, destruction, transfer, removal, transplanting, or driving away of undesirable, harmful, predatory, excess, or surplus wildlife or wildlife resources. Livestock or poultry owners shall be issued a depredation permit for coyotes upon request. The permit must state the manner of taking and the disposition of wildlife or wildlife resources authorized or required and the time for which the permit is valid, plus other restrictions that may be administratively imposed in accordance with rules of the Wildlife Resources Commission. No depredation permit or any license is needed for the owner or lessee of property to take wildlife while committing depredations upon the property. The Wildlife Resources Commission may regulate the manner of taking and the disposition of wildlife taken without permit or license, including wildlife killed accidentally by motor vehicle or in any other manner."

SECTION 3. The Wildlife Resources Commission shall adopt rules to implement the provisions of Section 1 of this act on or before October 1, 2010.

SECTION 4. Section 1 of this act becomes effective October 1, 2010. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law upon approval of the Governor at 3:12 p.m. on the 22nd day of July, 2010.

Session Law 2010-157

S.B. 1259

AN ACT TO DELAY THE EFFECTIVE DATE OF THE RULE TO CHANGE THE WATER QUALITY CLASSIFICATION OF BOYLSTON CREEK AND TO PROVIDE FOR ADDITIONAL OPPORTUNITIES FOR PUBLIC DISCUSSION OF THE RULE.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 150B-21.3, French Broad River Basin Rule 15A NCAC 02B .0304, as adopted by the Environmental Management Commission on March 12, 2009, and approved by the Rules Review Commission on April 16, 2009, is effective July 1, 2011. Nothing in this act restricts the authority of the General Assembly to take further action on this issue, either as to the substance of the Rule or its effective date.

SECTION 2. No later than January 1, 2011, the Department of Environment and Natural Resources shall provide for at least two public meetings on French Broad River Basin Rule 15A NCAC 02B .0304, as adopted by the Environmental Management Commission on March 12, 2009, and approved by the Rules Review Commission on April 16, 2009, in the vicinity of the area to be affected by the adoption of the Rule. The purpose of the public meetings is to provide information on the operation of the Rule, including what activities would be allowed and what activities would be prohibited by operation of the Rule.

SECTION 3. No later than January 15, 2011, the Department of Environment and Natural Resources shall report to the Environmental Review Commission regarding the public meetings required by Section 2 of this act.

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

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law upon approval of the Governor at 3:15 p.m. on the 22nd day of July, 2010.

Session Law 2010-158

H.B. 1691

AN ACT TO AMEND THE STATUTES GOVERNING EMERGENCY TELEPHONE SERVICE, AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON THE USE OF 911 FUNDS, AND TO INCREASE FUNDS FOR SUPPLEMENTAL PEG CHANNEL SUPPORT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62A-40 reads as rewritten:

"§ 62A-40. Definitions.

The following definitions apply in this Article.

...

- (5) Call taking. – The act of processing a 911 call for emergency assistance ~~up to the point that the call is ready for dispatch~~ by a primary PSAP, including the use of 911 system equipment, call classification, location of a caller, ~~and~~ determination of the appropriate response level for emergency ~~responders-responders~~, and dispatching 911 call information to the appropriate responder.

...

- (9) Enhanced 911 service. – Directing a 911 call to an appropriate PSAP by selective routing or other means based on the geographical location from which the call originated and providing information defining the approximate geographic location and the telephone number of a 911 caller, in accordance with the FCC Order.

...."

SECTION 2.(a) G.S. 62A-41 reads as rewritten:

"(a) Membership. – The 911 Board is established in the Office of Information Technology Services. Neither a local government unit that receives a distribution from the fund under G.S. 62A-46 nor a telecommunication service provider may have more than one representative on the 911 Board. The 911 Board consists of 17 members as follows:

- (1) Four members appointed by the Governor as follows:
- An individual who represents ~~municipalities~~ a municipality where a primary PSAP is located, appointed upon the recommendation of the North Carolina League of Municipalities.
 - An individual who represents ~~counties~~ a county where a primary PSAP is located, appointed upon the recommendation of the North Carolina Association of County Commissioners.
 - An individual who represents a VoIP provider.
 - An individual who represents the North Carolina chapter of the National Emergency Number Association (NENA).
- (2) Six members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives as follows:
- An individual who is a sheriff.
 - ~~Two individuals~~ An individual who ~~represent~~ represents CMRS providers operating in North Carolina.
 - An individual who represents the North Carolina chapter of the Association of Public Safety Communications Officials (APCO).
 - Two individuals who represent local exchange carriers operating in North Carolina, one of whom represents a local exchange carrier with less than 50,000 access lines.
 - A fire chief with experience operating or supervising a PSAP, appointed upon the recommendation of the North Carolina Firemen's Association.

- (3) Six members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate as follows:
- a. An individual who is a chief of police.
 - b. Two individuals who represent CMRS providers operating in North Carolina.
 - c. ~~An individual who represents the North Carolina chapter of the National Emergency Number Association (NENA).~~ A Rescue or Emergency Medical Services Chief with experience operating or supervising a PSAP, appointed upon the recommendation of the North Carolina Association of Rescue and Emergency Medical Services.
 - d. Two individuals who represent local exchange carriers operating in North Carolina, one of whom represents a local exchange carrier with less than 200,000 access lines.
- (4) The State Chief Information Officer or the State Chief Information Officer's designee, who serves as the chair.

(b) Term. – A member's term is four years. No member may serve more than two terms. Members remain in office until their successors are appointed and qualified. Vacancies are filled in the same manner as the original appointment. The Governor may remove any member for misfeasance, malfeasance, or nonfeasance in accordance with G.S. 143B-13(d).

...."

SECTION 2.(b) Other than the positions removed by this act or individuals prohibited from serving on the Board due to duplicate representation prohibited by this act, the existing members of the 911 Board shall continue to serve until the expiration of their original terms. An existing member may not be reappointed to the Board if he or she has served two terms on the 911 Board.

SECTION 3. G.S. 62A-42 reads as rewritten:

"§ **62A-42. Powers and duties of the 911 Board.**

(a) Duties. – The 911 Board has the following powers and duties:

...

(4) To establish policies and procedures to fund advisory services and training for PSAPs-PSAPs, to set operating standards for PSAPs, and to provide funds in accordance with these policies and procedures-policies, procedures, and standards.

...

(6a) To use funds available to the 911 Board under G.S. 62-47 to pay its obligations incurred for statewide 911 projects.

...

(8a) To design, create, or acquire printed or Web-based public education materials regarding the proper use of 911.

(9) To adopt rules to implement this Article. This authority does not include the regulation of any enhanced 911 service, such as the establishment of technical ~~standards-standards~~ standards for telecommunications service providers to deliver 911 voice and data.

...

(b) Prohibition. – In no event shall the 911 Board or any other State agency lease, construct, operate, or own a communications network for the purpose of providing 911 service. The 911 Board may pay private sector vendors for provisioning a network for the purpose of providing 911 service."

SECTION 4. G.S. 62A-43(d) reads as rewritten:

"(d) Adjustment of Charge. – The 911 Board must monitor the revenues generated by the service charge. If the 911 Board determines that the rate produces revenue that exceeds or is less than ~~in excess of~~ the amount needed, the 911 Board ~~must reduce~~ may adjust the rate. The

~~reduced~~ rate must ensure full cost recovery for voice communications service providers and for primary PSAPs over a reasonable period of time. A change in the amount of the rate becomes effective only on ~~July 1~~ July 1, of an even-numbered year. The 911 Board must notify providers of a change in the rate at least 90 days before the change becomes effective."

SECTION 5. G.S. 62A-44(b) reads as rewritten:

"(b) Allocation of Revenues. – The 911 Board may deduct and retain for its administrative expenses ~~up to one percent (1%)~~ a percentage of the total service charges remitted to it under G.S. 62A-43 for deposit in the 911 Fund. The percentage may not exceed two percent (2%). The percentage is one percent (1%) unless the 911 Board sets the percentage at a different amount. The 911 Board must monitor the amount of funds required to meet its financial commitment to provide technical assistance to primary PSAPs and set the rate at an amount that enables the 911 Board to meet this commitment. The remaining revenues remitted to the 911 Board for deposit in the 911 Fund are allocated as follows:

- (1) A percentage of the funds remitted by CMRS providers to the 911 Fund are allocated for reimbursements to CMRS providers pursuant to G.S. 62A-45.
- (2) A percentage of the funds remitted by CMRS providers and all funds remitted by all other voice communications service providers are allocated for monthly distributions to primary PSAPs pursuant to G.S. 62A-46 and grants to PSAPs pursuant to G.S. 62A-47.
- (3) The percentage of the funds remitted by CMRS providers allocated to CMRS providers and PSAPs shall be set by the 911 Board and may be adjusted by the 911 Board as necessary to ensure full cost recovery for CMRS providers and, to the extent there are excess funds, for distributions to primary PSAPs."

SECTION 6. G.S. 62A-45(c) reads as rewritten:

"(c) Grant Reallocation. – If the amount of reimbursements to CMRS providers by the 911 Board for a fiscal year is less than the amount of funds allocated for reimbursements to CMRS providers for that fiscal year, the 911 Board may reallocate part ~~or all~~ of the excess amount to the PSAP Grant and Statewide 911 Projects Account established under G.S. 62A-47. The 911 Board may reallocate funds under this subsection only once each calendar year and may do so only within the three-month period that follows the end of the fiscal year. If the 911 Board reallocates more than a total of three million dollars (\$3,000,000) to the PSAP Grant and Statewide 911 Projects Account in a calendar year, it must consider reducing the amount of the service charge in G.S. 62A-44 to reflect more accurately the underlying costs of providing 911 system services.

The 911 Board must make the following findings before it reallocates funds to the PSAP Grant and Statewide 911 Projects Account:

- (1) There is a critical need for additional funding for PSAPs in rural or high-cost areas to ensure that enhanced 911 service is deployed throughout the State.
- (2) The reallocation will not impair cost recovery by CMRS providers.
- (3) The reallocation will not result in the insolvency of the 911 Fund."

SECTION 7.(a) G.S. 62A-46(a) reads as rewritten:

"(a) Monthly Distribution. – The 911 Board must make monthly distributions to primary PSAPs from the amount allocated to the 911 Fund for PSAPs. A PSAP is not eligible for a distribution under this section unless it provides enhanced 911 service and received distributions from the 911 Board in the 2008-2009 fiscal year. The Board must comply with all of the following:

- (1) Administration. – The Board must notify PSAPs of the estimated distributions no later than December 31 of each year. The Board must determine actual distributions no later than June 1 of each year. The Board must determine a method for establishing distributions that is equitable and sustainable and that ensures distributions for eligible operating costs and anticipated increases for all funded PSAPs. The Board must establish a

- formula to determine each PSAP's base amount. The formula must be determined and published to PSAPs in the first quarter of the fiscal year preceding the fiscal year in which the formula is used. The Board may not change the funding formula for the base amount more than once every year.
- (2) Reports. – The Board must report to the Joint Legislative Commission on Governmental Operations, the Revenue Laws Study Committee, and the Joint Legislative Utility Review Committee within 45 days of a change in the funding formula. The report must contain a description of the differences in the old and new formulas and the projected distributions to each PSAP from the new formula.
- (3) Formula. – The funding formula established by the Board must consider all of the following:
- a. The population of the area served by a PSAP.
 - b. PSAP reports and budgets, disbursement histories, and historical costs.
 - c. PSAP operations, 911 technologies used by the PSAP, compliance with operating standards of the 911 Board, level of service a PSAP delivers dispatching fire, emergency medical services, law enforcement, and Emergency Medical Dispatch.
 - d. The tier designation of the county in which the PSAP is located as designated in G.S. 143B-437.08.
 - e. Any interlocal government funding agreement between a primary PSAP and a secondary PSAP, if the secondary PSAP was in existence as of June 1, 2010, receives funding under the agreement, and is within the service area of the primary PSAP.
 - f. Any other information the Board considers relevant.
- (4) Additional distributions. – In the first quarter of the Board's fiscal year, the Board must determine whether payments to PSAPs during the preceding fiscal year exceeded or were less than the eligible costs incurred by each PSAP during the fiscal year. If a PSAP receives less than its eligible costs in any fiscal year, the Board may increase a PSAP's distribution in the following fiscal year above the base amount as determined by the formula to meet the estimated eligible costs of the PSAP as determined by the Board. The Board may not distribute less than the base amount to each PSAP except as provided in subsection (b1) of this section. The Board must provide a procedure for a PSAP to request a reconsideration of its distribution or eligible expenses.

~~The amount to be distributed to each primary PSAP is the sum of the following:~~

- ~~(1) The PSAP's base amount. — The PSAP's base amount is the amount the PSAP received in the fiscal year ending June 30, 2007, and deposited in the Emergency Telephone System Fund of its local governing entity, as reported to the State Treasurer's Office, Local Government Division.~~
- ~~(2) The PSAP's per capita amount. — The PSAP's per capita amount is the PSAP's per capita share of the amount designated by the Board under subsection (b) of this section for the per capita distribution. The 911 Board must use the most recent population estimates certified by the State Budget Officer in making the per capita distribution under this subdivision. A PSAP is not eligible for a distribution under this subdivision unless it provides enhanced 911 service."~~

SECTION 7.(b) G.S. 62A-46 is amended by adding a new subsection to read:

"(b1) Carryforward. – A PSAP may carry forward distributions for eligible expenditures for capital outlay, capital improvements, or equipment replacement. Amounts carried forward to the next fiscal year from distributions made by the 911 Board may not be used to lower the

distributions in subsection (a) of this section unless the amount is greater than twenty percent (20%) of the average yearly amount distributed to the PSAP in the prior two years. The 911 Board may allow a PSAP to carry forward a greater amount without changing the PSAP's distribution."

SECTION 7.(c) G.S. 62A-46(c) reads as rewritten:

"(c) Use of Funds. – A PSAP that receives a distribution from the 911 Fund may not use the amount received to pay for the lease or purchase of real estate, cosmetic remodeling of emergency dispatch centers, hiring or compensating telecommunicators, or the purchase of mobile communications vehicles, ambulances, fire engines, or other emergency vehicles. Distributions received by a PSAP may be used only to pay for the following:

- (1) ~~The lease, purchase, or maintenance of emergency telephone equipment, including necessary computer hardware, software, and database provisioning, addressing, and nonrecurring costs of establishing a 911 system of:~~
 - a. Emergency telephone equipment, including necessary computer hardware, software, and database provisioning.
 - b. Addressing.
 - c. Telecommunicator furniture.
 - d. Dispatch equipment located exclusively within a building where a PSAP is located, excluding the costs of base station transmitters, towers, microwave links, and antennae used to dispatch emergency call information from the PSAP.

(1a) The nonrecurring costs of establishing a 911 system.

- (2) Expenditures for in-State training of 911 personnel regarding the maintenance and operation of the 911 system. Allowable training expenses include the cost of transportation, lodging, instructors, certifications, improvement programs, quality assurance training, ~~and training associated with call taking, and emergency medical, fire, or law enforcement procedures.~~ procedures, and training specific to managing a PSAP or supervising PSAP staff. Training outside the State is not an eligible expenditure unless the training is unavailable in the State or the PSAP documents that the training costs are less if received out-of-state. Training specific to the receipt of 911 calls is allowed only for intake and related call taking quality assurance and improvement. Instructor certification costs and course required prerequisites, including physicals, psychological exams, and drug testing, are not allowable expenditures.

...."

SECTION 7.(d) G.S. 62A-46(e) is amended by adding a new subdivision to read:

"(5) A primary PSAP must comply with the rules, policies, procedures, and operating standards for primary PSAPs adopted by the 911 Board."

SECTION 7.(e) Subsection (a) of this section becomes effective July 1, 2010, and applies to distributions by the Board in fiscal years beginning in 2011. Subsection (b) of this section becomes effective July 1, 2011, and applies to distributions made on or after that date. Subsection (d) of this section becomes effective July 1, 2011.

SECTION 8. G.S. 62A-47 reads as rewritten:

"§ **62A-47. PSAP Grant and Statewide 911 Projects Account.**

(a) Account Established. – A PSAP Grant and Statewide 911 Projects Account is established within the 911 Fund for the purpose of making grants to PSAPs in rural and other high-cost ~~areas~~ areas and funding projects that provide statewide benefits for 911 service. The Account consists of revenue allocated by the 911 Board under G.S. 62A-45(c) and G.S. 62A-46.

(b) Grant Application. – A PSAP may apply to the 911 Board for a grant from the ~~PSAP Grant~~ Account. An application must be submitted in the manner prescribed by the 911

Board. The 911 Board may approve a grant application and enter into a grant agreement with a PSAP if it determines all of the following:

- (1) The costs estimated in the application are reasonable and have been or will be incurred for the purpose of promoting a cost-effective and efficient 911 system.
- (2) The expenses to be incurred by the applicant are consistent with the 911 State Plan.
- (3) There are sufficient funds available in the fiscal year in which the grant funds will be distributed.
- (4) The costs are authorized PSAP costs under ~~G.S. 62A-46(e)~~ G.S. 62A-46(c), or the costs are for consolidating one or more PSAPs with a primary PSAP, or the relocation costs of primary PSAPs, including costs not authorized under G.S. 62A-46(c) and construction costs.

(c) Grant Agreement. – A grant agreement between the 911 Board and a PSAP must include the purpose of the grant, the time frame for implementing the project or program funded by the grant, the amount of the grant, and a provision for repaying grant funds if the PSAP fails to comply with any of the terms of the grant. The amount of the grant may vary among grantees. If the grant is intended to promote the deployment of enhanced 911 service in a rural area of the State, the grant agreement must specify how the funds will assist with this goal. The 911 Board must publish one or more notices each fiscal year advertising the availability of grants from the PSAP Grant and Statewide 911 Projects Account and detailing the application process, including the deadline for submitting applications, any required documents specifying costs, either incurred or anticipated, and evidence demonstrating the need for the grant. Any grant funds awarded to PSAPs under this section are in addition to any funds reimbursed under G.S. 62A-46.

(d) Statewide 911 Projects. – The 911 Board may use funds from the Account for a statewide project if the Board determines the project meets all of the following requirements:

- (1) The project is consistent with the 911 plan.
- (2) The project is cost-effective and efficient when compared to the aggregated costs incurred by primary PSAPs for implementing individual projects.
- (3) The project is an eligible expense under G.S. 62A-46(c).
- (4) The project will have statewide benefit for 911 service."

SECTION 9. Fifty percent (50%) of funds in the Emergency Telephone System Fund on the effective date of this act may be used by the local government entity to provide for public safety needs, including costs that are not eligible expenses under G.S. 62A-46. The expenditures must be made in fiscal years 2010-2011 and 2011-2012. A local governing entity is not relieved of any prior obligation incurred for uses authorized by G.S. 62A-46. All other funds in the Emergency Telephone System Fund must be used for eligible expenses under Article 3 of Chapter 62A of the General Statutes.

SECTION 10. The House Select Committee on the Use of 911 Funds shall study the funding of secondary PSAPs and whether secondary PSAPs should be eligible to receive distributions from the 911 Board.

SECTION 11.(a) G.S. 66-359 is repealed.

SECTION 11.(b) G.S. 105-164.44I(b) reads as rewritten:

"(b) Supplemental PEG Channel Support. – G.S. 105-164.44J sets out the requirements for receipt by a county or city of supplemental PEG channel support funds distributed under this subsection. The Secretary must include the applicable amount of supplemental PEG channel support in each quarterly distribution to a county or city. The amount to include is one-fourth of the share of each qualifying PEG channel certified by the city or county under G.S. 105-164.44J. The share of each certified PEG channel is the sum of four million dollars (\$4,000,000) and the amount of any funds returned to the Secretary in the prior fiscal year under G.S. 105-164.44J(d) divided by the number of PEG channels certified under G.S. 105-164.44J.~~one-fourth of twenty-five thousand dollars (\$25,000) for each qualifying~~

~~PEG channel certified by the county or city under G.S. 105-164.44J. A county or city may not receive PEG channel support under this subsection for more than three qualifying PEG channels.~~

~~The amount of money distributed under this subsection may not exceed two million dollars (\$2,000,000) in a fiscal year, plus the amount of any funds returned to the Secretary in the prior fiscal year under G.S. 105-164.44J(d). If the amount to be distributed for qualifying PEG channels in a fiscal year would otherwise exceed this maximum amount, the Secretary must proportionately reduce the applicable amount distributable for each PEG channel. If the amount to be distributed for qualifying PEG channels in a fiscal year is less than this maximum amount, the Secretary must credit the excess amount to the PEG Channel Fund established in G.S. 66-359. For purposes of this subsection, the term "qualifying PEG channel" has the same meaning as in G.S. 105-164.44J."~~

SECTION 11.(c) G.S. 105-164.44J(b) reads as rewritten:

"(b) Certification. – A county or city must certify to the Secretary by July 15 of each year all of the qualifying PEG channels provided for its use during the preceding fiscal year by a cable service provider under either G.S. 66-357 or an existing agreement. A county or city may not certify more than three qualifying PEG channels. The certification must include all of the following:

- (1) An identification of each channel as a public, an education, or a government channel.
- (2) The name and signature of the PEG channel operator for each channel. If a qualifying PEG channel has more than one PEG channel operator, the county or city must include the name of each operator of the PEG channel. A PEG channel operator may be included on the certification of only one county or city for each type of PEG channel that it operates.
- (3) Any other information required by the Secretary."

SECTION 11.(d) Subsection (b) of this section becomes effective July 1, 2011, and applies to distributions made on or after July 1, 2011, for quarters starting on or after April 1, 2011.

SECTION 12. Unless otherwise provided, this act becomes effective July 1, 2010.

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law upon approval of the Governor at 1:17 p.m. on the 23rd day of July, 2010.

Session Law 2010-159

H.B. 1682

AN ACT TO PROHIBIT THE USE OF CORPORAL PUNISHMENT ON A STUDENT WITH A DISABILITY AS DEFINED IN G.S. 115C-106.3(1) OR SECTION 504 OF THE FEDERAL REHABILITATION ACT OF 1973 WHOSE PARENT OR GUARDIAN HAS STATED IN WRITING THAT CORPORAL PUNISHMENT SHALL NOT BE ADMINISTERED ON THAT STUDENT, AND TO REQUIRE LOCAL BOARDS OF EDUCATION TO REPORT OCCURRENCES OF CORPORAL PUNISHMENT TO THE STATE BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-107.7 reads as rewritten:

"§ 115C-107.7. ~~Discipline~~ **Discipline, corporal punishment, and homebound instruction.**

(a) The policies and procedures for the discipline of students with disabilities shall be consistent with federal laws and regulations.

(a1) Any corporal punishment administered on students with disabilities shall be consistent with the requirements of G.S. 115C-391(a)(5).

(b) If a change of placement occurs under the discipline regulations of IDEA, a local educational agency shall not assign a student to homebound instruction without a determination

by the student's IEP team that the homebound instruction is the least restrictive alternative environment for that student. If it is determined that the homebound instruction is the least restrictive alternative environment for the student, the student's IEP team shall meet to determine the nature of the homebound educational services to be provided to the student. In addition, the continued appropriateness of the homebound instruction shall be evaluated monthly by the designee or designees of the student's IEP team.

(c) **(Effective January 1, 2009, and expires March 1, 2011 – see notes)** A local educational agency shall be deemed to have a "basis of knowledge" that a child is a child with a disability if, prior to the behavior that precipitated the disciplinary action, the behavior and performance of the child clearly and convincingly establishes the need for special education. Prior disciplinary infractions shall not, standing alone, constitute clear and convincing evidence."

SECTION 2. G.S. 115C-391 reads as rewritten:

"§ 115C-391. **Corporal punishment, suspension, or expulsion of pupils.**

(a) Local boards of education shall adopt policies not inconsistent with the provisions of the Constitutions of the United States and North Carolina, governing the conduct of students and establishing procedures to be followed by school officials in suspending or expelling any student, or in disciplining any student if the offensive behavior could result in suspension, expulsion, or the administration of corporal punishment. Local boards of education shall include a reasonable dress code for students in these policies.

The policies that shall be adopted for the administration of corporal punishment shall include at a minimum the following conditions:

- (1) Corporal punishment shall not be administered in a classroom with other ~~children present;~~students present.
- (2) The student body shall be informed beforehand what general types of misconduct could result in corporal ~~punishment;~~punishment.
- (3) Only a teacher, substitute teacher, principal, or assistant principal may administer corporal punishment and may do so only in the presence of a principal, assistant principal, teacher, substitute teacher, teacher assistant, or student teacher, who shall be informed beforehand and in the student's presence of the reason for the ~~punishment;~~ and punishment.
- (4) An appropriate school official shall provide the ~~child's~~ student's parent or guardian with notification that corporal punishment has been administered, and upon request, the official who administered the corporal punishment shall provide the ~~child's~~ student's parent or guardian a written explanation of the reasons and the name of the second school official who was present.
- (5) Corporal punishment shall not be administered on a student who is a child with a disability as defined in G.S. 115C-106.3(1) or on a student with a disability who is covered under section 504 of the federal Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, whose parent or guardian has stated in writing that corporal punishment shall not be administered on that student. Parents and guardians shall be given a form to make such an election at the beginning of the school year or when the student first enters the school during the year. If a parent or guardian has not submitted in writing that corporal punishment shall not be used on the student, then the form shall be presented to the parent or guardian at the first individualized education program or section 504 plan meeting held during the school year.

Each local board shall publish all the policies mandated by this subsection and make them available to each student and ~~his~~ each student's parent or guardian at the beginning of each school year. Notwithstanding any policy adopted pursuant to this section, school personnel may use reasonable force, including corporal punishment, to control behavior or to remove a person from the scene in those situations when necessary:

- (1) To quell a disturbance threatening injury to others;
- (2) To obtain possession of weapons or other dangerous objects on the person, or within the control, of a student;
- (3) For self-defense;
- (4) For the protection of persons or property; or
- (5) To maintain order on school property, in the classroom, or at a school-related activity on or off school property.

(a1) Each local board of education shall report annually to the State Board of Education, in a manner prescribed by the State Board of Education, on the number of times that corporal punishment was administered. The report shall be in compliance with the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g and shall include the following:

- (1) The number of students who received corporal punishment.
- (2) The number of students who received corporal punishment who were also students with disabilities and were eligible to receive special education and related services under the federal Individuals with Disabilities Education Improvement Act, 20 U.S.C. § 1400, et seq.
- (3) The grade level of the students who received corporal punishment.
- (4) The race and ethnicity of the students who received corporal punishment.
- (5) The reason for the administration of the corporal punishment for each student who received corporal punishment.

...."

SECTION 3. This act is effective when it becomes law and applies beginning with the 2010-2011 school year.

In the General Assembly read three times and ratified this the 6th day of July, 2010.

Became law upon approval of the Governor at 1:40 p.m. on the 23rd day of July, 2010.

Session Law 2010-160

S.B. 1151

AN ACT TO DIRECT THE DIVISION OF SOCIAL SERVICES OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO EXAMINE WAYS TO EXPAND AND ENHANCE THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM IN NORTH CAROLINA, AS RECOMMENDED BY THE LEGISLATIVE TASK FORCE ON CHILDHOOD OBESITY.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Health and Human Services, Division of Social Services, shall examine and recommend ways to expand and enhance Supplemental Nutrition Assistance Program Education (SNAP-Ed Program) in this State. The recommendations shall include all of the following:

- (1) An expanded definition and use of in-kind resources in order to draw down additional federal funds to expand the SNAP-Ed Program in North Carolina.
- (2) A three-year plan to expand and enhance the SNAP-Ed Program.
- (3) A determination as to the feasibility of placing the responsibility for the SNAP-Ed Program at North Carolina State University or North Carolina A&T State University, or both.

Not later than September 1, 2011, the Department shall report its findings and recommendations on the directives outlined in subdivisions (1) through (3) of this section to the Legislative Task Force on Childhood Obesity if reestablished for the 2011-2012 Session, to the Public Health Study Commission, and to the Fiscal Research Division.

SECTION 2. Beginning in October 2010, the Department shall solicit proposals from across the State for the development and implementation by April 2011 of new local and

State programs that emphasize social marketing techniques to educate consumers about nutrition, physical activity, and obesity prevention.

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

In the General Assembly read three times and ratified this the 1st day of July, 2010.

Became law upon approval of the Governor at 1:42 p.m. on the 23rd day of July, 2010.

Session Law 2010-161

H.B. 1757

AN ACT TO DIRECT THE STATE BOARD OF EDUCATION TO DEVELOP GUIDELINES FOR PUBLIC SCHOOLS TO USE EVIDENCE-BASED FITNESS TESTING FOR STUDENTS STATEWIDE IN GRADES KINDERGARTEN THROUGH EIGHT, AS RECOMMENDED BY THE LEGISLATIVE TASK FORCE ON CHILDHOOD OBESITY.

The General Assembly of North Carolina enacts:

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

"§ 115C-12. **Powers and duties of the Board generally.**

The general supervision and administration of the free public school system shall be vested in the State Board of Education. The State Board of Education shall establish policy for the system of free public schools, subject to laws enacted by the General Assembly. The powers and duties of the State Board of Education are defined as follows:

...

(37) To Adopt Guidelines for Fitness Testing. – The State Board of Education shall adopt guidelines for the development and implementation of evidence-based fitness testing for students statewide in grades kindergarten through eight."

SECTION 2. This act is effective when it becomes law. Implementation of the guidelines developed as required in Section 1 of this act shall begin with the 2011-2012 school year.

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Became law upon approval of the Governor at 1:46 p.m. on the 23rd day of July, 2010.

Session Law 2010-162

S.B. 1248

AN ACT TO REQUIRE LOCAL SCHOOL ADMINISTRATIVE UNITS TO IDENTIFY STUDENTS AT RISK OF ACADEMIC FAILURE AND NOT SUCCESSFULLY PROGRESSING TOWARD GRADUATION NO LATER THAN THE FOURTH GRADE, TO PROVIDE PERSONAL EDUCATION PLANS FOR THOSE STUDENTS, TO REQUIRE LOCAL SCHOOL ADMINISTRATIVE UNITS TO CERTIFY COMPLIANCE ANNUALLY TO THE STATE BOARD OF EDUCATION, AND TO REQUIRE THE STATE BOARD OF EDUCATION TO PERIODICALLY REVIEW DATA ON THE PROGRESS OF IDENTIFIED STUDENTS AND REPORT TO THE JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-105.41 reads as rewritten:

"§ 115C-105.41. **Students who have been placed at risk of academic failure; personal education plans.**

Local school administrative units shall identify students who are at risk for academic ~~failure~~ failure and who are not successfully progressing toward grade promotion and graduation, beginning no later than the fourth grade. Identification shall occur as early as can

reasonably be done and can be based on grades, observations, State assessments, and other factors, including reading on grade level, that impact student performance that teachers and administrators consider appropriate, without having to await the results of end-of-grade or end-of-course tests. No later than the end of the first quarter, or after a teacher has had up to nine weeks of instructional time with a student, a personal education plan for academic improvement with focused intervention and performance benchmarks shall be developed or updated for any student at risk of academic failure who is not performing at least at grade level, as identified by the State end-of-grade test and other factors noted above. Focused intervention and accelerated activities should include research-based best practices that meet the needs of students and may include coaching, mentoring, tutoring, summer school, Saturday school, and extended days. Local school administrative units shall provide these activities free of charge to students. Local school administrative units shall also provide transportation free of charge to all students for whom transportation is necessary for participation in these activities.

Local school administrative units shall give notice of the personal education plan and a copy of the personal education plan to the student's parent or guardian. Parents should be included in the implementation and ongoing review of personal education plans.

Local school administrative units shall certify that they have complied with this section annually to the State Board of Education. The State Board of Education shall periodically review data on the progress of identified students and report to the Joint Legislative Education Oversight Committee.

No cause of action for monetary damages shall arise from the failure to provide or implement a personal education plan under this section."

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

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law upon approval of the Governor at 1:50 p.m. on the 23rd day of July, 2010.

Session Law 2010-163

H.B. 1377

AN ACT TO ENACT THE SAFE SCHOOLS ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-325(o) reads as rewritten:

"(o) Resignation. –

(1) If a career employee has been recommended for dismissal under G.S. 115C-325(e)(1) and the employee chooses to resign without the written agreement of the superintendent, then:

a. The superintendent shall report the matter to the State Board of Education.

b. The employee shall be deemed to have consented to (i) the placement in the employee's personnel file of the written notice of the superintendent's intention to recommend dismissal and (ii) the release of the fact that the superintendent has reported this employee to the State Board of Education to prospective employers, upon request. The provisions of G.S. 115C-321 shall not apply to the release of this particular information.

c. The employee shall be deemed to have voluntarily surrendered his or her certificate pending an investigation by the State Board of Education in a determination whether or not to seek action against the employee's certificate. This certificate surrender shall not exceed 45 days from the date of resignation. Provided further that the cessation of the certificate surrender shall not prevent the State Board of Education from taking any further action it deems appropriate.

The State Board of Education shall initiate investigation within five working days of the written notice from the superintendent and shall make a final decision as to whether to revoke or suspend the employee's certificate within 45 days from the date of resignation.

- (2) A teacher, career or probationary, who is not recommended for dismissal should not resign without the consent of the superintendent unless he or she has given at least 30 days' notice. If ~~the~~ a teacher who is not recommended for dismissal does resign without giving at least 30 days' notice, the board may request that the State Board of Education revoke the teacher's certificate for the remainder of that school year. A copy of the request shall be placed in the teacher's personnel file."

SECTION 2. This act is effective when it becomes law and applies to career employees who resign on or after that date.

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law upon approval of the Governor at 2:30 p.m. on the 30th day of July, 2010.

Session Law 2010-164

S.B. 1015

AN ACT TO ENACT THE HOMEOWNER AND HOMEBUYER PROTECTION ACT TO PROHIBIT HOME FORECLOSURE RESCUE SCAMS IN WHICH A TRANSFEROR IS INDUCED TO SELL PROPERTY FOR LESS THAN FIFTY PERCENT OF ITS FAIR MARKET VALUE TO AVOID FORECLOSURE, TO PROVIDE PROTECTIONS IN LEASE OPTION CONTRACTS BY REQUIRING THAT SUCH CONTRACTS BE IN WRITING, INCLUDE SPECIFIED MINIMUM CONTENTS, BE RECORDED, GIVE PURCHASERS UNDER THE CONTRACT NOTICE OF AND THE RIGHT TO CURE ANY DEFAULT, AND SPECIFY THE CONSEQUENCES OF A SELLER'S DEFAULT ON A LOAN SECURED BY A LIEN ON THE PROPERTY, TO PROVIDE PROTECTIONS IN CONTRACT FOR DEED TRANSACTIONS BY REQUIRING THAT SUCH CONTRACTS BE IN WRITING, INCLUDE SPECIFIED MINIMUM CONTENTS, BE RECORDED, GIVE PURCHASERS UNDER THE CONTRACT NOTICE OF AND THE RIGHT TO CURE ANY DEFAULT, AND INVOLVE PROPERTY TO WHICH THE SELLER HOLDS TITLE, AND TO MAKE VIOLATION OF CHAPTERS 47G AND 47H OF THE GENERAL STATUTES A BASIS FOR DISCIPLINE UNDER THE MANUFACTURED HOMES LICENSING ACT.

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known and may be cited as the "Homeowner and Homebuyer Protection Act."

SECTION 2. Chapter 75 of the General Statutes is amended by adding a new Article to read:

"Article 6.

"Home Foreclosure Rescue Scams.

"§ 75-120. Definitions.

The following definitions shall apply in this Article:

- (1) Default. – Whenever a property owner is more than 60 days delinquent on any loan or debt that is secured by the property, including real estate taxes.
- (2) Exempt transaction. – A foreclosure rescue transaction in which the transferee is any of the following:
- a. A member of the transferor's immediate family as defined in G.S. 53-244-030(13).
 - b. A state, federal, or local government agency or organization.

- c. A bank, savings institution, or credit union, including operating subsidiaries and affiliates, organized under the laws of the United States or any state.
 - d. A mortgage lender or mortgage servicer licensed by the Commissioner of Banks under Article 19B of Chapter 53 of the General Statutes.
- (3) Foreclosure rescue transaction. – A transfer of residential real property, including a manufactured home that is permanently attached to the real property, which includes all of the following features:
- a. The real property is the principal residence of the transferor.
 - b. The transferor is in default or legal proceedings have been initiated to foreclose on the transferor's property.
 - c. The transferee, an agent of the transferee, or others acting in concert with the transferee make representations that the transfer of the residential property will enable the transferor to prevent, postpone, or reverse the effect of foreclosure and to remain in the residence.
 - d. The transferor retains an interest in the property conveyed, including a tenancy interest, an interest under a lease-purchase agreement, an option to reacquire the property, or any other legal, equitable, or possessory interest in the property conveyed.
- (4) Property. – Real property upon which there is located one or more single-family dwellings, including an individual condominium unit, cooperative unit, manufactured home, or mobile home.

"§ 75-121. Foreclosure rescue transactions prohibited; exceptions; violation.

(a) It is unlawful for a person or entity other than the transferor to engage in, promise to engage in, arrange, offer, promote, solicit, assist with, or carry out a foreclosure rescue transaction for financial gain or with the expectation of financial gain, unless prior to or at the time of transfer, the transferee pays the transferor at least fifty percent (50%) of the fair market value of the property as determined by a licensed appraiser. An appraisal to determine the fair market value of the property must be performed no more than 90 days prior to the transfer. The appraisal shall be delivered to the transferor no more than three days after the appraisal is performed and no less than seven days prior to the transfer of the property. This section does not apply to exempt transactions.

(b) Every contract to effectuate a foreclosure rescue transaction in which the transferee pays at least 50% of the fair market value of the property, shall be in writing, shall be signed and acknowledged by all parties to it, and shall contain all the terms to which the parties have agreed. The contract shall contain at least all of the following:

- (1) The names and addresses of all parties to the contract.
- (2) The legal description of the property being transferred.
- (3) Any financial obligation of the transferor that will be assumed by the transferee.
- (4) The total amount to be paid by the transferee in connection with the transaction.
- (5) The fair market value of the property as determined by a licensed appraiser.
- (6) A description of the interest in the property retained by the transferor as provided in G.S. 75-120(3)d.
- (7) The terms of the transferor's right to any future possessory or ownership interest in the property.

"§ 75-122. Remedies.

A violation of G.S. 75-121 is an unfair trade practice under G.S. 75-1.1. A homeowner may bring an action for the recovery of damages, to void a prohibited foreclosure rescue transaction, as well as for declaratory or equitable relief for a violation of this Article. The provisions of this section shall not be enforceable against a bona fide purchaser for value. The rights and

remedies provided herein are cumulative to, and not a limitation of, any other rights and remedies provided by law or equity."

SECTION 3. The General Statutes are amended by adding a new Chapter to read:

"Chapter 47G.

"Option to Purchase Contracts Executed With Lease Agreements.

"§ 47G-1. Definitions.

The following definitions apply in this Chapter:

- (1) Covered lease agreement or lease agreement. – A residential lease agreement that is combined with, or is executed concurrently with, an option contract.
- (2) Cure the default. – To perform the obligations under the lease agreement and/or option contract that are described in the notice of default and intent to forfeit required by G.S. 47G-5 and that are necessary to reinstate the lease agreement and/or the option contract. This term is synonymous with the term 'cure.'
- (3) Forfeiture. – The termination of an option purchaser's rights to exercise an option to purchase property that is the subject of the option contract, and those rights of persons or entities claiming by or through an option purchaser, to the extent permitted by this Chapter, because of a breach of one or more of the purchaser's obligations under the option contract and/or covered lease agreement.
- (4) Option contract or contract. – An option contract for the purchase of property that includes or is combined with, or is executed in conjunction with, a covered lease agreement.
- (5) Option fee. – Any payment, however denominated, made by the option purchaser to the option seller that constitutes the price the option purchaser pays for the right to buy the property at a specified price in the future.
- (6) Option purchaser or purchaser. – An individual who purchases an interest in property under an option contract, or any legal successor in interest to that individual.
- (7) Option seller or seller. – A person or entity that makes a sale of an option by means of an option contract, or the person's or entity's successor in interest. If an option contract is subsequently assigned or sold to a third party, the assignor shall be deemed to be an option seller or seller for purposes of this Chapter.
- (8) Property. – Real property located in this State, upon which there is located or there is to be located a structure or structures designed principally for occupancy of from one to four families that is or will be occupied by the purchaser as the purchaser's principal dwelling.

"§ 47G-2. Minimum contents of option contracts; recordation.

(a) Writing Required. – Every option contract, including any assignment of an option contract, shall be evidenced by a contract signed and acknowledged by all parties to it and containing all the terms to which they have agreed. The seller shall deliver to the purchaser an exact copy of the contract, containing all the disclosures required by subsection (b) of this section, at the time the purchaser signs the contract.

- (b) Contents. – An option contract shall contain at least all of the following:
- (1) The full names and addresses of all the parties to the contract.
 - (2) The date the contract is signed by each party.
 - (3) A legal description of the property to be conveyed subject to an option to purchase.
 - (4) The sales price of the property to be conveyed subject to an option to purchase.
 - (5) The option fee and any other fees or payments to be paid by each party to the contract.

- (6) All of the obligations that if breached by the purchaser will result in forfeiture of the option.
- (7) The time period during which the purchaser must exercise the option.
- (8) A statement of the rights of the purchaser to cure a default, including that the purchaser has the right to cure a default once in any 12-month period during the period of the covered lease agreement.
- (9) A conspicuous statement, in not less than 14-point boldface type, immediately above the purchaser's signature, that the purchaser has the right to cancel the contract at anytime until midnight of the third business day following execution of the option contract or delivery of the contract, whichever occurs last.

(c) Right to Cancel. – The purchaser may exercise the right to cancel the option contract until midnight of the third business day following execution of the option contract or delivery of a copy of the option contract, with the required minimum disclosures, whichever occurs last. If the purchaser cancels the option contract, the seller shall, not later than the tenth day after the date the seller receives the purchaser's notice of cancellation, return to the purchaser any and all property exchanged or payments made by the purchaser under the option contract minus an offset of an amount equal to the fair rental value of the use of the property during the duration of the purchaser's possession of the property plus an amount necessary to compensate the seller for any damages caused to the property by the purchaser beyond normal wear and tear.

(d) Recordation. – Within five business days after the option contract has been signed and acknowledged by both the seller and the purchaser, the seller shall cause a copy of the option contract or a memorandum of the option contract to be recorded in the office of the register of deeds in the county in which the property is located. If a memorandum of the contract is recorded, it shall be entitled "Memorandum of Option Contract" and shall contain, as a minimum, the names of the parties, the signatures of the parties, a description of the property, and applicable time periods as described in subdivisions (b)(7) and (8) of this section. A person other than a seller and purchaser may rely on the recorded materials in determining whether the requirements of this subsection have been met. The seller shall pay the fee to record the document unless the parties agree otherwise.

(e) Effect of Forfeiture. – Upon default and forfeiture after proper notice of default and intent to forfeit and failure of the purchaser to substantially cure the default, the purchaser's equitable right of redemption shall be extinguished by:

- (1) A mutual termination executed by the parties and recorded in the office of the register of deeds of the county in which the property is located, or
- (2) A final judgment or court order entered by a court of competent jurisdiction that terminates the purchaser's rights to the property and extinguishes the equity of redemption. A certified copy of the order shall be recorded in the office of the register of deeds of the county in which the property is located pursuant to G.S. 1-228.

(f) No instrument purporting to extinguish the equity of redemption that is executed as a condition of the transaction or prior to a default will be effective.

"§ 47G-3. Application of Landlord Tenant Law.

The provisions of Chapter 42 of the General Statutes apply to covered lease agreements.

"§ 47G-4. Condition of forfeiture; right to cure.

A purchaser's right to exercise an option to purchase property under an option contract cannot be forfeited unless a breach has occurred in one or more of the purchaser's express obligations under the option contract and the option contract provides that as a result of such breach the seller is entitled to forfeit the contract. Notwithstanding any option contract or covered lease agreement provisions to the contrary, the purchaser's rights shall not be forfeited until the purchaser has been notified of the intent to forfeit in accordance with G.S. 47G-5 and been given a right to cure the default and has failed to do so within the time period allowed.

The option purchaser is entitled to the right to cure a default once in every 12-month period during the period of the covered lease agreement.

"§ 47G-5. Notice of default and intent to forfeit.

(a) A notice of default and intent to forfeit shall specify the nature of the default, the amount of the default if the default is in the payment terms, the date after which the contract will be forfeited if the purchaser does not cure the default, and the name and address of the seller or the attorney for the seller. The period specified in the notice after which the contract will be forfeited may not be less than 30 days after the notice of default and intent to forfeit is served, or before judgment is given in any action brought to recover the possession of the leased premises pursuant to Article 3 of Chapter 42 of the General Statutes, whichever is earlier.

(b) Any notice of default and intent to forfeit must be delivered to the option purchaser by hand delivery or by any manner authorized by G.S. 1A-1, Rule 4.

"§ 47G-6. Effect of seller's default on loan secured by mortgage or lien on property.

If, at any time prior to the expiration of the time period in which the option purchaser has a right to exercise the option to purchase, a default occurs on a loan secured by a mortgage, security interest, or other lien on the property, the option purchaser may elect to exercise the option or cancel and rescind the contract and, in addition to any other remedies available at law or equity, seek the immediate return of all moneys paid by the option purchaser. If the purchaser elects to rescind the contract, the seller is entitled to an offset of an amount equal to the fair rental value of the use of the property during the duration of the purchaser's possession of the property plus an amount necessary to compensate the seller for any damages caused to the property by the purchaser beyond normal wear and tear.

"§ 47G-7. Remedies.

A violation of any provision of this Chapter constitutes an unfair trade practice under G.S. 75-1.1. An option purchaser may bring an action for the recovery of damages, to void a transaction executed in violation of this Chapter, as well as for declaratory or equitable relief for a violation of this Chapter. The rights and remedies provided herein are cumulative to, and not a limitation of, any other rights and remedies provided by law or equity. Nothing in this Chapter shall be construed to subject an individual homeowner selling his or her primary residence directly to an option purchaser to liability under G.S. 75-1.1."

SECTION 4. The General Statutes are amended by adding a new Chapter to read:

"Chapter 47H.

"Contracts for Deed.

"§ 47H-1. Definitions.

The following definitions apply in this Chapter:

- (1) Contract for deed or contract. – An agreement, whether denominated a "contract for deed," "installment land contract," "land contract," "bond for title," or any other title or description in which the seller agrees to sell an interest in property to the purchaser and the purchaser agrees to pay the purchase price in five or more payments exclusive of the down payment, if any, and the seller retains title to the property as security for the purchaser's obligation under the agreement.
- (2) Cure the default. – To perform the obligations under the contract that are described in the notice of default and intent to forfeit required by G.S. 47H-4 and that are necessary to reinstate the contract. This term is synonymous with the term 'cure.'
- (3) Down payment. – A payment made by the purchaser to the seller that constitutes part of the purchase price of property that is the subject of a contract for deed and that is made or agreed to in connection with the execution of that contract.
- (4) Forfeiture. – The termination of all of a purchaser's rights, title, and interest, and those of persons or entities claiming by or through a purchaser, in

property that is the subject of a contract for deed, to the extent permitted by this Chapter, because of a breach of one or more of the purchaser's obligations under the contract.

- (5) Property. – Either (i) real estate located in this State, upon which there is located or there is to be located a structure or structures designed principally for occupancy of from one to four families that is or will be occupied by the purchaser as the purchaser's principal dwelling, or (ii) a manufactured home, as that term is defined in G.S. 143-149.9, that is located in this State and is or will be occupied by a purchaser as the purchaser's principal dwelling, if the purchase price is five thousand dollars (\$5,000) or more.
- (6) Purchaser. – An individual or entity that purchases an interest in property under a contract for deed, or any legal successor in interest to that individual.
- (7) Seller. – A person or entity that makes a sale of property by means of a contract for deed, or the person's or entity's successor in interest.

"§ 47H-2. Minimum contents for contracts for deed; recordation.

(a) Writing Required. – Every contract for deed shall be evidenced by a contract signed and acknowledged by all parties to it and containing all the terms to which they have agreed. The seller shall deliver to the purchaser an exact copy of the contract, containing all the disclosures required by subsection (b) of this section, at the time the purchaser signs the contract.

(b) Contents. – A contract for deed contract shall contain at least all of the following:

- (1) The full names and addresses of all the parties to the contract.
- (2) The date the contract is signed by each party.
- (3) A legal description and the physical address of the property conveyed.
- (4) The sales price of the property conveyed.
- (5) Any charges or fees for services included in the contract separate from the sale price.
- (6) The amount of the purchaser's down payment.
- (7) The principal balance owed by the purchaser, which is the sum of the amounts stated in subdivisions (4) and (5) of this subsection, less the amount stated in subdivision (6) of this subsection.
- (8) The amount and due date of each installment payment and the total number of installment payments.
- (9) The interest rate on the unpaid balance, if any, and the method of determining the interest rate.
- (10) A conspicuous statement of any pending order of any public agency or other matters of public record adversely affecting the property, provided the seller has actual knowledge of the pending order or matter.
- (11) A statement of the rights of the purchaser to cure a default.
- (12) A statement setting forth the obligation of each party who is responsible for making repairs to the property, the payment of taxes, hazard insurance premiums, flood insurance premiums, homeowner association dues, and other charges against the property from the date of the contract.
- (13) A provision that the purchaser has the right to accelerate or prepay any installment payments without penalty; unless the property is encumbered by a deed of trust as permitted by G.S. 47H-6 and the loan secured by the property contains a prepayment penalty, in which case the contract may specify that the purchaser will compensate the seller for the prepayment penalty.
- (14) A description of conditions of the property that includes whether the property, including any structures thereon, has water, sewer, septic, and electricity service, whether the property is in a floodplain, whether anyone else has a legal interest in the property, and whether restrictive covenants

prevent building or installing a dwelling. If restrictive covenants are in place that affect the property, a copy of the restrictive covenants shall be made available to the purchaser at or before the execution of the contract.

- (15) A statement indicating the current amount of any real estate taxes and/or homeowner association dues, or special assessments required to be paid on the property, and the amount of such taxes, dues, or assessments that are delinquent. To the extent these amounts are not known at the time the contract is executed, a reasonable estimate shall be given.
- (16) If the property being sold is encumbered by a deed of trust, mortgage, or other encumbrance evidencing or securing a monetary obligation which constitutes a lien on the property, and the seller is not a licensed general contractor within the meaning of Chapter 87 of the General Statutes, or a licensed manufactured home dealer within the meaning of Article 9A of Chapter 143 of the General Statutes, a statement of the amount of the lien, and the amount and due date, if any, of any periodic payments.
- (17) A conspicuous statement, in not less than 14-point boldface type, immediately above the purchaser's signature, that the purchaser has the right to cancel the contract at any time until midnight of the third business day following execution of the contract, or delivery of the contract, whichever occurs later.

(c) Right to Cancel. – The purchaser may exercise the right to cancel the contract for deed until midnight of the third business day following execution of the contract for deed or delivery of a copy of the contract with the required minimum contents, whichever occurs later. If the purchaser cancels the contract, the seller shall, not later than the tenth day after the date the seller receives the purchaser's notice of cancellation, return to the purchaser any and all property exchanged or payments made by the purchaser under the contract minus an offset of an amount equal to the fair rental value of the use of the property during the duration of the purchaser's possession of the property plus an amount necessary to compensate the seller for any damages caused to the property by the purchaser beyond normal wear and tear.

(d) Recordation. – Within five business days after the contract has been signed and acknowledged by both the seller and the purchaser, the seller shall cause a copy of the contract or a memorandum of the contract to be recorded in the office of the register of deeds in the county in which the property is located. If a memorandum of the contract is recorded, it shall be entitled "Memorandum of a Contract for Deed" and shall contain, as a minimum, the names of the parties, the signatures of the parties, a description of the property, and applicable time periods as described in subdivisions (b)(8) and (11) of this section. A person, other than a seller and purchaser may rely on the recorded materials in determining whether the requirements of this subsection have been met. The seller shall pay the fee to record the document unless the parties agree otherwise.

(e) Effect of Forfeiture. – Upon default and forfeiture after proper notice of default and intent to forfeit and failure of the purchaser to substantially cure the default, the purchaser's equitable right of redemption shall be extinguished by:

- (1) A mutual termination executed by the parties and recorded in the office of the register of deeds of the county in which the property is located, or
- (2) A final judgment or court order entered by a court of competent jurisdiction that terminates the purchaser's rights to the property and extinguishes the equity of redemption. A certified copy of the order shall be recorded in the office of the register of deeds of the county in which the property is located pursuant to G.S. 1-228.

(f) No instrument purporting to extinguish the equity of redemption that is executed as a condition of the transaction or prior to a default will be effective.

"§ 47H-3. Conditions of forfeiture; right to cure.

A purchaser's rights under a contract for deed shall not be forfeited except as provided in this Chapter. A contract for deed cannot be forfeited unless a breach has occurred in one or more of the purchaser's express obligations under the contract and the contract provides that as a result of such breach the seller is entitled to forfeit the contract. Furthermore, the purchaser's rights shall not be forfeited until the purchaser has been notified of the intent to forfeit in accordance with G.S. 47H-4 and been given a right to cure the default and has failed to do so within the time period allowed. A timely tender of cure shall reinstate the contract for deed.

"§ 47H-4. Notice of default and intent to forfeit.

(a) The notice of default and intent to forfeit shall contain all of the following:

- (1) The name, address, and telephone number of the seller and the seller's agent or attorney giving the notice, if any.
- (2) A description of the contract, including the names of the original parties to the contract for deed.
- (3) The physical address of the property.
- (4) A description of each default under the contract on which the notice is based.
- (5) A statement that the contract will be forfeited if all defaults are not cured by a date stated in the notice which is not less than 30 days after the notice of default and intent to forfeit is served or any longer period specified in the contract or other agreement with the seller.
- (6) An itemized statement of, or to the extent not known at the time the notice of default and intent to forfeit is given or recorded, a reasonable estimate of, all payments of money in default, and, for defaults not involving the failure to pay money, a statement of the action required to cure the default.
- (7) Any additional information required by the contract for deed or other agreement with the seller.

(b) Any notice of default and intent to forfeit must be delivered to the purchaser by hand or by any manner authorized in G.S. 1A-1, Rule 4.

"§ 47H-5. Periodic statements of account.

The seller shall provide the purchaser with a statement of account at least once every 12-month period for the term of a contract for deed. The statement must include at least the following information:

- (1) The amount paid under the contract.
- (2) The remaining amount owed under the contract.
- (3) The number of payments remaining under the contract.
- (4) The amounts paid to taxing authorities, if paid or collected by the seller or the purchaser.
- (5) The amounts paid to insure the property on the purchaser's behalf, if collected by the seller.
- (6) If the property has been damaged and the seller has received insurance proceeds, an accounting of the proceeds applied to the property.
- (7) If the property is encumbered by a lien or mortgage pursuant to G.S. 47H-6, the outstanding balance of the loan that is secured by the property.

"§ 47H-6. Title requirements.

(a) A seller may not execute a contract for deed with a purchaser if the seller does not hold title to the property. If the title is not held in fee simple, free from any deeds of trust, mortgages, or other encumbrances evidencing or securing a monetary obligation which constitutes a lien on the property, the seller may execute a contract for deed only if the mortgage or encumbrance is in the name of the seller and meets at least one of the following conditions:

- (1) It was agreed to by the purchaser, in writing, as a condition of a loan obtained to make improvements on the property.

- (2) It was placed on the property by the seller prior to the execution of the contract for deed if the seller is a licensed general contractor within the meaning of Chapter 87 of the General Statutes, a licensed manufactured home dealer within the meaning of Article 9A of Chapter 143 of the General Statutes, or a licensed real estate broker within the meaning of Chapter 93A of the General Statutes, provided that the general contractor, manufactured home dealer, or real estate broker continues to make timely payments on the outstanding mortgage or encumbrance.
- (3) It was placed on the property by the seller prior to the execution of the contract for deed, if the seller is not a licensed general contractor within the meaning of Chapter 87 of the General Statutes, a licensed manufactured home dealer within the meaning of Article 9A of Chapter 143 of the General Statutes, or a licensed real estate broker within the meaning of Chapter 93A of the General Statutes, if the lien is attached only to the property sold to the purchaser under the contract for deed, and the seller continues to make timely payments on the outstanding mortgage or encumbrance.

(b) If the property being sold is encumbered by one or more deeds of trust, mortgages, or other encumbrances evidencing or securing a monetary obligation which constitutes a lien on the property, the seller must notify the purchaser in a separate written disclosure, provided at or before the execution of the contract, in 14-point type, boldface, capital letters, the following statement: **THIS PROPERTY HAS EXISTING LIENS ON IT. IF THE SELLER FAILS TO MAKE TIMELY PAYMENTS TO THE LIEN HOLDER, THE LIEN HOLDER MAY FORECLOSE ON THE PROPERTY, EVEN IF YOU HAVE MADE ALL YOUR PAYMENTS.**

(c) In addition to any other remedies at law or equity, a seller's violation of this section entitles the purchaser to either a claim for damages or the right to rescind the contract and seek the return of all payments, deposits, and down payments that have been made under the contract. If the purchaser elects to rescind the contract, the seller is entitled to an offset of an amount equal to the fair market value of the use of the property during the duration of the purchaser's possession of the property plus an amount necessary to compensate the seller for any damages caused to the property by the purchaser beyond normal wear and tear.

"§ 47H-7. Late fees.

No seller may charge a late payment charge under a contract for deed in excess of four percent (4%) of the amount of the payment past due. A late fee may only be charged on payments that are more than 15 days past due.

"§ 47H-8. Remedies.

A violation of any provision of this Chapter constitutes an unfair trade practice under G.S. 75-1.1. A purchaser may bring an action for the recovery of damages, to rescind a transaction, as well as for declaratory or equitable relief, for a violation of this Chapter. The rights and remedies provided herein are cumulative to, and not a limitation of, any other rights and remedies provided by law or equity. Nothing in this Chapter shall be construed to subject an individual homeowner selling his or her primary residence directly to a buyer to liability under G.S. 75-1.1."

SECTION 5. G.S. 143-143.13(a) is amended by adding a new subdivision to read:

"(15) Failure to comply with the provisions of Chapters 47G and 47H of the General Statutes."

SECTION 6. This act becomes effective October 1, 2010, and applies to transactions entered on or after that date.

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Became law upon approval of the Governor at 2:15 p.m. on the 2nd day of August, 2010.

Session Law 2010-165

H.B. 1734

AN ACT TO ELIMINATE A DEPARTMENT OF TRANSPORTATION REPORT ON THE CONDITION OF ITS BUILDINGS; CORRECT A STATUTORY REFERENCE TO THE DEPARTMENT OF TRANSPORTATION'S CHIEF FINANCIAL OFFICER; ELIMINATE STATUTORY REFERENCES TO A SEVEN-YEAR TRANSPORTATION IMPROVEMENT PROGRAM; CLARIFY THAT THE DEPARTMENT OF TRANSPORTATION HAS AUTHORITY AND GENERAL SUPERVISION OVER ALL TRANSPORTATION PROJECTS; PROVIDE THAT THE DEPARTMENT OF TRANSPORTATION HAS AUTHORITY TO ENTER INTO AGREEMENTS WITH LOCAL GOVERNMENTS TO RECEIVE FUNDS FOR RIGHT-OF-WAY ACQUISITION; UPDATE STATUTORY REFERENCES TO THE NORTH CAROLINA TURNPIKE AUTHORITY; ELIMINATE A DEPARTMENT OF TRANSPORTATION REPORT ON ACCESS TO COASTAL WATERS; REVISE THE STATUTES GOVERNING THE DEPARTMENT OF TRANSPORTATION'S DISADVANTAGED MINORITY-OWNED AND WOMEN-OWNED BUSINESSES PROGRAM; AND TRANSFER TO THE SECRETARY THE POWER TO PROMULGATE DEPARTMENT OF TRANSPORTATION RULES, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE; AND PROVIDE THAT THE DEPARTMENT OF TRANSPORTATION HAS AUTHORITY TO LOCATE AND ACQUIRE RIGHTS-OF-WAY FOR THE PRESENT OR FUTURE RELOCATION OR INITIAL LOCATION OF DISTRIBUTED ANTENNA SYSTEMS (DAS) AS PERMITTED BY LOCAL ZONING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-11 is repealed.

SECTION 2. G.S. 136-16.10 reads as rewritten:

"§ 136-16.10. **Allocations by Department ~~Controller~~ Chief Financial Officer to eliminate overdrafts.**

The ~~Controller~~ Chief Financial Officer of the Department of Transportation shall allocate at the beginning of each fiscal year from the various appropriations made to the Department of Transportation for State Construction, State Funds to Match Federal Highway Aid, State Maintenance, and Ferry Operations, sufficient funds to eliminate all overdrafts on State maintenance and construction projects, and these allocations shall not be diverted to other purposes."

SECTION 3. G. S. 136-17.2A(d) reads as rewritten:

"(d) In each fiscal year, the Department shall, as nearly as practicable, expend in a distribution region an amount equal to that region's tentative percentage share of the funds that are subject to this section and are available for that fiscal year. In any ~~consecutive seven-year~~ Transportation Improvement Plan period, the amount expended in a distribution region must be between ninety percent (90%) and one hundred ten percent (110%) of the sum of the amounts established under this subsection as the target amounts to be expended in the region for ~~those seven years~~ that period."

SECTION 4. G.S. 136-18(1) reads as rewritten:

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

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

- (1) The authority and general supervision over all matters relating to the ~~construction~~ construction, maintenance, and design of the State ~~highways;~~ transportation projects, letting of contracts ~~therefore,~~ therefor, and the selection of materials to be used in the construction of State ~~highways~~ transportation projects under the authority of this Chapter."

SECTION 4.(a) G.S. 136-18(2) reads as rewritten:

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

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

- ...
- (2) To take over and assume exclusive control for the benefit of the State of any existing county or township roads, and to locate and acquire rights-of-way for any new roads that may be necessary for a State highway system, and subject to the provisions of G.S. 136-19.5(a) and (b) also 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 telephone, telegraph, distributed antenna systems (DAS) as permitted by local zoning, broadband communications, electric and other lines, as well as gas, water, sewerage, 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, with full power to widen, relocate, change or alter the grade or location ~~thereof~~ thereof, or alter the location or configuration of such lines or systems above or below ground, and to change or relocate any existing roads that the Department of Transportation may now own or may acquire; to acquire by gift, purchase, or otherwise, any road or highway, or tract of land or other property whatsoever that may be necessary for a State transportation system and adjacent utility rights-of-way: 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: 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."

SECTION 5. G.S. 136-18(12b) reads as rewritten:

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

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

- ...
- (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 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 debt does not exceed fifteen percent (15%) of the expected average annual federal revenue shown for the ~~seven-year~~ period in the most recently

adopted Transportation Improvement Program. Notes issued under the provisions of this subdivision may 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 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 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."

SECTION 6. G.S. 136-18(38) reads as rewritten:

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

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

- ...
- (38) To enter into agreements with municipalities, counties, governmental entities, or nonprofit corporations to receive funds for the ~~purpose~~ purposes of advancing right-of-way acquisition or the construction schedule of a project identified in the Transportation Improvement Program. If these funds are subject to repayment by the Department, prior to receipt of funds, reimbursement of all funds received by the Department shall be shown in the existing Transportation Improvement Program and shall be reimbursed within ~~seven years of receipt.~~ the period of the existing Transportation Improvement Program."

SECTION 7. G.S. 136-18(39) reads as rewritten:

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

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

- ...
- (39) To enter into partnership agreements with ~~the North Carolina Turnpike Authority,~~ 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 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. 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."

SECTION 8. G.S. 136-18(40) reads as rewritten:

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

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

...

- (40) To expand public access to coastal waters in its road project planning and construction programs. The Department shall work with the Wildlife Resources Commission, other State agencies, and other government entities to address public access to coastal waters along the roadways, bridges, and other transportation infrastructure owned or maintained by the Department. The Department shall adhere to all applicable design standards and guidelines in implementation of this enhanced access. ~~The Department shall report on its progress in expanding public access to coastal waters to the Joint Legislative Commission on Seafood and Aquaculture and to the Joint Legislative Transportation Oversight Commission no later than March 1 of each year.~~"

SECTION 9. G.S. 136-28.4 reads as rewritten:

"§ 136-28.4. State policy concerning participation by disadvantaged minority-owned and women-owned businesses in highway transportation contracts.

(a) It is the policy of this State, based on a compelling governmental interest, to encourage and promote participation by disadvantaged minority-owned and women-owned businesses in contracts let by the Department pursuant to this Chapter for the planning, design, preconstruction, construction, alteration, or maintenance of State ~~highways, roads, streets, or bridges~~ transportation infrastructure and in the procurement of materials for these projects. All State agencies, institutions, and political subdivisions shall cooperate with the Department of Transportation and among themselves in all efforts to conduct outreach and to encourage and promote the use of disadvantaged minority-owned and women-owned businesses in these contracts.

(b) At least every five years, the Department shall conduct a study on the availability and utilization of disadvantaged minority-owned and women-owned business enterprises and examine relevant evidence of the effects of race-based or gender-based discrimination upon the utilization of such business enterprises in contracts for planning, design, preconstruction, construction, alteration, or maintenance of State ~~highways, roads, streets, or bridges~~ transportation infrastructure and in the procurement of materials for these projects. Should the study show a strong basis in evidence of ongoing effects of past or present discrimination that prevents or limits disadvantaged minority-owned and women-owned businesses from participating in the above contracts at a level which would have existed absent such discrimination, such evidence shall constitute a basis for the State's continued compelling governmental interest in remedying such race and gender discrimination in highway transportation contracting. Under such circumstances, the Department shall, in conformity with State and federal law, adopt by rule and contract provisions a specific program to remedy such discrimination. This specific program shall, to the extent reasonably practicable, address each barrier identified in such study that adversely affects contract participation by disadvantaged minority-owned and women-owned businesses.

(b1) Based upon the findings of the Department's ~~Second Generation Disparity Study completed in 2004, 2009 study~~ entitled "Measuring Business Opportunity: A Disparity Study of NCDOT's State and Federal Programs" hereinafter referred to as "Study", the program design shall, to the extent reasonably practicable, incorporate narrowly tailored remedies identified in the Study, and the Department shall implement a comprehensive antidiscrimination enforcement policy. As appropriate, the program design shall be modified by rules adopted by the Department that are consistent with findings made in the Study and in subsequent studies conducted in accordance with subsection (b) of this section. As part of this program, the Department shall review its budget and establish ~~annual~~ aspirational goals every three years, not mandatory goals, in percentages, for the overall participation in contracts by disadvantaged minority-owned and women-owned businesses. These ~~annual~~ aspirational goals for disadvantaged minority-owned and women-owned businesses shall be established consistent with federal methodology specified in the Study, methodology, and they shall not be applied rigidly on specific contracts or projects. Instead, the Department shall establish

contract-specific goals or project-specific goals for the participation of such firms in a manner consistent with availability of disadvantaged minority-owned and women-owned businesses, as appropriately defined by its most recent Study, for each disadvantaged minority-owned and women-owned business category that has demonstrated significant disparity in contract utilization. Nothing in this section shall authorize the use of quotas. Any program implemented as a result of the Study conducted in accordance with this section shall be narrowly tailored to eliminate the effects of historical and continuing discrimination and its impacts on such disadvantaged minority-owned and women-owned businesses without any undue burden on other contractors. The Department shall give equal opportunity for contracts it lets without regard to race, religion, color, creed, national origin, sex, age, or handicapping condition, as defined in G.S. 168A-3, to all contractors and businesses otherwise qualified.

(c) The following definitions apply in this section:

- (1) "Disadvantaged ~~business~~Business" has the same meaning as "disadvantaged business enterprise" in 49 C.F.R. § 26.5 Subpart A or any subsequently promulgated replacement regulation.
- (2) "Minority" includes only those racial or ethnicity classifications identified by a study conducted in accordance with this section that have been subjected to discrimination in the relevant marketplace and that have been adversely affected in their ability to obtain contracts with the Department.
- (3) "Women" means nonminority persons born of the female sex.

(d) The Department shall report ~~semiannually~~annually to the Joint Legislative Transportation Oversight Committee on the utilization of disadvantaged minority-owned businesses and women-owned businesses and any program adopted to promote contracting opportunities for those businesses. Following each study of availability and utilization, the Department shall report to the Joint Legislative Transportation Oversight Committee on the results of the study for the purpose of determining whether the provisions of this section should continue in force and effect.

(e) This section expires August 31, ~~2010~~ 2014."

SECTION 10. G.S. 136-89.189 reads as rewritten:

"§ 136-89.189. Turnpike Authority revenue bonds.

The Authority shall be a municipality for purposes of Article 5 of Chapter 159 of the General Statutes, the State and Local Government Revenue Bond Act, and may issue revenue bonds pursuant to that Act to pay all or a portion of the cost of a Turnpike Project or to refund any previously issued bonds. In connection with the issuance of revenue bonds, the Authority shall have all powers of a municipality under the State and Local Government Revenue Bond Act, and revenue bonds issued by the Authority shall be entitled to the protection of all provisions of the State and Local Government Revenue Bond Act.

Except as provided in this section, the provisions of Chapter 159 of the General Statutes, the Local Government Finance Act, apply to revenue bonds issued by the Turnpike Authority.

- (1) The term of a lease between the Turnpike Authority and the Department executed prior to July 27, 2009, for all or any part of a Turnpike Project may exceed 40 years, as agreed by the Authority and the Department.
- (2) The maturity date of a refunding bond may extend to the earlier of the following:
 - a. Forty years from the date of issuance of the refunding bond.
 - b. The date the Turnpike Authority determines is the maturity date required for the Turnpike Project funded with the refunding bonds to generate sufficient revenues to retire the refunding bonds and any other outstanding indebtedness issued for that Project. The Authority's determination of the appropriate maturity date is conclusive and binding. In making its determination, the Authority may take into account appropriate financing terms and conventions."

SECTION 11. G.S. 143B-348 reads as rewritten:

"§ 143B-348. Department of Transportation – head; rules, regulations, etc., of Board of Transportation.

The Secretary of Transportation shall be the head of the Department of Transportation. He shall carry out the day-to-day operations of the Department and shall be responsible for carrying out the policies, programs, priorities, and projects approved by the Board of Transportation. He shall be responsible for all other transportation matters assigned to the Department of Transportation, except those reserved to the Board of Transportation by statute. Except as otherwise provided for by statute, the Secretary shall have all the powers and duties as provided for in Article 1 of Chapter 143B including the responsibility for all management functions for the Department of Transportation. The Secretary shall be vested with authority to adopt design criteria, construction specifications, and standards as required for the Department of Transportation to construct and maintain highways, bridges, and ferries. The Secretary or the Secretary's designee shall be vested with authority to promulgate rules and regulations concerning all transportation functions assigned to the Department.

All rules, regulations, ordinances, specifications, standards, and criteria adopted by the Board of Transportation and in effect on July 1, 1977, shall continue in effect until changed by the Board of Transportation or the Secretary of Transportation. The Secretary shall have complete authority to modify any of these matters existing on July 1, 1977, except as specifically restricted by the Board. Whenever any such criteria, rule, regulation, ordinance, specification, or standards are continued in effect under this section and the words "Board of Transportation" are used, the words shall mean the "Department of Transportation" unless the context makes such meaning inapplicable. All actions pending in court by or against the Board of Transportation may continue to be prosecuted in that name without the necessity of formally amending the name to the Department of Transportation."

SECTION 12. G.S. 143B-350(f)(4) reads as rewritten:

"(f) Duties of the Board. – The Board of Transportation has the following duties and powers:

...

- (4) To approve a schedule of all major transportation improvement projects and their anticipated ~~cost for a period of seven years into the future.~~ cost. This schedule is designated the Transportation Improvement Program; it must be published and copies must be available for distribution. The document that contains the Transportation Improvement Program, or a separate document that is published at the same time as the Transportation Improvement Program, must include the anticipated funding sources for the improvement projects included in the Program, a list of any changes made from the previous year's Program, and the reasons for the changes."

SECTION 13. G.S. 143B-350(f)(13) is repealed.

SECTION 14. G.S. 159-81(1) reads as rewritten:

"§ 159-81. Definitions.

The words and phrases defined in this section shall have the meanings indicated when used in this Article:

- (1) "Municipality" means a county, city, town, incorporated village, sanitary district, metropolitan sewerage district, metropolitan water district, county water and sewer district, water and sewer authority, hospital authority, hospital district, parking authority, special airport district, special district created under Article 43 of Chapter 105 of the General Statutes, regional public transportation authority, regional transportation authority, regional natural gas district, regional sports authority, airport authority, joint agency created pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes, a joint agency authorized by agreement between two cities to operate an airport pursuant to G.S. 63-56, and the North Carolina Turnpike Authority ~~created pursuant to~~ described in Article 6H of Chapter 136 of the

General Statutes, — Statutes and transferred to the Department of Transportation pursuant to G.S. 136-89.182(b), but not any other forms of State or local government."

SECTION 15. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Became law upon approval of the Governor at 2:17 p.m. on the 2nd day of August, 2010.

Session Law 2010-166

S.B. 1215

AN ACT TO INCREASE UNIFORMITY IN SUNSET AND REPORTING REQUIREMENTS OF ECONOMIC INCENTIVES TOOLS AND TO ELIMINATE NONUTILIZED ECONOMIC INCENTIVES.

The General Assembly of North Carolina enacts:

PART I: ECONOMIC INCENTIVES REPORTING AND SUNSETS

SECTION 1.1. G.S. 105-129.6(b) reads as rewritten:

"(b) ~~Reports.—Report. — The Department of Revenue shall publish by May 1 of each year~~ must include in the economic incentives report required by G.S. 105-256 the following information itemized by credit and by taxpayer for the 12-month period ending the preceding December 31; taxpayer:

- (1) The number of credits taken for each credit allowed in this Article.
- (2) The number and enterprise tier area of new jobs with respect to which credits were generated and to which credits were taken.
- (3) The cost and enterprise tier area of machinery and equipment with respect to which credits were generated and to which credits were taken.
- (4) The number of new jobs created by businesses located in development zones, and the percentage of jobs at those locations that were filled by residents of the zones.
- (5) The amount and enterprise tier area of worker training expenditures with respect to which credits were generated and to which credits were taken.
- (6) The amount and enterprise tier area of new research and development expenditures with respect to which credits were generated and to which credits were taken.
- (7) The cost and enterprise tier area of real property investment with respect to which credits were generated and to which credits were taken."

SECTION 1.2. G.S. 105-129.19 reads as rewritten:

"§ 105-129.19. Reports.—Report.

~~The Department of Revenue must publish by May 1 of each year~~ must include in the economic incentives report required by G.S. 105-256 the following information for the 12-month period ending the preceding December 31; itemized by credit and by taxpayer:

- (1) The number of taxpayers that took the credits allowed in this Article.
- (2) The cost of ~~business property and~~ renewable energy property with respect to which credits were taken.
- (2a) Repealed by Session Laws 2002-87, s. 6, effective August 22, 2002.
- (3) The total cost to the General Fund of the credits taken."

SECTION 1.3. G.S. 105-129.26(e) reads as rewritten:

"(e) ~~Reports.—Report. — The Department of Commerce and the Department of Revenue shall jointly publish by May 1 of each year~~ must include in the economic incentives report required by G.S. 105-256 the following information itemized by taxpayer for the 12-month period ending the preceding December 31; taxpayer:

- (1) The number and location of large and major recycling facilities qualified under this Article.

- (2) The number of new jobs created by each recycling facility.
- (3) The amount of investment in each recycling facility.
- (4) The amount of credits taken under this Article."

SECTION 1.4. G.S. 105-129.38 reads as rewritten:

"§ 105-129.38. Reports-Report.

~~The Department of Revenue must publish by May 1 of each year must include in the economic incentives report required by G.S. 105-256 the following information for the 12-month period ending the preceding December 31:~~ itemized by taxpayer:

- (1) The number of taxpayers that took the credits allowed in this Article.
- (2) The amount of rehabilitation expenses and qualified rehabilitation expenditures with respect to which credits were taken.
- (3) The total cost to the General Fund of the credits taken."

SECTION 1.5. Article 3D of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-129.39. Sunset.

This Article expires for qualified rehabilitation expenditures and rehabilitation expenses incurred on or after January 1, 2014."

SECTION 1.6. G.S. 105-129.44 reads as rewritten:

"§ 105-129.44. Report.

~~The Department of Revenue must publish by May 1 of each year must include in the economic incentives report required by G.S. 105-256 the following information for the 12-month period ending the preceding December 31:~~ itemized by taxpayer:

- (1) The number of taxpayers that took the credit allowed in this Article.
- (2) The location of each qualified North Carolina low-income building or housing development for which a credit was taken.
- (3) The total cost to the General Fund of the credits taken."

SECTION 1.7. G.S. 105-129.54 reads as rewritten:

"§ 105-129.54. Reports-Report.

~~The Department of Revenue must publish by May 1 of each year must include in the economic incentives report required by G.S. 105-256 the following information itemized by taxpayer for the 12-month period ending the preceding December 31:~~ taxpayer:

- (1) The number of taxpayers that took a credit allowed in this Article, itemized by the categories of small business, low-tier, other, and university research.
- (2) The amount of each credit taken in each category.
- (3) The total cost to the General Fund of the credits taken."

SECTION 1.8. Article 3H of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-129.75A. Report.

The Department must include in the economic incentives report required by G.S. 105-256 the following information itemized by taxpayer:

- (1) The number of taxpayers that took the credits allowed in this Article.
- (2) The amount of rehabilitation expenses and qualified rehabilitation expenditures with respect to which credits were taken.
- (3) The total cost to the General Fund of the credits taken."

SECTION 1.9. G.S. 105-129.85(b) reads as rewritten:

~~"(b) Reports.—Report. — The Department of Revenue shall publish by May 1 of each year must include in the economic incentives report required by G.S. 105-256 the following information itemized by credit and by taxpayer for the 12-month period ending the preceding December 31:~~ taxpayer:

- (1) The number and amount of credits generated and taken for each credit allowed in this Article.
- (2) The number and development tier area of new jobs with respect to which credits were generated and to which credits were taken.

- (3) The cost and development tier area of business property with respect to which credits were generated and to which credits were taken.
- (4) The cost and development tier area of real property investment with respect to which credits were generated and to which credits were taken."

SECTION 1.10. G.S. 105-129.98 reads as rewritten:

"§ 105-129.98. Reports. Report.

The Department of Revenue ~~must publish by May 1 of each year~~ must include in the economic incentives report required by G.S. 105-256 the following information, information itemized by taxpayer, for the 12-month period ending the preceding December 31: taxpayer:

- (1) The number of taxpayers that claimed a credit allowed in this Article.
- (2) The amount of each credit claimed and the taxes against which it was applied.
- (3) The total cost to the General Fund of the credits claimed."

SECTION 1.11. G.S. 105-130.41(c1) reads as rewritten:

"(c1) Report. – The Department of Revenue ~~must publish by May 1 of each year~~ must include in the economic incentives report required by G.S. 105-256 the following information itemized by taxpayer for the 12-month period ending the preceding December 31: taxpayer:

- (1) The number of taxpayers taking a credit allowed in this section.
- (2) The total amount of charges assessed for the taxable year.
- (2a) The amount of the charges attributable to imports.
- (2b) The amount of the charges attributable to exports.
- (3) The total cost to the General Fund of the credits taken."

SECTION 1.12. G.S. 105-130.45(f) reads as rewritten:

"(f) Report. – The Department of Revenue ~~must publish by May 1 of each year~~ must include in the economic incentives report required by G.S. 105-256 the following information itemized by taxpayer for the 12-month period ending the preceding December 31: taxpayer:

- (1) The number of taxpayers taking a credit allowed in this section.
- (2) The total amount of exports with respect to which credits were taken.
- (3) The total cost to the General Fund of the credits taken."

SECTION 1.13. G.S. 105-130.46(k) reads as rewritten:

"(k) Reports. — ~~Any corporation that takes a credit under this section must submit an annual report by May 1 of each year to the Senate Finance Committee, the House of Representatives Finance Committee, the Senate Appropriations Committee, the House of Representatives Appropriations Committee, and the Fiscal Research Division of the General Assembly. The report must state the amount of credit earned by the corporation during the previous year, the amount of credit including carryforwards claimed by the corporation during the previous year, and the percentage of domestic leaf content in cigarettes produced by the corporation during the previous year. The first reports required under this section are due by May 1, 2006.~~ Report. – The Department must include in the economic incentives report required by G.S. 105-256 the following information itemized by taxpayer:

- (1) The number of taxpayers that took the credit allowed in this section.
- (2) The amount of cigarettes and other tobacco products exported through the North Carolina State Ports with respect to which credits were taken.
- (3) The percentage of domestic leaf content in cigarettes produced during the previous year, as reported by the taxpayer.
- (4) The total cost to the General Fund of the credits taken."

SECTION 1.14. G.S. 105-130.47(h) reads as rewritten:

"(h) Report. – The Department of Revenue ~~must publish by May 1 of each year~~ must include in the economic incentives report required by G.S. 105-256 the following information, itemized by taxpayer for the 12-month period ending the preceding December 31: taxpayer:

- (1) The location of sites used in a production for which a credit was taken.

- (2) The qualifying expenses for which a credit was taken, classified by whether the expenses were for goods, services, or compensation paid by the production company.
- (3) The number of people employed in the State with respect to credits taken.
- (4) The total cost to the General Fund of the credits taken."

SECTION 1.15. G.S. 105-151.22(c1) reads as rewritten:

"(c1) Report. – ~~The Department of Revenue must publish by May 1 of each year~~ must include in the economic incentives report required by G.S. 105-256 the following information itemized by taxpayer for the 12-month period ending the preceding December 31: taxpayer:

- (1) The number of taxpayers taking a credit allowed in this section.
- (2) The total amount of charges assessed for the taxable year.
- (2a) The amount of the charges attributable to imports.
- (2b) The amount of the charges attributable to exports.
- (3) The total cost to the General Fund of the credits taken."

SECTION 1.16. G.S. 105-151.29(h) reads as rewritten:

"(h) Report. – ~~The Department of Revenue must publish by May 1 of each year~~ must include in the economic incentives report required by G.S. 105-256 the following information; information itemized by ~~taxpayer for the 12-month period ending the preceding December 31;~~ taxpayer:

- (1) The location of sites used in a production for which a credit was taken.
- (2) The qualifying expenses for which a credit was taken, classified by whether the expenses were for goods, services, or compensation paid by the production company.
- (3) The number of people employed in the State with respect to credits taken.
- (4) The total cost to the General Fund of the credits taken."

SECTION 1.17. G.S. 105-164.14(a1), (f), (g), (h), (j), (k), (l), (m), (n), and (o) are repealed.

SECTION 1.18. Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-164.14A. Economic incentive refunds.

(a) Refund. – The following taxpayers are allowed an annual refund of sales and use taxes paid under this Article:

- (1) Passenger air carrier. – An interstate passenger air carrier is allowed a refund of the sales and use tax paid by it on fuel in excess of two million five hundred thousand dollars (\$2,500,000). The amount of sales and use tax paid does not include a refund allowed to the interstate passenger air carrier under G.S. 105-164.14(a). This subdivision is repealed for purchases made on or after January 1, 2011.
- (2) Major recycling facility. – An owner of a major recycling facility is allowed a refund of the sales and use tax paid by it on building materials, building supplies, fixtures, and equipment that become a part of the real property of the recycling facility. Liability incurred indirectly by the owner for sales and use taxes on these items is considered tax paid by the owner.
- (3) Business in low-tier area. – A taxpayer that is engaged primarily in one of the businesses listed in G.S. 105-129.83(a) in a development tier one area and that places machinery and equipment in service in that area is allowed a refund of the sales and use tax paid by it on the machinery and equipment. For purposes of this subdivision, "machinery and equipment" includes engines, machinery, equipment, tools, and implements used or designed to be used in one of the businesses listed in G.S. 105-129.83, capitalized for tax purposes under the Code, and not leased to another party. Liability incurred indirectly by the taxpayer for sales and use taxes on these items is considered tax paid by the taxpayer. The sunset for Article 3J of Chapter 105

of the General Statutes for development tier one areas applies to this subdivision.

- (4) Motorsports team or sanctioning body. – A professional motorsports racing team or a motorsports sanctioning body is allowed a refund of the sales and use tax paid by it in this State on aviation fuel that is used to travel to or from a motorsports event in this State, to travel to a motorsports event in another state from a location in this State, or to travel to this State from a motorsports event in another state. For purposes of this subdivision, a "motorsports event" includes a motorsports race, a motorsports sponsor event, and motorsports testing. This subdivision is repealed for purchases made on or after January 1, 2011.
- (5) Professional motorsports team. – A professional motorsports racing team is allowed a refund of fifty percent (50%) of the sales and use tax paid by it in this State on tangible personal property, other than tires or accessories, that comprises any part of a professional motorsports vehicle. For purposes of this subdivision, "motorsports accessories" includes instrumentation, telemetry, consumables, and paint. This subdivision is repealed for purchases made on or after January 1, 2014.
- (6) Analytical services business. – A taxpayer engaged in analytical services in this State is allowed a refund of sales and use tax paid by it. This subdivision is repealed for purchases made on or after January 1, 2013. The amount of the refund is the greater of the following:
- a. Fifty percent (50%) of the eligible amount of sales and use tax paid by it on tangible personal property that is consumed or transformed in analytical service activities. The eligible amount of sales and use tax paid by the taxpayer in this State is the amount by which sales and use tax paid by the taxpayer in this State in the fiscal year exceed the amount paid by the taxpayer in this State in the 2006-2007 State fiscal year.
 - b. Fifty percent (50%) of the amount of sales and use tax paid by it in the fiscal year on medical reagents.
- (7) Railroad intermodal facility. – The owner or lessee of an eligible railroad intermodal facility is allowed a refund of sales and use tax paid by it under this Article on building materials, building supplies, fixtures, and equipment that become a part of the real property of the facility. Liability incurred indirectly by the owner or lessee of the facility for sales and use taxes on these items is considered tax paid by the owner or lessee. This subdivision is repealed for purchases made on or after January 1, 2038.
- (b) Administration. – A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the State's fiscal year. Refunds applied for after the due date are barred.
- (c) Report. – The Department must include in the economic incentives report required by G.S. 105-256 the following information itemized by refund and by taxpayer:
- (1) The number of taxpayers claiming a refund allowed in this section.
 - (2) The total amount of purchases with respect to which refunds were claimed.
 - (3) The total cost to the General Fund of the refunds claimed."

SECTION 1.19. Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-164.14B. Certain industrial facilities refunds.

- (a) Definitions. – The following definitions apply in this section:

- (1) Air courier services. – The furnishing of air delivery of individually addressed letters and packages for compensation, except by the United States Postal Service.
- (2) Aircraft manufacturing. – The manufacturing or assembling of complete aircraft or of aircraft engines, blisks, fuselage sections, flight decks, flight deck systems or components, wings, fuselage fairings, fins, moving leading and trailing wing edges, wing boxes, nose sections, tailplanes, passenger doors, nacelles, thrust reversers, landing gear, braking systems, or any combination of these.
- (3) Bioprocessing. – Biomanufacturing or processing that includes the culture of cells to make commercial products, the purification of biomolecules from cells, or the use of these molecules in manufacturing.
- (4) Reserved.
- (5) Reserved.
- (6) Facility. – A single building or structure or a group of buildings or structures that are located on a single parcel of land or on contiguous parcels of land under common ownership and any other related real property contained on the parcel or parcels.
- (7) Financial services, securities operations, and related systems development. – One or both of the following functions:
 - a. Performing analysis, operations, trading, or sales functions for investment banking, securities dealing and brokering, securities trading and underwriting, investment portfolio or mutual fund management, retirement services, or employee benefit administration.
 - b. Developing information technology systems and applications, managing and enhancing operating applications and databases, or providing, operating, and maintaining telecommunications networks and distributed and mainframe computing resources for investment banking, securities dealing and brokering, securities trading and underwriting, investment portfolio or mutual fund management, retirement services, or employee benefit administration.
- (8) Reserved.
- (9) Reserved.
- (10) Reserved.
- (11) Motor vehicle manufacturing. – Any of the following:
 - a. Manufacturing complete automobiles and light-duty motor vehicles.
 - b. Manufacturing heavy-duty truck chassis and assembling complete heavy-duty trucks, buses, heavy-duty motor homes, and other special purpose heavy-duty motor vehicles for highway use.
 - c. Manufacturing complete military armored vehicles, nonarmored military universal carriers, combat tanks, and specialized components for combat tanks.
- (12) Reserved.
- (13) Reserved.
- (14) Pharmaceutical and medicine manufacturing and distribution of pharmaceuticals and medicines. – Any of the following:
 - a. Manufacturing biological and medicinal products. For purposes of this sub-subdivision, a biological product is a preparation that is synthesized from living organisms or their products and used medically as a diagnostic, preventive, or therapeutic agent. For the purpose of this sub-subdivision, bacteria, viruses, and their parts are considered living organisms.

- b. Processing botanical drugs and herbs by grading, grinding, and milling.
 - c. Isolating active medicinal principals from botanical drugs and herbs.
 - d. Manufacturing pharmaceutical products intended for internal and external consumption in forms such as ampoules, tablets, capsules, vials, ointments, powders, solutions, and suspensions.
- (15) Reserved.
- (16) Reserved.
- (17) Related entity. – An entity for which the taxpayer possesses directly or indirectly at least eighty percent (80%) of the control and value.
- (18) Semiconductor manufacturing. – The development and production of semiconductor material, devices, or components.
- (19) Solar electricity generating materials manufacturing. – The development and production of one or more of the following:
- a. Photovoltaic materials or modules used in producing electricity.
 - b. Polymers or polymer films primarily intended for incorporation into photovoltaic materials or modules used in producing electricity.
- (20) Strategic partner. – A business that is engaged in activities at the facility that directly contribute to the manufacture and distribution of computers and computer peripherals and with whom the taxpayer has contracted to provide those activities at the facility in direct support of its manufacturing and distribution activities.
- (b) Refund. – An owner of an industrial facility that meets the business, minimum investment, and industry-specific requirements of this section is allowed an annual refund of sales and use tax paid by it under this Article on building materials, building supplies, fixtures, and equipment that are installed in the construction of the facility and that become a part of the real property of the facility. Liability incurred indirectly by the owner for sales and use taxes on those items is considered tax paid by the owner. The requirements are:
- (1) Business requirement. – The facility is primarily engaged in one or more of the following:
 - a. Air courier services.
 - b. Aircraft manufacturing.
 - c. Bioprocessing.
 - d. Financial services, securities operations, and related systems development.
 - e. Motor vehicle manufacturing.
 - f. Pharmaceutical and medicine manufacturing and distribution of pharmaceuticals and medicines.
 - g. Semiconductor manufacturing.
 - h. Solar electricity generating materials manufacturing.
 - (2) Minimum investment requirement. – The Secretary of Commerce has certified that the owner of the facility will invest at least the required amount of private funds to construct the facility in this State. For the purpose of this subsection, costs of construction may include costs of acquiring and improving land for the facility and costs of equipment for the facility. If the facility is located in a development tier one area, the required amount is fifty million dollars (\$50,000,000). For all other facilities, the required amount is one hundred million dollars (\$100,000,000). In the case of a computer manufacturing facility, the owner may invest these funds either directly or indirectly through a related entity or strategic partner.
 - (3) Industry-specific requirements:

- a. If the facility is primarily engaged in financial services, securities operations, and related systems development, it satisfies all of the following conditions:
 - 1. It is owned and operated by the business for which the services are provided or by a related entity of that business as defined in G.S. 105-130.7A.
 - 2. No part of it is leased to a third-party tenant that is not a related entity of the business.
- b. If the facility is primarily engaged in solar electricity generating materials manufacturing, the business satisfies a wage standard at the facility. The wage standard is equal to one hundred five percent (105%) of the lesser of the average weekly wage for all insured private employers in the State and the average weekly wage for all insured private employers in the county. A business satisfies the wage standard if it pays an average weekly wage that is at least equal to the amount required by this sub-subdivision. In making the wage calculation, the business must include any jobs that were filled for at least 1,600 hours during the calendar year.

(c) Forfeiture. – If the owner of an eligible facility does not make the required minimum investment within five years after the first refund under this section with respect to the facility, the facility loses its eligibility and the owner forfeits all refunds already received under this subsection. Upon forfeiture, the owner is liable for tax under this Article equal to the amount of all past taxes refunded under this section, plus interest at the rate established in G.S. 105-241.21, computed from the date each refund was issued. The tax and interest are due 30 days after the date of the forfeiture. A person that fails to pay the tax and interest is subject to the penalties provided in G.S. 105-236.

(d) Administration. – A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the State's fiscal year. Refunds applied for after the due date are barred.

(e) Report. – The Department must include in the economic incentives report required by G.S. 105-256 the following information itemized by refund and taxpayer:

- (1) The number of taxpayers claiming a refund allowed in this section.
- (2) The total amount of purchases with respect to which refunds were claimed.
- (3) The location of facilities with respect to which refunds were claimed.
- (4) The total cost to the General Fund of the refunds claimed.

(f) Sunset. – This section is repealed for sales made on or after January 1, 2013."

SECTION 1.20. Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-164.29B. Information to counties and cities.

The Secretary must give information on refunds of tax made under this Article to a designated county or city official within 30 days after the official makes a written request to the Secretary for the information. For a request made by a county official, the Secretary must give the official a list of each claimant that received a refund in the past 12 months of at least one thousand dollars (\$1,000) of tax paid to the county. For a request made by a city official, the Secretary must give the official a list of each claimant that received a refund in the past 12 months of at least one thousand dollars (\$1,000) of tax paid to all the counties in which the city is located. The list must include the name and address of each of these claimants and the amount of the refund received from each county covered by the request.

A claimant that has received a refund under this Article of tax paid to a county must give information on the refund to a designated official of the county or a city located in the county. The claimant must give the information to the county or city official within 30 days after the official makes a written request to the claimant for the information. For a request by a county or

city official, the claimant must give the official a copy of the request for the refund and any supporting documentation requested by the official to verify the request. If a claimant determines that a refund it has received under this Article is incorrect, the claimant must file an amended request for a refund.

For purposes of this section, a designated county official is the chair of the board of county commissioners or a county official designated in a resolution adopted by the Board, and a designated city official is the mayor of the city or a city official designated in a resolution adopted by the city's governing board. Information given to a county or city official under this section is not a public record and may not be disclosed except as provided in G.S. 153A-148.1 or G.S. 160A-208.1."

SECTION 1.21. G.S. 105-256(a) is amended by inserting a new subdivision between subdivisions (2) and (3) to read:

"(a) Publications. – The Secretary shall prepare and publish the following:

...

(2a) By May 1 of each year, an economic incentives report that contains information on tax credits and tax refunds, itemized by credit or refund and by taxpayer, for the previous calendar year.

...."

PART II: OBSOLETE ECONOMIC INCENTIVES

SECTION 2.1. Article 3C of Chapter 105 of the General Statutes reads as rewritten:

"Article 3C.

"Tax Incentives For Recycling Facilities.

"§ 105-129.25. Definitions.

The following definitions apply in this Article:

...

~~(3) Large recycling facility. — A recycling facility that qualifies under G.S. 105-129.26(b).~~

...

"§ 105-129.26. Qualification; forfeiture.

(a) Major Recycling Facility. – A recycling facility qualifies for the tax benefits provided in this Article and in Article 5 of this Chapter for major recycling facilities if it meets all of the following conditions:

- (1) The facility is located in an area that, at the time the owner began construction of the facility, was an enterprise tier one area pursuant to G.S. 105-129.3.
- (2) The Secretary of Commerce has certified that the owner will, by the end of the fourth year after the year the owner begins construction of the recycling facility, invest at least three hundred million dollars (\$300,000,000) in the facility and create at least 250 new, full-time jobs at the facility.
- (3) The jobs at the recycling facility meet the wage standard in effect pursuant to G.S. 105-129.4(b) as of the date the owner begins construction of the facility.

~~(b) Large Recycling Facility. — A recycling facility qualifies for the tax credit provided in G.S. 105-129.27 for large recycling facilities if it meets all of the following conditions:~~

- ~~(1) The facility is located in an area that, at the time the owner began construction of the facility, was an enterprise tier one area pursuant to G.S. 105-129.3.~~
- ~~(2) The Secretary of Commerce has certified that the owner will, by the end of the second year after the year the owner begins construction of the recycling facility, invest at least one hundred fifty million dollars (\$150,000,000) in the facility and create at least 155 new, full-time jobs at the facility.~~

- (3) ~~The jobs at the recycling facility meet the wage standard in effect pursuant to G.S. 105-129.4(b) as of the date the owner begins construction of the facility.~~

...

(e) Reports. – The Department of Commerce and the Department of Revenue shall jointly publish by May 1 of each year the following information itemized by taxpayer for the 12-month period ending the preceding December 31:

- (1) The number and location of ~~large and~~ major recycling facilities qualified under this Article.
- (2) The number of new jobs created by each recycling facility.
- (3) The amount of investment in each recycling facility.
- (4) The amount of credits taken under this Article.

"§ 105-129.27. Credit for investing in ~~large or major~~ recycling facility.

(a) Credit. – An owner that purchases or leases machinery and equipment for a major recycling facility in this State during the taxable year is allowed a credit equal to fifty percent (50%) of the amount payable by the owner during the taxable year to purchase or lease the machinery and equipment. ~~An owner that purchases or leases machinery and equipment for a large recycling facility in this State during the taxable year is allowed a credit equal to twenty percent (20%) of the amount payable by the owner during the taxable year to purchase or lease the machinery and equipment.~~

...."

SECTION 2.2. Article 3G of Chapter 105 of the General Statutes is repealed.

PART III: CONFORMING CHANGES

SECTION 3.1. G.S. 75-29(a) reads as rewritten:

"(a) No person, firm or corporation shall advertise the sale of its merchandise using the term "wholesale" with regard to its sale prices, except as such word may appear in the company or firm name, unless such advertised sale or sales is, or are, to a customer or customers having a certificate of resale issued pursuant to G.S. 105-164.28 and recorded as required by G.S. 105-164.25 or unless the wholesale price is established by an independent agency not engaged in the manufacture, distribution or sale of such merchandise.

No person, firm or corporation shall utilize in any commercial transaction a company or firm name which contains the word "wholesale" unless such person, firm or corporation is engaged principally in sales at wholesale as defined in G.S. 105-164.3. For the purposes of determining whether sales are made principally at wholesale or retail, all sales to employees of any such person, firm or corporation, all sales to organizations subject to refunds pursuant to ~~G.S. 105-164.14~~, G.S. 105-164.14 through G.S. 105-164.14B and all exempt sales pursuant to G.S. 105-164.13 shall be considered sales at wholesale. Sales of merchandise for delivery by the seller to the purchaser at a location other than the seller's place of business shall be considered sales at wholesale for the purposes of this section."

SECTION 3.2. G.S. 105-129.2(8a) reads as rewritten:

"§ 105-129.2. Definitions.

The following definitions apply in this Article:

...

- (8a) Eligible major industry. – A taxpayer is an eligible major industry for the purposes of this Article if the taxpayer is primarily engaged in one of the industries listed in ~~G.S. 105-164.14(j)(3)~~ G.S. 105-164.14B and the Secretary of Commerce has certified that the owner of the facility will invest at least one hundred million dollars (\$100,000,000) of private funds to acquire, construct, and equip a facility in this State to engage in one or more of those industries.

...."

SECTION 3.3. G.S. 105-164.3 is amended by adding a new subdivision to read:

"(6a) Development tier. – The classification assigned to an area pursuant to G.S. 143B-437.08."

SECTION 3.4. G.S. 105-187.18(b) reads as rewritten:

"(b) Except for the exemption for sales a state cannot constitutionally tax, the exemptions ~~in G.S. 105-164.13 and the refunds allowed in G.S. 105-164.14~~Article 5 of this Chapter do not apply to the taxes imposed by this Article."

SECTION 3.5. G.S. 105-187.23 reads as rewritten:

"§ **105-187.23. Exemptions and refunds.**

(a) Exemptions. – Except for the exemption for sales a state cannot constitutionally tax, the exemptions allowed in G.S. 105-164.13 ~~Article 5 of this Chapter~~ do not apply to the taxes imposed by this Article.

(b) Refunds. – The refunds allowed in ~~G.S. 105-164.14~~Article 5 of this Chapter do not apply to the taxes imposed by this Article. A person who buys at least 50 new white goods of any kind in the same sale or purchase may obtain a refund equal to sixty percent (60%) of the amount of tax imposed by this Article on the white goods when all of the white goods purchased are to be placed in new or remodeled dwelling units that are located in this State and do not contain the kind of white goods purchased. To obtain a refund, a person must file an application for a refund with the Secretary. The application must contain the information required by the Secretary, be signed by the purchaser of the white goods, and be submitted by the date set by the Secretary."

SECTION 3.6. G.S. 105-187.33 reads as rewritten:

"§ **105-187.33. Exemptions and refunds.**

Except for the exemption for sales a state cannot constitutionally tax, the exemptions and refunds allowed in G.S. 105-164.13~~Article 5 of this Chapter~~ do not apply to the taxes imposed by this Article. ~~The refunds allowed in G.S. 105-164.14 do not apply to the taxes imposed by this Article.~~"

SECTION 3.7. G.S. 105-259(b) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person except as provided in this subsection. Standards used or to be used for the selection of returns for examination and data used or to be used for determining the standards may not be disclosed for any purpose. All other tax information may be disclosed only if the disclosure is made for one of the following purposes:

...
 (6a) To furnish the county or city official designated under ~~G.S. 105-164.14(f)~~G.S. 105-164.29B a list of claimants that have received a refund of the county sales or use tax to the extent authorized in ~~G.S. 105-164.14(f)~~that statute.

...
 (31) ~~To verify with a related entity or strategic partner information relating to that entity provided by a taxpayer claiming a credit under Article 3G of this Chapter.~~

...
 (35) ~~To furnish to a taxpayer claiming a credit under Article 3G of this Chapter information from a related entity or strategic partner to the extent that information was used by the Secretary to adjust the amount of tax credit claimed by the taxpayer.~~

...
 (37) To furnish the Department of Commerce with the information needed to complete the ~~studies~~study required under ~~G.S. 105-129.2A~~ and G.S. 105-129.82.

...."

SECTION 3.8. G.S. 105-467(b) reads as rewritten:

"(b) Exemptions and Refunds. – The State exemptions and exclusions contained in G.S. 105-164.13, the State sales and use tax holidays contained in G.S. 105-164.13C and G.S. 105-164.13D, and the State refund provisions contained in G.S. 105-164.14 through G.S. 105-164.14B apply to the local sales and use tax authorized to be levied and imposed under this Article. Except as provided in this subsection, a taxing county may not allow an exemption, exclusion, or refund that is not allowed under the State sales and use tax. A local school administrative unit and a joint agency created by interlocal agreement among local school administrative units pursuant to G.S. 160A-462 to jointly purchase food service-related materials, supplies, and equipment on their behalf is allowed an annual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service. Sales and use tax liability indirectly incurred by the entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the entity and is being erected, altered, or repaired for use by the entity is considered a sales or use tax liability incurred on direct purchases by the entity for the purpose of this subsection. A request for a refund shall be in writing and shall include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the entity's fiscal year. Refunds applied for more than three years after the due date are barred."

PART IV: EFFECTIVE DATE

SECTION 4. This act becomes effective July 1, 2010. The first economic incentives report required by G.S. 105-256, as amended by this act, is due by May 1, 2011. The first claim for refund by a taxpayer whose sales tax refund period is changed by this act is due within six months after July 1, 2010, and applies to purchases during the time period not covered by the taxpayer's last claim for refund.

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Became law upon approval of the Governor at 2:20 p.m. on the 2nd day of August, 2010.

Session Law 2010-167

H.B. 1829

AN ACT TO PROMOTE THE USE OF RENEWABLE ENERGY BY EXTENDING THE CREDIT FOR CONSTRUCTING RENEWABLE FUEL FACILITIES AND THE CREDIT FOR BIODIESEL PRODUCERS, REVISING THE TAX CREDIT FOR INVESTING IN RENEWABLE ENERGY PROPERTY, REINSTATING AND EXPANDING THE TAX CREDIT FOR A RENEWABLE ENERGY PROPERTY FACILITY, CLARIFYING THE AUTHORITY OF LOCAL GOVERNMENTS TO FINANCE ENERGY PROGRAMS, CLARIFYING THAT REAL PROPERTY DONATED FOR A CONSERVATION PURPOSE CAN BE USED ONLY FOR THAT PURPOSE, AND TO DESIGNATE THE APPROPRIATE PERSON TO PROVIDE A WRITTEN ALLOCATION OF THE FEDERAL §179D TAX DEDUCTION FOR ENERGY EFFICIENT COMMERCIAL BUILDINGS OWNED BY A GOVERNMENTAL ENTITY.

The General Assembly of North Carolina enacts:

TO EXTEND THE CREDIT FOR CONSTRUCTING RENEWABLE FUEL FACILITIES AND THE CREDIT FOR BIODIESEL PRODUCERS

SECTION 1.(a) G.S. 105-129.16D(d) reads as rewritten:

"§ 105-129.16D. Credit for constructing renewable fuel facilities.

...

(d) Sunset. – This section is repealed effective for facilities placed in service on or after January 1, ~~2011-2013.~~"

SECTION 1.(b) G.S. 105-129.16F(b) reads as rewritten:

"§ 105-129.16F. Credit for biodiesel producers.

...
 (b) Sunset. – This section is repealed for taxable years beginning on or after January 1, ~~2010-2013.~~"

CHANGES TO CREDIT FOR INVESTING IN RENEWABLE ENERGY PROPERTY

SECTION 2.(a) G.S. 105-129.15 reads as rewritten:

"§ 105-129.15. Definitions.

The following definitions apply in this Article:

...
 (2) Cost. – In the case of property owned by the taxpayer, cost is determined pursuant to regulations adopted under section 1012 of the Code, subject to the limitation on cost provided in section 179 of the Code. In the case of property the taxpayer leases from another, cost is value as determined pursuant to ~~G.S. 105-130.4(j)(2)~~. G.S. 105-130.4(j)(2), unless the property is renewable energy property for which the taxpayer claims either a federal energy credit under section 48 of the Code or a federal grant in lieu of that credit and makes a lease pass-through election under the Code. In this circumstance, the cost of the leased renewable energy property is the cost determined under the Code.

...
 (4b) Installation of renewable energy property. – Renewable energy property that, standing alone or in combination with other machinery, equipment, or real property, is able to produce usable energy on its own.

...
 (7) Renewable energy property. – Any of the following machinery and equipment or real property:
 a. Biomass equipment that uses renewable biomass resources for biofuel production of ethanol, methanol, and biodiesel; anaerobic biogas production of methane utilizing agricultural and animal waste or garbage; or commercial thermal or electrical generation. The term also includes related devices for converting, conditioning, and storing the liquid fuels, gas, and electricity produced with biomass equipment.
 b. Combined heat and power system property. – Defined in section 48 of the Code.
 c. Geothermal equipment that meets either of the following descriptions:
 1. It is a heat pump that uses the ground or groundwater as a thermal energy source to heat a structure or as a thermal energy sink to cool a structure.
 2. It uses the internal heat of the earth as a substitute for traditional energy for water heating or active space heating or cooling.
 b.d. Hydroelectric generators located at existing dams or in free-flowing waterways, and related devices for water supply and control, and converting, conditioning, and storing the electricity generated.
 e.e. Solar energy equipment that uses solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, daylighting, generating electricity, distillation, desalination, detoxification, or the production of industrial or commercial process heat. The term also includes related

devices necessary for collecting, storing, exchanging, conditioning, or converting solar energy to other useful forms of energy.

- ~~d.f.~~ Wind equipment required to capture and convert wind energy into electricity or mechanical power, and related devices for converting, conditioning, and storing the electricity ~~produced~~produced or relaying the electricity by cable from the turbine motor to the power grid.
- e. ~~Geothermal heat pumps that use the ground or groundwater as a thermal energy source to heat a structure or as a thermal energy sink to cool a structure.~~
- f. ~~Geothermal equipment that uses the internal heat of the earth as a substitute for traditional energy for water heating or active space heating and cooling."~~

SECTION 2.(b) G.S. 105-129.16A reads as rewritten:

"§ 105-129.16A. Credit for investing in renewable energy property.

(a) Credit. – If a taxpayer that has constructed, purchased, or leased renewable energy property places it in service in this State during the taxable year, the taxpayer is allowed a credit equal to thirty-five percent (35%) of the cost of the property. In the case of renewable energy property that serves a ~~single-family dwelling, nonbusiness purpose,~~ the credit must be taken for the taxable year in which the property is placed in service. For all other renewable energy property, the entire credit may not be taken for the taxable year in which the property is placed in service but must be taken in five equal installments beginning with the taxable year in which the property is placed in service. Upon request of a taxpayer that leases renewable energy property, the lessor of the property must give the taxpayer a statement that describes the renewable energy property and states the cost of the property.

(b) Expiration. – If, in one of the years in which the installment of a credit accrues, the renewable energy property with respect to which the credit was claimed is disposed of, taken out of service, or moved out of State, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.17. No credit is allowed under this section to the extent the cost of the renewable energy property was provided by public funds.

(c) Ceilings. – The credit allowed by this section may not exceed the applicable ceilings provided in this subsection.

- (1) ~~Nonresidential Property-Business.~~ – A ceiling of two million five hundred thousand dollars (\$2,500,000) ~~per installation~~ applies to each installation of renewable energy property placed in service for any purpose other than residential; a business purpose. Renewable energy property is placed in service for a business purpose if the useful energy generated by the property is offered for sale or is used on-site for a purpose other than providing energy to a residence.
- (2) ~~Residential Property-Nonbusiness.~~ – The following ceilings apply to renewable energy property placed in service for ~~residential purposes; a nonbusiness purpose:~~
 - a. One thousand four hundred dollars (\$1,400) per dwelling unit for solar energy equipment for domestic water heating, including pool heating.
 - b. Three thousand five hundred dollars (\$3,500) per dwelling unit for solar energy equipment for active space heating, combined active space and domestic hot water systems, and passive space heating.
 - c. ~~Ten thousand five hundred dollars (\$10,500) per installation for any other renewable energy property for residential purposes.~~Eight

thousand four hundred dollars (\$8,400) for each installation of geothermal equipment.

- d. ~~Eight thousand four hundred dollars (\$8,400) per installation for a geothermal heat pump or geothermal equipment.~~ Ten thousand five hundred dollars (\$10,500) for each installation of any other renewable energy property.

(d) No Double Credit. – A taxpayer that claims any other credit allowed under this Chapter with respect to renewable energy property may not take the credit allowed in this section with respect to the same property. A taxpayer may not take the credit allowed in this section for renewable energy property the taxpayer leases from another unless the taxpayer obtains the lessor's written certification that the lessor will not claim a credit under this Chapter with respect to the property.

(e) Sunset. – This section is repealed effective for renewable energy property placed into service on or after January 1, 2016."

SECTION 2.(c) G.S. 105-259(b) is amended by adding the following new subdivision to read:

"(40) To furnish to a taxpayer claiming a credit under G.S. 105-129.16A information used by the Secretary to adjust the amount of the credit claimed by the taxpayer."

SECTION 2.(d) This section is effective for taxable years beginning on or after January 1, 2010.

REINSTATE AND EXPAND CREDIT FOR A RENEWABLE ENERGY PROPERTY FACILITY

SECTION 3.(a) Article 3B of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-129.16L. Credit for a renewable energy property facility.

(a) Credit. – A taxpayer that places in service in this State a commercial facility for the manufacture of renewable energy property or a major component subassembly for a solar array or a wind turbine is allowed a credit. A taxpayer places a facility in service if it constructs the facility or converts its existing manufacturing facility to change the product it manufactures. For a taxpayer that constructs a facility, the credit is twenty-five percent (25%) of the taxpayer's cost to construct and equip the facility. For a taxpayer that converts a facility, the credit is twenty-five percent (25%) of the taxpayer's cost to convert and equip the existing facility. A taxpayer that claims any other credit allowed under this Chapter with respect to the facility may not take the credit allowed in this section with respect to that facility.

(b) Installments. – The entire credit may not be taken for the taxable year in which the facility is placed in service but must be taken in five equal annual installments beginning with the taxable year in which the facility is placed in service. If, in one of the years in which the installment of a credit accrues, the facility with respect to which the credit was claimed is disposed of or taken out of service, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.17.

(c) Sunset. – This section is repealed effective for a renewable energy property facility placed in service on or after January 1, 2014."

SECTION 3.(b) This section is effective for taxable years beginning on or after January 1, 2011.

CLARIFY LOCAL GOVERNMENT AUTHORITY TO FINANCE ENERGY PROGRAMS

SECTION 4.(a) G.S. 153A-455 reads as rewritten:

"§ 153A-455. ~~Revolving loan program for energy~~Program to finance energy improvements.

(a) Purpose. – The General Assembly finds it is in the best interest of the citizens of North Carolina to promote and encourage renewable energy and energy efficiency within the State in order to conserve energy, promote economic competitiveness, and expand employment in the State. The General Assembly also finds that a county has an integral role in furthering this purpose by promoting and encouraging renewable energy and energy efficiency within the county's territorial jurisdiction. In furtherance of this purpose, a county may establish a program to finance the purchase and installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently affixed to residential, commercial, or other real property.

(b) ~~Revolving Loan Fund Financing Assistance~~ – A county may establish a revolving loan fund and a loan loss reserve fund for the purpose of ~~providing loans to finance~~financing or assisting in the financing of the purchase and installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently fixed to residential, commercial, or other real property. A county may establish other local government energy efficiency and distributed generation renewable energy source finance programs funded through federal grants. A county may use ~~Energy Efficiency and Conservation Block Grant Funds State and federal grants and loans~~ and its ~~unrestricted general revenue to fund the revolving loan fund for this financing.~~ The annual interest rate charged for the use of funds from the revolving fund may not exceed eight percent (8%) per annum, excluding other fees for loan application review and origination. The term of any loan originated under this section may not be greater than ~~15 years.~~20 years.

(c) Definition. – As used in this Article, "renewable energy source" has the same meaning as "renewable energy resource" in G.S. 62-133.8."

SECTION 4.(b) G.S. 153A-149(c) is amended by adding a new subdivision to read:

"(10c) Energy Financing. – To provide financing for renewable energy and energy efficiency in accordance with a program established under G.S. 153A-455."

SECTION 4.(c) G.S. 160A- 459.1 reads as rewritten:

"§ 160A-459.1. ~~Revolving loan program for~~Program to finance energy improvements.

(a) Purpose. – The General Assembly finds it is in the best interest of the citizens of North Carolina to promote and encourage renewable energy and energy efficiency within the State in order to conserve energy, promote economic competitiveness, and expand employment in the State. The General Assembly also finds that a city has an integral role in furthering this purpose by promoting and encouraging renewable energy and energy efficiency within the city's territorial jurisdiction. In furtherance of this purpose, a city may establish a program to finance the purchase and installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently affixed to residential, commercial, or other real property.

(b) ~~Revolving Loan Fund Financing Assistance.~~ – A city may establish a revolving loan fund and a loan loss reserve fund for the purpose of ~~providing loans to finance~~financing or assisting in the financing of the purchase and installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently fixed to residential, commercial, or other real property. A city may establish other local government energy efficiency and distributed generation renewable energy source finance programs funded through federal grants. A city may use ~~Energy Efficiency and Conservation Block Grant Funds State and federal grants and loans~~ and its ~~unrestricted general revenue to fund the revolving loan fund for this financing.~~ The annual interest rate charged for the use of funds from the revolving fund may not exceed eight percent (8%) per annum, excluding other fees for loan application review and origination. The term of any loan originated under this section may not be greater than ~~15 years.~~20 years.

(c) Definition. – As used in this Article, "renewable energy source" has the same meaning as "renewable energy resource" in G.S. 62-133.8."

SECTION 4.(d) G.S. 160A-209(c) is amended by adding a new subdivision to read:

"(10b) Energy Financing. – To provide financing for renewable energy and energy efficiency in accordance with a program established under G.S. 160A-459.1."

CLARIFY THAT REAL PROPERTY DONATED FOR A CONSERVATION PURPOSE CAN BE USED ONLY FOR THAT PURPOSE

SECTION 5.(a) G.S. 105-130.34(a) reads as rewritten:

"(a) Any C Corporation that makes a qualified donation of an interest in real property located in North Carolina during the taxable year that is useful for (i) public beach access or use, (ii) public access to public waters or trails, (iii) fish and wildlife conservation, (iv) forestland or farmland conservation, (v) watershed protection, (vi) conservation of natural areas as that term is defined in G.S. 113A-164.3(3), (vii) conservation of natural or scenic river areas as those terms are used in G.S. 113A-34, (viii) conservation of predominantly natural parkland, or (ix) historic landscape conservation is allowed a credit against the tax imposed by this Part equal to twenty-five percent (25%) of the fair market value of the donated property interest. To be eligible for this credit, the interest in real property must be donated in perpetuity ~~to and accepted by~~ for one of the qualifying uses listed in this subsection and accepted in perpetuity for the qualifying use for which the property is donated. The person to whom the property is donated must be the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions pursuant to G.S. 105-130.9. Lands required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under a regulation or ordinance are not eligible for this credit.

The credit allowed under this section for one or more qualified donations made in a taxable year may not exceed five hundred thousand dollars (\$500,000). To support the credit allowed by this section, the taxpayer must file with the income tax return for the taxable year in which the credit is claimed the following:

- (1) A certification by the Department of Environment and Natural Resources that the property donated is suitable for one or more of the valid public benefits set forth in this subsection.
- (2) A self-contained appraisal report or summary appraisal report as defined in Standards Rule 2-2 in the latest edition of the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Foundation for the property. For fee simple absolute donations of real property, a taxpayer may submit documentation of the county's appraised value of the donated property, as adjusted by the sales assessment ratio, in lieu of an appraisal report."

SECTION 5.(b) G.S. 105-151.12(a) reads as rewritten:

"(a) An individual or pass-through entity that makes a qualified donation of an interest in real property located in North Carolina during the taxable year that is useful for (i) public beach access or use, (ii) public access to public waters or trails, (iii) fish and wildlife conservation, (iv) forestland or farmland conservation, (v) watershed protection, (vi) conservation of natural areas as that term is defined in G.S. 113A-164.3(3), (vii) conservation of natural or scenic river areas as those terms are used in G.S. 113A-34, (viii) conservation of predominantly natural parkland, or (ix) historic landscape conservation is allowed a credit against the tax imposed by this Part equal to twenty-five percent (25%) of the fair market value of the donated property interest. To be eligible for this credit, the interest in property must be donated in perpetuity ~~to and accepted by~~ for one of the qualifying uses listed in this subsection and accepted in perpetuity for the qualifying use for which the property is donated. The person to whom the

property is donated must be the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions under the Code. Lands required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under a regulation or ordinance are not eligible for this credit.

To support the credit allowed by this section, the taxpayer must file with the income tax return for the taxable year in which the credit is claimed the following:

- (1) A certification by the Department of Environment and Natural Resources that the property donated is suitable for one or more of the valid public benefits set forth in this subsection. The certification for a qualified donation made by a pass-through entity must be filed by the pass-through entity.
- (2) A self-contained or summary appraisal report as defined in Standards Rule 2-2 in the latest edition of the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Foundation for the property. For fee simple absolute donations of real property, a taxpayer may submit documentation of the county's appraised value of the donated property, as adjusted by the sales assessment ratio, in lieu of an appraisal report."

ALLOCATION OF FEDERAL SECTION 179D TAX DEDUCTION FOR ENERGY EFFICIENT COMMERCIAL BUILDINGS OWNED BY A GOVERNMENTAL ENTITY

SECTION 6. G.S. 143-341(3) reads as rewritten:

"§ 143-341. Powers and duties of Department.

The Department of Administration has the following powers and duties:

...

- (3) Architecture and Engineering:
 - a. To examine and approve all plans and specifications for the construction or renovation of:
 1. All State buildings or buildings located on State lands, except those buildings over which a local building code inspection department has and exercises jurisdiction; and
 2. All community college buildings requiring the estimated expenditure for construction or repair work for which public bidding is required under G.S. 143-129 prior to the awarding of a contract for such work; and to examine and approve all changes in those plans and specifications made after the contract for such work has been awarded.
 - a1. To organize and schedule, within three weeks of designer selection and before the design contract is let, a meeting of the stakeholders for each State capital improvement project to discuss plan review requirements and to define the terms of the memorandum of understanding developed by the State Building Commission pursuant to G.S. 143-135.26(2). The stakeholders shall include the funded agency, each State agency having plan review responsibilities for the project, and the selected designer. Notwithstanding the foregoing, the meeting need not be scheduled if the funded agency so requests.
 - b. To assist, as necessary, all agencies in the preparation of requests for appropriations for the construction or renovation of all State buildings.
 - b1. To certify that a statement of needs pursuant to G.S. 143C-3-3 is feasible. For purposes of this sub-subdivision, "feasible" means that the proposed project is sufficiently defined in overall scope; building program; site development; detailed design, construction, and

equipment budgets; and comprehensive project scheduling so as to reasonably ensure that it may be completed with the amount of funds requested. At the discretion of the General Assembly, advanced planning funds may be appropriated in support of this certification. This sub-subdivision shall not apply to requests for appropriations of less than one hundred thousand dollars (\$100,000).

- c. To supervise the letting of all contracts for the design, construction or renovation of all State buildings and all community college buildings whose plans and specifications must be examined and approved under a.2. of this subdivision.
- d. To supervise and inspect all work done and materials used in the construction or renovation of all State buildings and all community college buildings whose plans and specifications must be examined and approved under a.2. of this subdivision; to act as the appropriate official inspector or inspection department for purposes of G.S. 143-143.2; and no such work may be accepted by the State or by any State agency until it has been approved by the Department.
- e. To require all State agencies to use existing plans and specifications for construction projects, where feasible. Prior to designing a project, State agencies shall consult with the Department of Administration on the availability of appropriate existing plans and specifications and the feasibility of using them for a project.
- f. To provide written allocation of the deduction allowed under section 179D of the Code, as defined in G.S. 105-228.90, for designing energy efficient commercial building property that is installed on or in property owned by the State. The allocation must be made in accordance with section 179D of the Code.

Except for sub-subdivisions b., b1., ~~and e.,~~ and f. of this subdivision, this subdivision does not apply to the design, construction, or renovation of projects by The University of North Carolina pursuant to G.S. 116-31.11.

...."

EFFECTIVE DATE

SECTION 7. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of July, 2010. Became law upon approval of the Governor at 2:23 p.m. on the 2nd day of August, 2010.

Session Law 2010-168

S.B. 1216

AN ACT TO AMEND AND EXTEND THE EMERGENCY PROGRAM TO REDUCE HOME FORECLOSURES ACT, TO INCREASE AND AUTHORIZE FEES UNDER THE S.A.F.E. MORTGAGE LICENSING ACT, AND TO REVISE THE DEFINITION OF CERTAIN TERMS IN THE PREDATORY LENDING LAW.

The General Assembly of North Carolina enacts:

SECTION 1. Article 11 of Chapter 45 of the General Statutes reads as rewritten:

"Article 11.

"Emergency Program to Reduce Home Foreclosures.

"§ 45-100. (For expiration date, see note) Title.

This Article shall be known as the Emergency Program to Reduce Home Foreclosures Act.

"§ 45-101. (For expiration date, see note) Definitions.

The following definitions apply throughout this Article:

- (1) Act as a mortgage servicer. – To engage, whether for compensation or gain from another or on its own behalf, in the business of receiving any scheduled periodic payments from a borrower pursuant to the terms of any mortgage loan, including amounts for escrow accounts, and making the payments of principal and interest and such other payments with respect to the amounts received from the borrower as may be required pursuant to the mortgage loan, the mortgage servicing loan documents, or servicing contract.
- ~~(1a) Annual percentage rate. — Defined in G.S. 24-1.1F.~~
- (1b) Home loan. – A loan that has all of the following characteristics:
 - a. The loan is not (i) an equity line of credit as defined in G.S. 24-9, (ii) a construction loan as defined in G.S. 24-10, (iii) a reverse mortgage transaction, or (iv) a bridge loan with a term of 12 months or less, such as a loan to purchase a new dwelling where the borrower plans to sell a current dwelling within 12 months.
 - b. The borrower is a natural person.
 - c. The debt is incurred by the borrower primarily for personal, family, or household purposes.
 - d. The principal amount of the loan does not exceed the conforming loan size limit for a single-family dwelling as established from time to time by Fannie Mae.
 - e. The loan is secured by (i) a security interest in a manufactured home, as defined in G.S. 143-145, in the State which is or will be occupied by the borrower as the borrower's principal dwelling, (ii) a mortgage or deed of trust on real property in the State upon which there is located an existing structure designed principally for occupancy of from one to four families that is or will be occupied by the borrower as the borrower's principal dwelling, or (iii) a mortgage or deed of trust on real property in the State upon which there is to be constructed using the loan proceeds a structure or structures designed principally for occupancy of from one to four families which, when completed, will be occupied by the borrower as the borrower's principal dwelling.
 - f. A purpose of the loan is to (i) purchase the dwelling, (ii) construct, repair, rehabilitate, remodel, or improve the dwelling or the real property on which it is located, (iii) satisfy and replace an existing obligation secured by the same real property, or (iv) consolidate existing consumer debts into a new home loan.
- (2) Mortgage lender. – A person engaged in the business of making mortgage loans for compensation or gain.
- (3) Mortgage servicer. – A person who directly or indirectly acts as a mortgage servicer as that term is defined in subdivision (1) of this section or who otherwise meets the definition of the term "servicer" in the Real Estate Settlement Procedures Act, 12 U.S.C. § 2605(i), with respect to mortgage loans.
- ~~(3a) Rate spread home loan. — A home loan in which all the following apply:~~
 - ~~a. The difference between the annual percentage rate for the loan and the yield on U.S. Treasury securities having comparable periods of maturity is either equal to or greater than (i) three percentage points (3%), if the loan is secured by a first lien mortgage or deed of trust, or (ii) five percentage points (5%), if the loan is secured by a subordinate lien mortgage or deed of trust. Without regard to whether the loan is subject to or reportable under the provisions of the Home~~

~~Mortgage Disclosure Act (12 U.S.C. § 2801, et seq.) (HMDA), the difference between the annual percentage rate and the yield on Treasury securities having comparable periods of maturity shall be determined using the same procedures and calculation methods applicable to loans that are subject to the reporting requirements of HMDA, as those procedures and calculation methods are amended from time to time, provided that the yield on Treasury securities shall be determined as of the fifteenth day of the month prior to the application for the loan.~~

- b. ~~The difference between the annual percentage rate for the loan and the conventional mortgage rate is either equal to or greater than (i) one and three fourths percentage points (1.75%), if the loan is secured by a first lien mortgage or deed of trust, or (ii) three and three fourths percentage points (3.75%), if the loan is secured by a subordinate lien mortgage or deed of trust. For purposes of this calculation, the "conventional mortgage rate" means the most recent daily contract interest rate on commitments for fixed rate first mortgages published by the Board of Governors of the Federal Reserve System in its Statistical Release H.15, or any publication that may supersede it, during the week preceding the week in which the interest rate for the loan is set.~~
- (4) ~~Subprime loan. — A loan, originated on or after January 1, 2005, but before December 31, 2007, that meets the definition of a rate spread home loan under this Article. A mortgage servicer may rely on a chart reflecting the appropriate interest rate triggers for rate spread home loans for each day of the period covered by this Article provided by the Commissioner of Banks for the purposes of determining if a loan is a subprime loan covered by this Article. The Commissioner shall provide the chart at least 60 days prior to the effective date of this act.~~

"§ 45-102. (For expiration date, see note) Pre-foreclosure notice for subprime home loans.

At least 45 days prior to the filing of a notice of hearing in a foreclosure proceeding on a primary residence, mortgage servicers of subprime home loans shall send written notice by mail to the last known address of the borrower to inform the borrower of the availability of resources to avoid foreclosure, including:

- (1) An itemization of all past due amounts causing the loan to be in default.
- (2) An itemization of any other charges that must be paid in order to bring the loan current.
- (3) A statement that the borrower may have options available other than foreclosure and that the borrower may discuss available options with the mortgage lender, the mortgage servicer, or a counselor approved by the U.S. Department of Housing and Urban Development.
- (4) The address, telephone number, and other contact information for the mortgage lender, the mortgage servicer, or the agent for either of them who is authorized to attempt to work with the borrower to avoid foreclosure.
- (5) The name, address, telephone number, and other contact information for one or more HUD-approved counseling agencies operating to assist borrowers in North Carolina to avoid foreclosure.
- (6) The address, telephone number, and other contact information for the consumer complaint section of the Office of Commissioner of Banks. Banks, or, alternatively, if the loan is serviced by a credit union, the address, telephone number, and other contact information for the consumer complaint section of the Credit Union Division.

"§ 45-103. (For expiration date, see note) Pre-foreclosure information to be filed with the Administrative Office of the Courts for ~~certain subprime~~ home loans.

(a) Within three business days of mailing the notice required by G.S. 45-102, the mortgage servicer shall file certain information with the Administrative Office of the Courts. The filing shall be in an electronic format, as designated by the Administrative Office of the Courts, and shall contain the name and address of the ~~borrower~~ borrower, the due date of the last scheduled payment made by the borrower, and the date the notice was mailed to the borrower. The Administrative Office of the Courts shall establish an internal database to track information required by this section. The Commissioner of Banks shall design and develop the database, in consultation with the Administrative Office of the Courts. Only the Administrative Office of the Courts, the Office of Commissioner of Banks, and the clerk of court as provided by G.S. 45-107 shall have access to the database.

(b) As permitted by applicable State and federal law, optional information may be requested from the mortgage servicer to facilitate further review by the State Home Foreclosure Prevention Project described in G.S. 45-104. ~~The nature of the optional information requested shall be determined in connection with the design of the database established by subsection (c) of this section.~~ This optional information shall be used by the State Home Foreclosure Prevention Project to prioritize efforts to reach borrowers most likely to avoid foreclosure and to prevent delay for defaults where foreclosure is unavoidable.

~~(c) No later than October 1, 2008, the Administrative Office of the Courts shall establish an internal database to track information provided in this section. The Commissioner of Banks shall design and develop this database, in consultation with the Administrative Office of the Courts, in a manner to promote the efforts of the State Home Foreclosure Prevention Project. Only the Administrative Office of the Courts, the Office of Commissioner of Banks, and the clerk of court as provided by G.S. 45-107 shall have access to the database.~~

"§ 45-104. (For expiration date, see note) State Home Foreclosure Prevention ~~Project.~~ Project and Fund.

(a) The Commissioner of Banks is authorized to establish the State Home Foreclosure Prevention Project. The purpose of the Project is to seek solutions to avoid foreclosures for ~~certain subprime~~ home loans. In developing the Project, the Commissioner may include input from HUD-approved housing counselors, community organizations, the Credit Union Division and other state ~~State~~ agencies, mortgage lenders, mortgage servicers, and other partners.

(b) There is established a State Home Foreclosure Prevention Trust Fund to be managed and maintained by the Office of the Commissioner of Banks. The funds shall be held separate from any other funds received by the Office of the Commissioner of Banks in trust for the operation of the State Home Foreclosure Prevention Project.

(c) Upon the filing of the information required under G.S. 45-103, the mortgage servicer shall pay a fee of seventy-five dollars (\$75.00) to the State Home Foreclosure Prevention Trust Fund. The fee shall not be charged more than once for a home loan covered by this act. The collection of this fee shall be managed by the Office of the Commissioner of Banks in a manner so as to minimize burdens on mortgage servicers in complying with the requirements of this section.

(d) The Commissioner of Banks shall allocate funds from the State Home Foreclosure Prevention Trust Fund to implement the purposes of this act in the following manner:

- (1) An amount, not to exceed the greater of two million two hundred thousand dollars (\$2,200,000) or thirty percent (30%) of the funds per year, to cover the administrative costs of the operation of the program by the Office of the Commissioner of Banks, including managing on behalf of the Administrative Office of the Courts the database identified in G.S. 45-103, expenses associated with informing homeowners of State resources available for foreclosure prevention, expenses associated with connecting homeowners to available resources, and assistance to homeowners and counselors in communicating with mortgage servicers.

- (2) An amount, not to exceed the greater of three million four hundred thousand dollars (\$3,400,000) or forty percent (40%) per year, to make grants to or reimburse nonprofit housing counseling agencies for providing foreclosure prevention counseling services to homeowners involved in the State Home Foreclosure Prevention Project.
- (3) An amount, not to exceed thirty percent (30%) of the total funds collected per year, to make grants to or reimburse nonprofit legal service providers for services rendered on behalf of homeowners in danger of defaulting on a home loan to avoid foreclosure, limited to legal representation such as negotiation of loan modifications or other loan work-out solutions, defending homeowners in foreclosure or representing homeowners in bankruptcy proceedings, and research and counsel to homeowners regarding the status of their home loans.
- (4) Any funds remaining upon the expiration of the State Home Foreclosure Prevention Project shall be directed to the North Carolina Housing Trust Fund.

(e) The Commissioner of Banks shall have the discretion to enter into an agreement to administer funds under subdivisions (2) and (3) of subsection (d) of this section in a manner that complements or supplements other State and federal programs directed to prevent foreclosures for homeowners participating in the State Home Foreclosure Prevention Project.

"§ 45-105. (For expiration date, see note) Extension of foreclosure process.

The Commissioner of Banks shall review information provided in the database created by G.S. 45-103 to determine which subprime home loans are appropriate for efforts to avoid foreclosure. If the Commissioner reasonably believes, based on a full review of the loan information, the mortgage servicer's loss mitigation efforts, the borrower's capacity and interest in staying in the home, and other appropriate factors, that further efforts by the State Home Foreclosure Prevention Project offer a reasonable prospect to avoid foreclosure on primary residences, the Commissioner shall have the authority to extend one time under this Article the allowable filing date for any foreclosure proceeding on a primary residence by up to 30 days beyond the earliest filing date established by the pre-foreclosure notice. If the Commissioner makes the determination that a loan is subject to this section, the Commissioner shall notify the borrower, mortgage servicer, and the Administrative Office of the Courts. If the mortgage servicer is a state or federally chartered credit union, the Commissioner shall also notify the Administrator of the Credit Union Division of the determination.

"§ 45-106. (For expiration date, see note) Use and privacy of records.

The data provided to the Administrative Office of the Courts pursuant to G.S. 45-103 shall be exclusively for the use and purposes of the State Home Foreclosure Prevention Project developed by the Commissioner of Banks in accordance with G.S. 45-104. The information provided to the database is not a public record, except that a mortgage lender and a mortgage servicer shall have access to the information submitted only with regard to its own loans. Any notice provided by the Commissioner to the Administrator of the Credit Union Division under G.S. 45-105 is not a public record. Provision of information to the Administrative Office of the Courts for use by the State Home Foreclosure Prevention Project shall not be considered a violation of G.S. 53B-8. A mortgage servicer shall be held harmless for any alleged breach of privacy rights of the borrower with respect to the information the mortgage servicer provides in accordance with this Article.

"§ 45-107. (For expiration date, see note) Foreclosure filing.

(a) For the duration of the program authorized by this Article, foreclosure notices filed on subprime home loans on or after ~~November 15, 2008~~, November 1, 2010, shall contain a certification by the filing party that the pre-foreclosure notice required by G.S. 45-102 and the pre-foreclosure information required by G.S. 45-103 were provided in accordance with this Article and that the periods of time established by the Article have elapsed.

(b) The clerk of superior court or other judicial officer may have access to the pre-foreclosure database to confirm information provided in subsection (a) of this section. A materially inaccurate statement in the certification shall be cause for dismissal without prejudice of any foreclosure proceeding on a primary residence initiated by the mortgage servicer and for payment by the filing party of costs incurred by the borrower in defending the foreclosure proceeding."

SECTION 2. G.S. 45-21.16(c2) reads as rewritten:

"(c2) **(Expires October 31, 2010)** In any foreclosure filed on or after ~~November 15, 2008, November 1, 2010,~~ where the underlying mortgage debt is a ~~subprime-home~~ loan as defined in ~~G.S. 45-101(4), G.S. 45-101(1b),~~ the notice required by subsection (b) of this section shall contain a certification by the filing party that the pre-foreclosure notice and information required by G.S. 45-102 and G.S. 45-103 were provided in all material respects and that the periods of time established by Article 11 of this Chapter have elapsed."

SECTION 3. G.S. 45-21.16(d) reads as rewritten:

"(d) **(Effective until October 31, 2010)** The hearing provided by this section shall be held before the clerk of court in the county where the land, or any portion thereof, is situated. In the event that the property to be sold consists of separate tracts situated in different counties or a single tract in more than one county, only one hearing shall be necessary. However, prior to that hearing, the mortgagee or trustee shall file the notice of hearing in any other county where any portion of the property to be sold is located. Upon such hearing, the clerk shall consider the evidence of the parties and may consider, in addition to other forms of evidence required or permitted by law, affidavits and certified copies of documents. If the clerk finds the existence of (i) valid debt of which the party seeking to foreclose is the holder, (ii) default, (iii) right to foreclose under the instrument, (iv) notice to those entitled to such under subsection (b), and (v) that the underlying mortgage debt is not a ~~subprime-home~~ loan as defined in ~~G.S. 45-101(4), G.S. 45-101(1b),~~ or if the loan is a ~~subprime-home~~ loan under ~~G.S. 45-101(4), G.S. 45-101(1b),~~ that the pre-foreclosure notice under G.S. 45-102 was provided in all material respects, and that the periods of time established by Article 11 of this Chapter have elapsed, then the clerk shall authorize the mortgagee or trustee to proceed under the instrument, and the mortgagee or trustee can give notice of and conduct a sale pursuant to the provisions of this Article. A certified copy of any authorization or order by the clerk shall be filed in any other county where any portion of the property to be sold is located before the mortgagee or trustee may proceed to advertise and sell any property located in that county. In the event that sales are to be held in more than one county, the provisions of G.S. 45-21.7 apply."

SECTION 4. G.S. 53-244.090(b) reads as rewritten:

"(b) Each principal and each branch office of a mortgage broker or mortgage lender licensed under the provisions of this Article shall be issued a separate license for which the Commissioner shall assess a nonrefundable filing fee of ~~one hundred twenty five dollars (\$125.00)~~ three hundred dollars (\$300.00) in addition to the Nationwide Mortgage Licensing System and Registry processing fee. A licensed mortgage broker or mortgage lender shall file with the Commissioner a notice on a form prescribed by the Commissioner that identifies the address of the principal office and each branch office and its designated branch manager. Payment of the license fee under subsection (a) of this section shall be deemed to cover the location license fee for the principal office of each mortgage lender, mortgage broker, or mortgage servicer without payment of an additional ~~one hundred twenty five dollars (\$125.00)~~ three hundred dollars (\$300.00) under this subsection."

SECTION 5. G.S. 53-244.010(b) reads as rewritten:

"(b) A license may be renewed on or after November 1 of each year by complying with the requirements of subsection (c) of this section and by paying to the Commissioner, in addition to the actual cost of obtaining credit reports and State and national criminal history record checks and of processing fees of the nationwide system as the Commissioner shall require, nonrefundable renewal fees as follows:

- (1) Licensed mortgage lenders, licensed mortgage brokers, and licensed mortgage servicers shall pay an annual renewal fee of six hundred twenty-five dollars (\$625.00), licensed exclusive mortgage brokers shall pay an annual renewal fee of three hundred dollars (\$300.00), and licensed mortgage lenders and mortgage brokers shall pay ~~one hundred twenty-five dollars (\$125.00)~~ three hundred dollars (\$300.00) for each licensed branch office.
- (2) Licensed mortgage loan originators shall pay an annual renewal fee of ~~sixty-seven dollars and fifty cents (\$67.50)~~ one hundred twenty-five dollars (\$125.00)."

SECTION 6. G.S. 53-244.119 is amended by adding a new subsection to read:

"(e) The Commissioner may require a licensee to pay, through the National Mortgage Licensing System, a reasonable administrative processing fee, not to exceed seventy-five dollars (\$75.00), for each of the following licensing status changes:

- (1) A change in the name of the licensee.
- (2) A change in the address of the licensee's principal office.
- (3) For mortgage loan originators, a change in the licensee's sponsors.
- (4) For mortgage lenders, mortgage brokers, and mortgage servicers, a change in the control of the licensee.
- (5) A change in the identity of the branch manager of any branch of the licensee.
- (6) A change in the identity of the licensee's qualified individual."

SECTION 7. G.S. 24-1.1E(a)(5) reads as rewritten:

"(5) "Points and fees" is defined as provided in this subdivision.

a. The term includes all of the following:

1. All items paid by a borrower at or before closing and that are required to be disclosed under sections 226.4(a) and 226.4(b) of Title 12 of the Code of Federal Regulations, as amended from time to time, except interest or the time-price differential. However, the meaning of the term "points and fees" shall not include either (i) the portion of the up-front fees collected and paid to the Federal Housing Administration, the Veterans' Administration, or the U.S. Department of Agriculture to insure or guarantee a home loan that exceeds one and one-quarter percent (1.25%) of the total loan amount or (ii) the portion of any up-front private mortgage insurance premium, charge, or fee that exceeds one and one-quarter percent (1.25%) of the total loan amount, provided that the private mortgage insurance premium, charge or fee is required to be refundable on a prorated basis, the refund is automatically issued upon notification of the satisfaction of the underlying mortgage loan, and the borrower has the right to request or receive a prorated refund in accordance with state or federal law.
2. All charges paid by a borrower at or before closing and that are for items listed under section 226.4(c)(7) of Title 12 of the Code of Federal Regulations, as amended from time to time, but only if the lender receives direct or indirect compensation in connection with the charge or the charge is paid to an affiliate of the lender; otherwise, the charges are not included within the meaning of the phrase "points and fees".
3. To the extent not otherwise included in sub-subdivision a.1. or a.2. of this subdivision, all compensation paid from any source to a mortgage broker, including compensation paid to

a mortgage broker in a table-funded transaction. A bona fide sale of a loan in the secondary mortgage market shall not be considered a table-funded transaction, and a table-funded transaction shall not be considered a secondary market transaction.

4. The maximum prepayment fees and penalties which may be charged or collected under the terms of the loan documents.
- b. Notwithstanding the remaining provisions of this subdivision, the term does not include (i) taxes, filing fees, recording and other charges and fees paid or to be paid to public officials for determining the existence of or for perfecting, releasing, or satisfying a security interest; and (ii) fees paid to a person other than a lender or an affiliate of the lender or to the mortgage broker or an affiliate of the mortgage broker for the following: fees for tax payment services; fees for flood certification; fees for pest infestation and flood determinations; appraisal fees; fees for inspections performed prior to closing; credit reports; surveys; attorneys' fees (if the borrower has the right to select the attorney from an approved list or otherwise); notary fees; escrow charges, so long as not otherwise included under sub-subdivision a. of this subdivision; title insurance premiums; and premiums for insurance against loss or damage to property, including hazard insurance and flood insurance premiums, provided that the conditions in section 226.4(d)(2) of Title 12 of the Code of Federal Regulations are met.
- c. For open-end credit plans, the term includes those points and fees described in sub-subdivisions a.1. through a.3. of this subdivision, plus (i) the minimum additional fees the borrower would be required to pay to draw down an amount equal to the total loan amount, and (ii) the maximum prepayment fees and penalties which may be charged or collected under the terms of the loan documents."

SECTION 8. G.S. 24-1.1E(a)(6) reads as rewritten:

"(6) "Thresholds" means:

- a. Without regard to whether the loan transaction is or may be a "residential mortgage transaction" (as the term "residential mortgage transaction" is defined in section 226.2(a)(24) of Title 12 of the Code of Federal Regulations, as amended from time to time), the annual percentage rate of the loan at the time the loan is consummated is such that the loan is considered a "mortgage" under section 152 of the Home Ownership and Equity Protection Act of 1994 (Pub. Law 103-25, [15 U.S.C. § 1602(aa)]), as the same may be amended from time to time, and regulations adopted pursuant thereto by the Federal Reserve Board, including section 226.32 of Title 12 of the Code of Federal Regulations, as the same may be amended from time to time;
- b. The total points and fees, as defined in G.S. 24-1.1E(a)(5), exceed five-four percent (5%) ~~(4%)~~ of the total loan amount if the total loan amount is twenty thousand dollars (\$20,000) or more, or (ii) the lesser of eight percent (8%) of the total loan amount or one thousand dollars (\$1,000), if the total loan amount is less than twenty thousand dollars (\$20,000); provided, the following discount points and prepayment fees and penalties shall be excluded from the calculation of the total points and fees payable by the borrower:
 1. Up to and including two bona fide loan discount points payable by the borrower in connection with the loan

- transaction, but only if the interest rate from which the loan's interest rate will be discounted does not exceed by more than one percentage point (1%) the required net yield for a 90-day standard mandatory delivery commitment for a reasonably comparable loan from either Fannie Mae or the Federal Home Loan Mortgage Corporation, whichever is greater;
2. Up to and including one bona fide loan discount point payable by the borrower in connection with the loan transaction, but only if the interest rate from which the loan's interest rate will be discounted does not exceed by more than two percentage points (2%) the required net yield for a 90-day standard mandatory delivery commitment for a reasonably comparable loan from either Fannie Mae or the Federal Home Loan Mortgage Corporation, whichever is greater;
 3. For a closed-end loan, prepayment fees and penalties which may be charged or collected under the terms of the loan documents which do not exceed one percent (1%) of the amount prepaid, provided the loan documents do not permit the lender to charge or collect any prepayment fees or penalties more than 30 months after the loan closing;
 4. For an open-end credit plan, prepayment fees and penalties which may be charged or collected under the terms of the loan documents which do not exceed one percent (1%) of the amount prepaid, provided the loan documents do not permit the lender to charge or collect any prepayment fees or penalties more than (i) 30 months after the loan closing if the borrower has no right or option under the loan documents to repay all or any portion of the outstanding balance of the open-end credit plan at a fixed interest rate over a specified period of time or, (ii) if the borrower has a right or option under the loan documents to repay all or any portion of the outstanding balance of the open-end credit plan at a fixed interest rate over a specified period of time, 30 months after the date the borrower voluntarily exercises that right or option; or
- c. If the loan is a closed-end loan, the loan documents permit the lender to charge or collect prepayment fees or penalties more than 30 months after the loan closing or which exceed, in the aggregate, more than two percent (2%) of the amount prepaid. If the loan is an open-end credit plan, the loan documents permit the lender to charge or collect prepayment fees or penalties (i) more than 30 months after the loan closing if the borrower has no right or option under the loan documents to repay all or any portion of the outstanding balance of the open-end credit plan at a fixed interest rate over a specified period of time or, (ii) if the borrower has a right or option under the loan documents to repay all or any portion of the outstanding balance of the open-end credit plan at a fixed interest rate over a specified period of time, more than 30 months after the date the borrower voluntarily exercises that right or option, or (iii) which exceed, in the aggregate, more than two percent (2%) of the amount prepaid."

SECTION 9. Section 6 of S.L. 2008-226 reads as rewritten:

"**SECTION 6.** Section 4 of this act becomes effective July 1, 2008. ~~The remainder of this act becomes effective November 1, 2008, and expires October 31, 2010. Sections 1, 2, 3, and 5 become effective November 1, 2008, and expire May 31, 2013. The remainder of this act is effective when it becomes law.~~"

SECTION 10. Sections 1 through 3 of this act become effective November 1, 2010, and expire on May 31, 2013. Sections 4 through 8 of this act become effective September 1, 2010. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Became law upon approval of the Governor at 2:27 p.m. on the 2nd day of August, 2010.

Session Law 2010-169

H.B. 961

AN ACT TO CLARIFY THE CRIMINAL STATUTES ON SELF-DEALING; TO CREATE THE PUBLIC FUNDING OF COUNCIL OF STATE ELECTIONS COMMISSION; TO INCREASE THE PUNISHMENT FOR MAKING CAMPAIGN CONTRIBUTIONS IN THE NAME OF ANOTHER; TO INCREASE ACCESSIBILITY TO INFORMATION RELATED TO CANDIDATE CAMPAIGN COMMITTEES AND TO INFORMATION RELATED TO STATE CONTRACTS AND GRANTS; TO STRENGTHEN PUBLIC CONFIDENCE IN GOVERNMENT BY CHANGING THE REVOLVING DOOR PERIOD AND APPLICABILITY; TO CODIFY CERTAIN POSITIONS IN STATE GOVERNMENT AS A PUBLIC SERVANT UNDER THE STATE GOVERNMENT ETHICS ACT; TO STRENGTHEN TRANSPARENCY OF GOVERNMENT THROUGH ADDITIONAL DISCLOSURES BY PUBLIC SERVANTS, INCLUDING CAMPAIGN CONTRIBUTIONS PRIOR TO APPOINTMENT; TO INCREASE ACCOUNTABILITY OF PUBLIC SERVANTS, APPOINTEES OF THE GOVERNOR, AND STATE EMPLOYEES BY PERMITTING THE GOVERNOR TO ADOPT MINIMUM STANDARDS OF ETHICAL CONDUCT; TO CLARIFY THE INDIRECT GIFT BAN AND CLARIFY REPORTING BY LOBBYIST PRINCIPALS; TO STRENGTHEN TRANSPARENCY OF GOVERNMENT THROUGH INCREASING AND CLARIFYING ACCESSIBILITY TO LEGISLATIVE RECORDS AND OTHER PUBLIC RECORDS; TO MAKE TECHNICAL CHANGES TO THE ETHICS LAW; AND TO EXPEDITE REVIEW OF PRELIMINARY INVESTIGATIONS OF ALLEGATIONS OF WRONGDOING UNDER CHAPTERS 120 AND 138A OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 126-14 reads as rewritten:

"§ 126-14. **Promise or threat to obtain political contribution or support.**

(a) It is unlawful for a State employee or a person appointed to State office, other than elective office or office on a board, commission, committee, or council whose function is advisory only, whether or not subject to the Personnel Act, to coerce:

- (1) a State employee subject to the Personnel Act,
- (2) a probationary State employee,
- (3) a temporary State employee, or
- (4) an applicant for a position subject to the Personnel Act

to support or contribute to a political candidate, political committee as defined in G.S. 163-278.6, or political party or to change the party designation of ~~his~~ the individual's voter registration by threatening that change in employment status or discipline or preferential personnel treatment will occur with regard to ~~a person~~ an individual listed in subdivisions (1) ~~through (4)~~ through (4) of this subsection.

(a1) It is unlawful for an individual as defined in G.S. 138A-3(30)a. to coerce a person as described in G.S. 138A-32(d)(1), (2), or (3) to support or contribute to a political candidate, a political committee as defined in G.S. 163-278.6, or a political party by threatening discipline

or promising preferential treatment with regard to that person's business with the individual's State office or that person's activities regulated by the individual's State office.

(b) Any person violating this section shall be guilty of a Class 2 misdemeanor.

(c) A State employee subject to the Personnel Act, probationary State employee, or temporary State employee who without probable cause falsely accuses a State employee or a person appointed to State office of violating this section shall be subject to discipline or change in employment status in accordance with the provisions of G.S. 126-35, 126-37, and 126-38 and may, as otherwise provided by law, be subject to criminal penalties for perjury or civil liability for libel, slander, or malicious prosecution."

SECTION 1.(b) This section becomes effective December 1, 2010, and applies to offenses committed on or after that date.

SECTION 2.(a) G.S. 14-234(a) reads as rewritten:

"§ 14-234. **Public officers or employees benefiting from public contracts; exceptions.**

(a) (1) No public officer or employee who is involved in making or administering a contract on behalf of a public agency may derive a direct benefit from the contract except as provided in this section, or as otherwise allowed by law.

(2) A public officer or employee who will derive a direct benefit from a contract with the public agency he or she serves, but who is not involved in making or administering the contract, shall not attempt to influence any other person who is involved in making or administering the contract.

(3) No public officer or employee may solicit or receive any gift, favor, reward, service, or promise of ~~reward~~-reward, including a promise of future employment, in exchange for recommending, influencing, or attempting to influence the award of a contract by the public agency he or she serves."

SECTION 2.(b) This section becomes effective December 1, 2010, and applies to offenses committed on or after that date.

SECTION 3.(a) G.S. 14-217 reads as rewritten:

"§ 14-217. **Bribery of officials.**

(a) If any person holding ~~office~~-office, or who has filed a notice of candidacy for or been nominated for such office, under the laws of this State who, except in payment of his legal salary, fees or perquisites, shall receive, or consent to receive, directly or indirectly, anything of value or personal advantage, or the promise thereof, for performing or omitting to perform any official act, which lay within the scope of his official authority and was connected with the discharge of his official and legal duties, or with the express or implied understanding that his official action, or omission to act, is to be in any degree influenced thereby, he shall be punished as a Class F felon.

(b) Indictments issued under these provisions shall specify:

(1) The thing of value or personal advantage sought to be obtained; and

(2) The specific act or omission sought to be obtained; and

(3) That the act or omission sought to be obtained lay within the scope of the defendant's official authority and was connected with the discharge of his official and legal duties.

(c) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 539, s. 1207.

(d) For purposes of this section, a thing of value or personal advantage shall include a campaign contribution made or received under Article 22A of Chapter 163 of the General Statutes."

SECTION 3.(b) This section becomes effective December 1, 2010, and applies to offenses committed on or after that date.

SECTION 4.(a) G.S. 120C-304(b) reads as rewritten:

"(b) No public servant or former public servant as defined in G.S. 138A-3(30)a. may register as a lobbyist under this Chapter while in office or within six months after leaving office."

SECTION 4.(b) G.S. 120C-304(c) reads as rewritten:

"(c) No public servant or former public servant as defined in G.S. 138A-3(30)c. may register as a lobbyist under this Chapter within six months after separation from employment as a public servant. No other employee of any State agency may register as a lobbyist under this Chapter to lobby the State agency that previously employed the former employee within six months after voluntary separation or separation for cause from that State agency."

SECTION 4.(c) G.S. 120C-200 is amended by adding a new subsection to read:

"(f) In addition to the information required for registration under subsection (b) of this section, former employees of a State agency who register as a lobbyist within six months after voluntary separation or separation for cause from employment with a State agency shall also indicate which State agency with which the former employee was employed."

SECTION 4.(d) This section becomes effective October 1, 2010, and applies to individuals who leave office or separate from employment on or after that date.

SECTION 5.(a) Article 5 of Chapter 120C of the General Statutes is amended by adding a new section to read:

"§ 120C-502. Local government liaison equivalents.

(a) An individual who is an employee of a governmental unit whose principal duties, in practice or as set forth in that individual's job description, include lobbying for legislative action shall register under G.S. 120C-200.

(b) G.S. 120C-501 shall apply to an individual required to register under subsection (a) of this section.

(c) For purposes of publication of the registry under G.S. 120C-220, the Secretary of State shall treat individuals registered under this section as liaison personnel.

SECTION 5.(b) G.S. 120C-700(3) reads as rewritten:

"(3) A duly elected or appointed official or employee of the State, the United States, a county, municipality, school district, or other governmental agency, when acting solely in connection with matters pertaining to the office and public duties, except for a person designated as liaison personnel under ~~G.S. 120C-500.~~ G.S. 120C-500 or G.S. 120C-502. For purposes of this subdivision, an individual appointed as a county or city attorney under Part 7 of Article 5 of Chapter 153A of the General Statutes or Part 6 of Article 7 of Chapter 160A of the General Statutes, respectively, shall be considered an employee of the county or city.

SECTION 5.(c) This section becomes effective January 1, 2011.

SECTION 6.(a) G.S. 163-278.27 reads as rewritten:

"§ 163-278.27. Criminal penalties; duty to report and prosecute.

(a) Any individual, candidate, political committee, referendum committee, treasurer, person or media who intentionally violates the applicable provisions of G.S. 163-278.7, 163-278.8, 163-278.9, 163-278.10, 163-278.11, 163-278.12, 163-278.13, 163-278.13B, 163-278.14, 163-278.16, 163-278.16B, 163-278.17, 163-278.18, 163-278.19, 163-278.20, 163-278.39, 163-278.40A, 163-278.40B, 163-278.40C, 163-278.40D, 163-278.40E, or 163-278.40J is guilty of a Class 2 misdemeanor. The statute of limitations as stated in G.S. 15-1 shall run from the day the last report is due to be filed with the appropriate board of elections for the election cycle for which the violation occurred.

(a1) A violation of G.S. 163-278.32 by making a certification knowing the information to be untrue is a Class I felony.

(a2) A person or individual who intentionally violates G.S. 163-278.14(a) or G.S. 163-278.19(a) and the unlawful contributions total more than ten thousand dollars (\$10,000) per election is guilty of a Class I felony.

(b) Whenever the Board has knowledge of or has reason to believe there has been a violation of any section of this Article, it shall report that fact, together with accompanying details, to the following prosecuting authorities:

(1) In the case of a candidate for nomination or election to the State Senate or State House of Representatives: report to the district attorney of the

prosecutorial district in which the candidate for nomination or election resides;

- (2) In the case of a candidate for nomination or election to the office of Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, State Superintendent of Public Instruction, State Attorney General, State Commissioner of Agriculture, State Commissioner of Labor, State Commissioner of Insurance, and all other State elective offices, Justice of the Supreme Court, Judge of the Court of Appeals, judge of a superior court, judge of a district court, and district attorney of the superior court: report to the district attorney of the prosecutorial district in which Wake County is located;
- (3) In the case of an individual other than a candidate, including, without limitation, violations by members of political committees, referendum committees or treasurers: report to the district attorney of the prosecutorial district in which the individual resides; and
- (4) In the case of a person or any group of individuals: report to the district attorney or district attorneys ~~of~~ of the prosecutorial district or districts in which any of the officers, directors, agents, employees or members of the person or group reside.

(c) Upon receipt of such a report from the Board, the appropriate district attorney shall prosecute the individual or persons alleged to have violated a section or sections of this Article.

(d) As a condition of probation, a sentencing judge may order that the costs incurred by the State Board of Elections in investigating and aiding the prosecution of a case be paid to the State Board of Elections by the defendant on such terms and conditions as set by the judge."

SECTION 6.(b) G.S. 163-278.14(a) reads as rewritten:

"(a) No individual, political committee, or other entity shall make any contribution anonymously or in the name of another. No candidate, political committee, referendum committee, political party, or treasurer shall knowingly accept any contribution made by any individual or person in the name of another individual or person or made anonymously. If a candidate, political committee, referendum committee, political party, or treasurer receives anonymous contributions or contributions determined to have been made in the name of another, he shall pay the money over to the Board, by check, and all such moneys received by the Board shall be deposited in the Civil Penalty and Forfeiture Fund of the State of North Carolina. This subsection shall not apply to any contribution by an individual with the lawful authority to act on behalf of another individual, whether through power of attorney, trustee, or other lawful authority."

SECTION 6.(c) This section becomes effective December 1, 2010, and applies to offenses committed on or after that date.

SECTION 7. G.S. 150B-38(a) is amended by adding a new subdivision to read:

"(6) The State Board of Elections in the administration of any investigation or audit under the provisions of Article 22A of Chapter 163 of the General Statutes."

SECTION 8. In order to foster and facilitate transparency of information relating to political campaigns, the State Board of Elections shall create an easily searchable database to provide any member of the public with access to the database to search by geographic location, occupation, employer, contributor, or contributee, within an election cycle and over a period of time as specified by the searcher of any report filed by a political committee or referendum committee under Article 22A of Chapter 163 of the General Statutes with the State Board of Elections.

SECTION 9. Article 2 of Chapter 143C of the General Statutes is amended by adding new sections to read:

"§ 143C-2-5. Grants and contracts database.

(a) The Director of the Budget shall require the Office of State Budget and Management, with the support of the Office of Information Technology Services, to build and maintain a database and Web site for providing a single, searchable Web site on State spending for grants and contracts to be known as NC OpenBook.

(b) Each head of a principal department listed in G.S. 143B-6 shall conduct a review monthly of all State contracts and grants administered by that principal department.

(c) All State institutions, departments, bureaus, agencies, or commissions subject to the authority of the Director of the Budget that maintain a Web site shall be required to include an access link to the NC OpenBook Web site on the home page of the agency Web site. Each agency shall also prominently display a search engine on the agency Web site home page to allow for ease of searching for information, including contracts and grants, on the agency's Web site.

"§ 143C-2-6. Contents of database and Web site.

(a) The Office of State Controller, the Department of Administration, and the Office of Information Technology Services shall provide the Office of State Budget and Management with the statewide information on State contracts necessary for the development and maintenance of the database and Web site required by this Article, with the information updated at least monthly.

(b) The Office of State Budget and Management shall work with the Office of the State Auditor and the Grant Information Center to incorporate data on grants into the database and Web site required by this Article. All State institutions, departments, bureaus, agencies, or commissions subject to the authority of the Governor shall make necessary changes to existing reporting processes for contracts and grants to ensure the goals of this Article are met.

(c) All State contracts and grants awarded in amounts in excess of ten thousand dollars (\$10,000) shall be included in the database and Web site required by this Article. The following information shall be provided for each contract or grant:

- (1) The name of the entity receiving the award.
- (2) The amount of the award or estimated award.
- (3) Information on the award, including type of transaction, funding agency, and duration of the contract or grant.
- (4) The location of the entity receiving the award.
- (5) Background information on the entity receiving the award.
- (6) Time lines for anticipated completion of the work required.
- (7) Expected outcomes of the contract or grant and specific deliverables required.
- (8) Contact information for the responsible State government officer or administrator of the contract or grant."

SECTION 10. G.S. 138A-3(30) reads as rewritten:

"(30) Public servants. – All of the following:

- a. Constitutional officers of the State and individuals elected or appointed as constitutional officers of the State prior to taking office.
- b. Employees of the Office of the Governor.
- c. Heads of all principal State departments, as set forth in G.S. 143B-6, who are appointed by the Governor.
- d. The chief deputy and chief administrative assistant of each individual designated under sub-subdivision a. or c. of this subdivision.
- e. Confidential assistants and secretaries as defined in G.S. 126-5(c)(2), to individuals designated under sub-subdivision a., c., or d. of this subdivision.
- f. Employees in exempt positions designated in accordance with G.S. 126-5(d)(1), (2), or (2a) and confidential secretaries to these individuals.

- g. Any other employees or appointees in the principal State departments as may be designated by the Governor to the extent that the designation does not conflict with the State Personnel Act.
- h. Judicial employees.
- i. All voting members of boards, including ex officio members, permanent designees of any voting member, and members serving by executive, legislative, or judicial branch appointment.
- j. For The University of North Carolina, the voting members of the Board of Governors of The University of North Carolina, the president, the vice-presidents, and the chancellors, the vice-chancellors, and voting members of the boards of trustees of the constituent institutions.
- k. For the Community College System, the voting members of the State Board of Community Colleges, the President and the chief financial officer of the Community College System, the president, chief financial officer, and chief administrative officer of each community college, and voting members of the boards of trustees of each community college.
- l. Members of the ~~Commission~~ Commission, the executive director, and the assistant executive director of the Commission.
- m. Individuals under contract with the State working in or against a position included under this subdivision.
- n. The director of the Office of State Personnel.
- o. The State Controller.
- p. The chief information officer, deputy chief information officers, chief financial officers, and general counsel of the Office of Information Technology Services.
- q. The director of the State Museum of Art.
- r. The executive director of the Agency for Public Telecommunications.
- s. The Commissioner of Motor Vehicles.
- t. The Commissioner of Banks and the chief deputy commissioners of the Banking Commission.
- u. The executive director of the North Carolina Housing Finance Agency.
- v. The executive director, chief financial officer, and chief operating officer of the North Carolina Turnpike Authority."

SECTION 11. G.S. 143B-478 is amended by adding a new subsection to read:

"(f) The Commission shall be treated as a board for purposes of Chapter 138A of the General Statutes."

SECTION 12. G.S. 138A-22 is amended by adding a new subsection to read:

"(d1) In addition to subsections (a) and (d) of this section, a covered person holding elected office or a former covered person who held elected office subject to this Article shall file a statement of economic interest in all of the following instances, as specified:

- (1) Filed on or before April 15 of the year following the year a covered person or former covered person does not file a notice of candidacy or petition for election, or does not receive a certificate of election, to the position making that individual a covered person, with all information provided in the statement of economic interest current as of the last day of December of the preceding year.
- (2) Filed on or before April 15 of the year following the year the covered person or former covered person resigns from the position making that individual a

covered person, with all information provided in the statement of economic interest current as of the last day in the position."

SECTION 13.(a) G.S. 138A-24(a) reads as rewritten:

"§ 138A-24. Contents of statement.

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

- (1) Except as otherwise provided in this subdivision, the name, current mailing address, occupation, employer, and business of the filing person. Any individual holding or seeking elected office for which residence is a qualification for office shall include a home address. A judicial officer may use a current mailing address instead of the home address on the form required in this subsection. The ~~judicial officer filing person~~ may also use the initials instead of the name of any unemancipated child of the ~~judicial officer filing person~~ who also resides in the household of the ~~judicial officer filing person~~. If the ~~judicial officer filing person~~ provides the initials of an unemancipated child, the ~~judicial officer filing person~~ shall concurrently provide the name of the unemancipated child to the Commission. The name of an unemancipated child provided by the ~~judicial officer filing person~~ to the Commission shall not be a public record under Chapter 132 of the General Statutes and is privileged and confidential.
- (2) A list of each asset and liability included in this subdivision of whatever nature (including legal, equitable, or beneficial interest) with a value of at least ten thousand dollars (\$10,000) owned by the filing person and the filing person's immediate family, except assets or liabilities held in a blind trust. This list shall include the following:
 - a. All real estate located in the State owned wholly or in part by the filing person or the filing person's immediate family, including descriptions adequate to determine the location by city and county of each parcel.
 - b. Real estate that is currently leased or rented to or from the State.
 - c. Personal property sold to or bought from the State within the preceding two years.
 - d. Personal property currently leased or rented to or from the State.
 - e. The name of each publicly owned company. For purposes of this sub-subdivision, the term "publicly owned company" shall not include a widely held investment fund, including a mutual fund, regulated investment company, or pension or deferred compensation plan, if all of the following apply:
 1. The filing person or a member of the filing person's immediate family neither exercises nor has the ability to exercise control over the financial interests held by the fund.
 2. The fund is publicly traded, or the fund's assets are widely diversified.
 - f. The name of each nonpublicly owned company or business entity, including interests in sole proprietorships, partnerships, limited partnerships, joint ventures, limited liability companies, limited liability partnerships, and closely held corporations.
 - g. For each company or business entity listed under sub-subdivision f. of this subdivision, if known, a list of any other companies or business entities in which the company or business entity owns

- securities or equity interests exceeding a value of ten thousand dollars (\$10,000).
- h. ~~A list of all nonpublicly owned businesses of which the filing person and the filing person's immediate family is an officer, employee, director, partner, owner, or member or manager of a limited liability company.~~
 - i. For any company or business entity listed under sub-subdivisions f., g., and h. of this subdivision, if known, any company or business entity that has any material business dealings, contracts, or other involvement with the State, or is regulated by the State, including a brief description of the business activity.
 - j. For a vested trust created, established, or controlled by the filing person of which the filing person or the members of the filing person's immediate family are the beneficiaries, excluding a blind trust, the name and address of the trustee, a description of the trust, and the filing person's relationship to the trust.
 - k. A list of all liabilities, excluding indebtedness on the filing person's primary personal residence, by type of creditor and debtor.
 - l. Repealed by Session Laws 2007-348, s. 34. See Editor's note for effective date.
 - m. A list of all stock options in a company or business not otherwise disclosed on this statement.
- (3) The name of each source (not specific amounts) of income of more than five thousand dollars (\$5,000) received during the previous year by business or industry type, if that source is not listed under subdivision (2) of this subsection. Income shall include salary, wages, professional fees, honoraria, interest, dividends, rental income, and business income from any source other than capital gains, federal government retirement, military retirement, or social security income.
- (4) If the filing person is a practicing attorney, an indication of whether the filing person, or the law firm with which the filing person is affiliated, earned legal fees during the past year in excess of ten thousand dollars (\$10,000) from any of the following categories of legal representation:
- a. Administrative law.
 - b. Admiralty law.
 - c. Corporate law.
 - d. Criminal law.
 - e. Decedents' estates law.
 - f. Environmental law.
 - g. Insurance law.
 - h. Labor law.
 - i. Local government law.
 - j. Negligence or other tort litigation law.
 - k. Real property law.
 - l. Securities law.
 - m. Taxation law.
 - n. Utilities regulation law.
- (5) Except for a filing person in compliance under subdivision (4) of this subsection, if the filing person is a licensed professional or provides consulting services, either individually or as a member of a professional association, a list of categories of business and the nature of services rendered, for which payment for services were charged or paid during the past year in excess of ten thousand dollars (\$10,000).

- (6) An indication of whether the filing person, the filing person's employer, a member of the filing person's immediate family, or the immediate family member's employer is licensed or regulated by, or has a business relationship with, the board or employing entity with which the filing person is or will be associated. This subdivision does not apply to a legislator, a judicial officer, or that legislator's or judicial officer's immediate family.
- (7) A list of societies, organizations, or advocacy groups, pertaining to subject matter areas over which the public servant's agency or board may have jurisdiction, in which the public servant or a member of the public servant's immediate family is a director, officer, or governing board member. This subdivision does not apply to a legislator, a judicial officer, or that legislator's or judicial officer's immediate family.
- (8) A list of all things with a total value of over two hundred dollars (\$200.00) per calendar quarter given and received without valuable consideration and under circumstances that a reasonable person would conclude that the thing was given for the purpose of lobbying, if such things were given by a person not required to report under Chapter 120C of the General Statutes, excluding things given by a member of the filing person's extended family. The list shall include only those things received during the 12 months preceding the reporting period under subsection (d) of this section, and shall include the source of those things. The list required by this subdivision shall not apply to things of monetary value received by the filing person prior to the time the filing person filed or was nominated as a candidate for office, as described in G.S. 138A-22, or was appointed or employed as a covered person.
- (9) A list of any felony convictions of the filing person, excluding any felony convictions for which a pardon of innocence or order of expungement has been granted.
- (10) Any other information that the filing person believes may assist the Commission in advising the filing person with regards to compliance with this Chapter.
- (11) A list of any nonprofit corporation or organization with which associated during the preceding calendar year, including a list of which of those nonprofit corporations or organizations with which associated do business with the State or receive State funds and a brief description of the nature of the business, if known or with which due diligence could reasonably be known.
- (12) A statement of whether the filing person or the filing person's immediate family is or has been a lobbyist or lobbyist principal registered under Chapter 120C of the General Statutes within the preceding 12 months.
- (13) A list of all contributions as defined in G.S. 163-278.6(6) with a cumulative total of more than one thousand dollars (\$1,000) made by the filing person only, during the preceding calendar year, to the candidate or candidate campaign committee of the covered person as defined in G.S. 138A-3(30)a. appointing the filing person to the covered board.
- (14) A statement indicating "Yes" or "No" as to whether the filing person engaged in each of the following activities during the preceding calendar year, with respect to or on the behalf of the candidate or candidate campaign committee of the covered person as defined in G.S. 138A-3(30)a. appointing the filing person: (i) collected contributions from multiple contributors, took possession of such multiple contributions, and transferred or delivered those collected multiple contributions, (ii) hosted a fund-raiser in the filing person's residence or place of business, or (iii) volunteered for

campaign-related activity. This subdivision only applies to filing persons in the following categories:

- a. A public servant, or a prospective appointee to, as defined in G.S. 138A-3(30)c.
- b. A judicial officer that serves on, or a prospective appointee to, the Supreme Court, the Court of Appeals, the superior court, or the district court.
- c. A covered person serving on, or a prospective appointee to, one of the following boards:
 1. Alcoholic Beverage Control Commission.
 2. Coastal Resources Commission.
 3. State Board of Education.
 4. State Board of Elections.
 5. Employment Security Commission.
 6. Environmental Management Commission.
 7. Industrial Commission.
 8. State Personnel Commission.
 9. Rules Review Commission.
 10. Board of Transportation.
 11. Board of Governors of the University of North Carolina.
 12. Utilities Commission.
 13. Wildlife Resources Commission.

- (15) The name of each business with which associated that the filing person or a member of the filing person's immediate family is an employee, director, officer, partner, proprietor, or member or manager."

SECTION 13.(b) G.S. 138A-24(c) reads as rewritten:

"(c) Each statement of economic interest shall contain ~~sworn~~ a certification by the filing person that the filing person has read the statement and that, to the best of the filing person's knowledge and belief, the statement is true, correct, and complete. The filing person's ~~sworn~~ certification also shall provide that the filing person has not transferred, and will not transfer, any asset, interest, or other property ~~for the purpose of concealing with the intent to conceal~~ it from disclosure while retaining an equitable interest therein."

SECTION 13.(c) G.S. 138A-24(a)(2)i. is recodified as G.S. 138A-24(a)(16).

SECTION 13.(d) G.S. 138A-24(a)(16), as enacted by Section 13(c) of this act, reads as rewritten:

"(16) For any company or business entity listed under subdivision (15) of this subsection and sub-subdivisions f., g., and h.f. and g. of subdivision (2) of this subsection, if known, a statement whether that any company or business entity that has any material business dealings, contracts, dealings or other involvement business contracts with the State, or is regulated by the State, including a brief description of the business activity."

SECTION 13.(e) This section becomes effective January 1, 2011, and applies to statements of economic interest filed on or after that date.

SECTION 14. G.S. 138A-41 reads as rewritten:

"§ 138A-41. **Other ethics standards.**

(a) Nothing in this Chapter shall prevent the Supreme Court, the Committee, the Legislative Services Commission, constitutional officers of the State, heads of principal departments, the Board of Governors of The University of North Carolina, the State Board of Community Colleges, or other boards from adopting additional or supplemental ethics standards applicable to that public agency's operations.

(b) The Governor, as a constitutional officer of the State, shall have the authority to adopt additional and supplemental ethics standards applicable to any appointee of the Governor to any State board, commission, council, committee, task force, authority, or similar public

body, however denominated, created by statute or executive order, whether advisory or nonadvisory in authority. If the Governor adopts such ethics standards, the standards shall be published in the North Carolina Register and made available to each appointee subject to the ethics standards.

(c) The Governor, as a constitutional officer of the State, shall have the authority to adopt minimum ethics standards applicable to any employee of a State agency. If the Governor adopts such standards, the ethics standards shall be published in the North Carolina Register and made available to each employee subject to the ethics standards."

SECTION 15.(a) G.S. 120C-303(a) reads as rewritten:

"(a) Except as provided in subsection (b) of this section, no lobbyist or lobbyist principal may do any of the following:

- (1) Knowingly give a gift to a designated individual.
- (2) Knowingly give a gift with the intent that a designated individual be ~~the~~an ultimate recipient."

SECTION 15.(b) G.S. 138A-32(c) reads as rewritten:

"(c) No public servant, legislator, or legislative employee shall knowingly accept a gift from a lobbyist or lobbyist principal registered under Chapter 120C of the General Statutes. No legislator or legislative employee shall knowingly accept a gift from liaison personnel designated under Chapter 120C of the General Statutes. No public servant, legislator, or legislative employee shall accept a gift knowing all of the following:

- (1) The gift was obtained indirectly from a lobbyist, lobbyist principal, or liaison personnel registered under Chapter 120C of the General Statutes.
- (2) The lobbyist, lobbyist principal, or liaison personnel registered under Chapter 120C of the General Statutes intended for ~~the~~an ultimate recipient of the gift to be a public servant, legislator, or legislative employee as provided in G.S. 120C-303."

SECTION 15.(c) G.S. 138A-32(d1) reads as rewritten:

"(d1) No public servant shall accept a gift knowing all of the following:

- (1) The gift was obtained indirectly from a person described under ~~subdivisions~~subdivision (d)(1), (2), ~~and or~~ (3) of this section.
- (2) The person described under ~~subdivisions~~subdivision (d)(1), (2), ~~and or~~ (3) of this section intended for ~~the~~an ultimate recipient of the gift to be a public servant."

SECTION 15.(d) This section becomes effective December 1, 2010, and applies to offenses committed on or after that date.

SECTION 16. G.S. 120C-101(c) reads as rewritten:

"(c) In adopting rules under this Chapter, the Commission is exempt from the requirements of Article 2A of Chapter 150B of the General Statutes, except that the Commission shall comply with G.S. 150B-21.2(d). At least 30 business days prior to adopting a rule, the Commission shall:

- (1) Publish the proposed rules in the North Carolina Register.
- (2) Submit the rule and a notice of public hearing to the Codifier of Rules, and the Codifier of Rules shall publish the proposed rule and the notice of public hearing on the Internet to be posted within five business days.
- (3) Notify those on the mailing list maintained in accordance with G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a rule and of the public hearing.
- (4) Accept written comments on the proposed rule for at least 15 business days prior to adoption of the rule.
- (5) Hold at least one public hearing on the proposed rule no less than five days after the rule and notice have been published.

A rule adopted under this subsection becomes effective the first day of the month following the month the final rule is submitted to the Codifier of Rules for entry into the North Carolina

Administrative Code Code, and applies prospectively. A rule adopted by the Commission that does not comply with the procedural requirements of this subsection shall be null, void, and without effect. For purposes of this subsection, a rule is any Commission regulation, standard, or statement of general applicability that interprets an enactment by the General Assembly or Congress, or a regulation adopted by a federal agency, or that describes the procedure or practice requirements of the Commission."

SECTION 17.(a) G.S. 120C-100(a)(9) reads as rewritten:

"(9) Lobby or Lobbying. – Any of the following:

- a. Influencing or attempting to influence legislative or executive action, or both, through direct communication or activities with a designated individual or that designated individual's immediate family.
- b. Developing goodwill through communications or activities, including the building of relationships, with a designated individual or that designated individual's immediate family with the intention of influencing current or future legislative or executive action, or both.

The ~~term~~ terms "lobby" or "lobbying" ~~does do~~ not include communications or activities as part of a business, civic, religious, fraternal, personal, or commercial relationship which is not connected to legislative or executive action, or both."

SECTION 17.(b) G.S. 120C-100(a)(10) reads as rewritten:

"(10) Lobbyist. – An individual who engages in lobbying for payment and meets any of the following criteria:

- a. Repealed by Session Laws 2007-348, s. 8(a), effective October 10, 2007.
- b. Represents another person or governmental unit, but is not directly employed by that person or governmental ~~unit, and receives payment for services.~~ ~~unit.~~ ~~For the purposes of this sub-subdivision, the term "payment for services" shall not include reimbursement of actual travel and subsistence.~~
- c. Contracts for ~~economic consideration~~ payment for the purpose of lobbying.
- d. Is employed by a person and a significant part of that employee's duties include lobbying. In no case shall an employee be considered a lobbyist if in no 30-day period less than five percent (5%) of that employee's actual duties include engaging in lobbying as defined in subdivision (9)a. of this section or if in no 30-day period less than five percent (5%) of that employee's actual duties include engaging in lobbying as defined in subdivision (9)b. of this section.

The term "lobbyist" shall not include individuals who are specifically exempted from this Chapter by G.S. 120C-700 or registered as liaison personnel under Article 5 of this Chapter."

SECTION 17.(c) G.S. 120C-100(a)(11) reads as rewritten:

"(11) Lobbyist principal and principal. – The person or governmental unit on whose behalf the lobbyist ~~lobbies~~ ~~lobbies~~ and who makes payment for the lobbying. In the case where a lobbyist is ~~compensated~~ paid by a law firm, consulting firm, or other entity retained by a person or governmental unit for lobbying, the principal is the person or governmental unit whose interests the lobbyist represents in lobbying. In the case of a lobbyist employed or retained by an association or other organization, the lobbyist principal is the association or other organization, not the individual members of the association or other organization.

The term "lobbyist principal" shall not include those designating registered liaison personnel under Article 5 of this Chapter."

SECTION 17.(d) G.S. 120C-100(a)(11k) reads as rewritten:

"(11k) ~~Payment for services.~~Payment. – Any money, thing of value, or economic benefit ~~paid-conveyed to a~~the lobbyist for ~~the purpose of lobbying~~lobbying, other than reimbursement of actual travel, administrative expenses, or subsistence."

SECTION 17.(e) G.S. 120C-100(a)(13) reads as rewritten:

"(13) Solicitation of others. – A solicitation of members of the public to communicate directly with or contact one or more designated individuals ~~for the purpose of influencing or attempting to influence or attempt to influence~~ legislative or executive action to further the solicitor's position on that legislative or executive action, when that request is made by any of the following methods:

- a. A broadcast, cable, or satellite transmission.
- b. An e-mail communication or a Web site posting.
- c. A communication delivered by print media as defined in G.S. 163-278.38Z.
- d. A letter or other written communication delivered by mail or by comparable delivery service.
- e. Telephone.
- f. A communication at a conference, meeting, or similar event.

The term "solicitation of others" does not include communications made by a person or by the person's agent to that person's stockholders, employees, board members, officers, members, subscribers, or other recipients who have affirmatively assented to receive the person's regular publications or notices."

SECTION 17.(f) G.S. 120C-300 reads as rewritten:

"§ 120C-300. Contingency fees prohibited.

(a) No individual shall act as a lobbyist ~~for and receive payment for services~~lobbying that is dependent upon the result or outcome of any legislative or executive action.

(b) This section shall not apply to an individual doing business with the State who is engaged in sales with respect to that business with the State whose regular remuneration agreement includes commissions based on those sales. For purposes of this subsection, the term "regular remuneration" means any money, thing of value, or economic benefit conferred on or received by the individual in return for services rendered or to be rendered by that individual or another.

(c) Any payment ~~for services~~ to a lobbyist in violation of this section is subject to forfeiture and shall be paid into the Civil Penalty and Forfeiture Fund."

SECTION 17.(g) G.S. 120C-305 reads as rewritten:

"§ 120C-305. Prohibition on the use of cash or credit of the lobbyist.

No lobbyist or another acting on the lobbyist's behalf shall ~~permit lobby by permitting~~ a designated individual, or that designated individual's immediate family member, to use the cash or credit of the lobbyist ~~for the purpose of lobbying~~ unless the lobbyist is in attendance at the time of the reportable expenditure. G.S. 120C-303 applies to this section."

SECTION 17.(h) G.S. 120C-400(a) reads as rewritten:

"§ 120C-400. Reporting of reportable expenditures.

(a) For purposes of this Chapter, all reportable expenditures made for ~~the purpose of~~ lobbying shall be reported, including the following:

- (1) Reportable expenditures benefiting or made on behalf of a designated individual in the regular course of that designated individual's employment.
- (1a) Reportable expenditures benefiting or made on behalf of a designated individual's immediate family member in the regular course of that immediate family member's employment.

- (2) Contractual arrangements or direct business relationships between a lobbyist or lobbyist principal and a designated individual, or that designated individual's immediate family member, in effect during the reporting period or the previous 12 months.
- (3) Reportable expenditures reimbursed to a lobbyist in the ordinary course of business by the lobbyist principal or other employer."

SECTION 17.(i) G.S. 120C-402(b) reads as rewritten:

"(b) The report shall include all of the following for the reporting period:

- (1) All reportable expenditures made for ~~the purpose of~~ lobbying.
- (2) Solicitation of others when such solicitation involves an aggregate cost of more than three thousand dollars (\$3,000).
- (3) Reportable expenditures reimbursed by the lobbyist principal, or another person or governmental unit on the lobbyist principal's behalf.
- (4) All reportable expenditures for gifts given under G.S. 138A-32(e)(1)-(9), 138A-32(e)(11), 138A-32(e)(12), and all gifts given under G.S. 138A-32(e)(10) with a value of more than ten dollars (\$10.00)."

SECTION 17.(j) G.S. 120C-403 reads as rewritten:

"§ 120C-403. Lobbyist principal's reports.

(a) Each lobbyist principal shall file quarterly reports under oath with the Secretary of State with respect to each lobbyist principal.

(b) The report shall be filed whether or not reportable expenditures are made, shall be due ~~10-15~~ business days after the end of the reporting period, and shall include all of the following for the reporting period:

- (1) All reportable expenditures made for ~~the purpose of~~ lobbying.
- (2) Solicitation of others when such solicitation involves an aggregate cost of more than three thousand dollars (\$3,000).
- (3) Recodified as G.S. 120C-403(d).
- (4) With respect to each lobbyist registered under G.S. 120C-206, reportable expenditures reimbursed or paid to lobbyists for lobbying that are not reported on the lobbyist's report, with an itemized description of those reportable expenditures.
- (5) All reportable expenditures for gifts given under G.S. 138A-32(e)(1)-(9), 138A-32(e)(11), 138A-32(e)(12), and all gifts given under G.S. 138A-32(e)(10) with a value of more than two hundred dollars (\$200.00).
- (6) With respect to each lobbyist registered under G.S. 120C-206, the name of each person or governmental unit not otherwise registered as a lobbyist principal for whom the lobbyist principal directs the lobbyist to lobby, whether for pay or not. If the lobbyist principal is an association or other organization, the lobbyist principal shall not be required to report under this subdivision any individual member of the association or other organization for which the lobbyist is directed to lobby by that lobbyist principal.

(c) In addition to the reports required by this section, each lobbyist principal incurring reportable expenditures in any month while the General Assembly is in session with respect to lobbying legislators and legislative employees shall file a monthly reportable expenditure report. The monthly reportable expenditure report shall contain information required by this section with respect to all lobbying of legislators and legislative employees, and is due within 10 business days after the end of the month. The information on the monthly report shall also be included in each quarterly report required by subsection (a) of this section.

(d) In addition to the reports required by this section, each lobbyist principal shall annually, in the last report for the registration period under G.S. 120C-200(d), report the cumulative combined total of all payments for lobbying and other activities described in

subdivision (2) of subsection (e) of this section made during the registration period, as applicable:

- (1) If a lobbyist represents the lobbyist principal, but is not directly employed by that lobbyist principal, the portion of the payment that is for lobbying and to whom it was paid.
 - (2) If a lobbyist is under contract with the lobbyist principal for lobbying, the portion of the contract that is reasonably allocated for lobbying.
 - (3) If a lobbyist is a full-time employee of the principal, or is paid by means of an annual fee or retainer, the principal shall estimate and report the portion of the salary, fee, or retainer salary that is reasonably allocated for lobbying.
- (e) For purposes of subsection (d) of this section, the following shall apply:
- (1) A lobbyist principal may rely upon a statement by the lobbyist estimating the portion of the salary or other payment that is reasonably allocated for lobbying.
 - (2) In addition to reporting any payment to a lobbyist for lobbying under subsection (d) of this section, a lobbyist principal shall report, cumulatively for the year, any payment to a lobbyist for any of the following communications and activities that were used to lobby within the registration period under G.S. 120C-200(d):
 - a. Research.
 - b. Drafting of written communications.
 - c. Monitoring of proposed or pending legislative action or executive action, including time spent preparing communications with the lobbyist principal to relate information on proposed or pending legislative action or executive action.
 - d. Time spent advising and rendering opinions to the lobbyist principal as to the construction and effect of proposed or pending legislative action or executive action.
 - (3) A lobbyist principal is required to report any payment to a lobbyist for any of the following:
 - a. Direct lobbying communications or direct lobbying activities with a designated individual or that designated individual's immediate family.
 - b. Communications or activities to develop goodwill, including the building of relationships, with a designated individual or that designated individual's immediate family member."

SECTION 17.(k) G.S. 120C-404(b)(1) reads as rewritten:

"(1) All reportable expenditures made for ~~the purpose of~~ lobbying during the reporting period."

SECTION 17.(l) G.S. 120C-501(e) reads as rewritten:

"(e) The Board of Governors of the University of North Carolina and its constituent institutions, or the liaison personnel designated by that board or the constituent institutions, shall not give, for ~~the purpose of~~ lobbying, athletic tickets to any designated individual, except for those who are described in G.S. 138A-3(30)j. or those who are students and receive tickets on the same basis as other students."

SECTION 17.(m) G.S. 120C-800(a) reads as rewritten:

"(a) If a designated individual accepts a reportable expenditure made for ~~the purpose of~~ lobbying with a total value of over two hundred dollars (\$200.00) per calendar quarter from a person or group of persons acting together, exempted or not otherwise covered by this Chapter, the person, or group of persons, making the reportable expenditure shall report the date, a description of the reportable expenditure, the name and address of the person, or group of persons, making the reportable expenditure, the name of the designated individual accepting the

reportable expenditure, and the estimated fair market value, or face value if shown, of the reportable expenditure."

SECTION 17.(n) G.S. 138A-3(1) reads as rewritten:

"(1) Blind trust. – A trust established by or for the benefit of a covered person or a member of the covered person's immediate family for ~~the purpose of~~ divestiture of all control and knowledge of assets. A trust qualifies as a blind trust under this subdivision if the covered person or a member of the covered person's immediate family has no knowledge of the holdings and sources of income of the trust, the trustee of the trust is independent of and not associated with or employed by the covered person or a member of the covered person's immediate family and is not a member of the covered person's extended family, and the trustee has sole discretion as to the management of the trust assets."

SECTION 17.(o) G.S. 138A-3(15) reads as rewritten:

"(15) Gift. – Anything of monetary value given or received without valuable consideration by or from a lobbyist, lobbyist principal, liaison personnel, or a person described under G.S. 138A-32(d)(1), (2), or (3). The following shall not be considered gifts under this subdivision:

- a. Anything for which fair market value, or face value if shown, is paid by the covered person or legislative employee.
- b. Commercially available loans made on terms not more favorable than generally available to the general public in the normal course of business if not made for ~~the purpose of~~ lobbying.
- c. Contractual arrangements or commercial relationships or arrangements made in the normal course of business if not made for ~~the purpose of~~ lobbying.
- d. Academic or athletic scholarships based on the same criteria as applied to the public.
- e. Campaign contributions properly received and reported as required under Article 22A of Chapter 163 of the General Statutes.
- f. Expressions of condolence related to a death of an individual, sent within a reasonable time of the death, if the expression is one of the following:
 1. A sympathy card, letter, or note.
 2. Flowers.
 3. Food or beverages for immediate consumption.
 4. Donations to a religious organization, charity, the State or a political subdivision of the State, not to exceed a total of two hundred dollars (\$200.00) per death per donor."

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

"(f) This section shall apply to judicial officers only for ~~the purpose of~~ advice related to Article 3 of this Chapter."

SECTION 17.(q) G.S. 138A-24(a)(8) reads as rewritten:

"(8) A list of all things with a total value of over two hundred dollars (\$200.00) per calendar quarter given and received without valuable consideration and under circumstances that a reasonable person would conclude that the thing was given for ~~the purpose of~~ lobbying, if such things were given by a person not required to report under Chapter 120C of the General Statutes, excluding things given by a member of the filing person's extended family. The list shall include only those things received during the 12 months preceding the reporting period under subsection (d) of this section, and shall include the source of those things. The list required by this subdivision shall not apply to things of monetary value received by the filing person prior to the time the

filing person filed or was nominated as a candidate for office, as described in G.S. 138A-22, or was appointed or employed as a covered person."

SECTION 17.(r) G.S. 138A-32(e)(10) reads as rewritten:

"(10) Gifts given or received as part of a business, civic, religious, fraternal, personal, or commercial relationship provided all of the following conditions are met:

- a. The relationship is not related to the public servant's, legislator's, or legislative employee's public service or position.
- b. The gift is made under circumstances that a reasonable person would conclude that the gift was not given ~~for the purpose of lobbying to lobby.~~"

SECTION 17.(s) This section is effective January 1, 2011, and applies to offenses committed on or after that date and reports filed on or after that date.

SECTION 18.(a) G.S. 126-23 reads as rewritten:

"§ 126-23. **Certain records to be kept by State agencies open to inspection.**

(a) Each department, agency, institution, commission and bureau of the State shall maintain a record of each of its employees, showing the following information with respect to each such employee:

- (1) ~~name,~~Name.
- (2) ~~age,~~Age.
- (3) ~~date~~Date of original employment or appointment to the State service,service.
- (4) ~~the~~The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the agency has the written contract or a record of the oral contract in its possession,possession.
- (5) ~~current position,~~Current position.
- (6) ~~title,~~Title.
- (7) ~~current salary,~~Current salary.
- (8) ~~date~~Date and amount of most recent each increase or decrease in salary,salary with that department, agency, institution, commission, or bureau.
- (9) ~~date~~Date and type of most recent each promotion, demotion, transfer, suspension, separation, or other change in position classification,classification with that department, agency, institution, commission, or bureau.
- (10) Date and general description of the reasons for each promotion with that department, agency, institution, commission, or bureau.
- (11) Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the department, agency, institution, commission, or bureau. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the head of the department setting forth the specific acts or omissions that are the basis of the dismissal.
- (12) ~~and the~~The office or station to which the employee is currently assigned.

(b) For the purposes of this section, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity.

(c) Subject only to rules and regulations for the safekeeping of the records, adopted by the State Personnel Commission, every person having custody of such records shall permit them to be inspected and examined and copies thereof made by any person during regular business hours. Any person who is denied access to any such record for the purpose of inspecting, examining or copying the same shall have a right to compel compliance with the provisions of this section by application to a court of competent jurisdiction for a writ of mandamus or other appropriate relief."

SECTION 18.(b) G.S. 115C-320 reads as rewritten:

"§ 115C-320. Certain records open to inspection.

(a) Each local board of education shall maintain a record of each of its employees, showing the following information with respect to each employee:

- (1) ~~name,~~ Name.
- (2) ~~age,~~ Age.
- (3) ~~date~~ Date of original employment or ~~appointment,~~ appointment.
- (4) ~~the~~ The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the board has the written contract or a record of the oral contract in its ~~possession,~~ possession.
- (5) ~~current position,~~ Current position.
- (6) ~~title,~~ Title.
- (7) ~~current salary,~~ Current salary.
- (8) ~~date~~ Date and amount of ~~most recent each~~ increase or decrease in ~~salary,~~ salary with that local board of education.
- (9) ~~date~~ Date and type of ~~most recent each~~ promotion, demotion, transfer, suspension, separation, or other change in position ~~classification,~~ and classification with that local board of education.
- (10) Date and general description of the reasons for each promotion with that local board of education.
- (11) Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the local board of education. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the local board education setting forth the specific acts or omissions that are the basis of the dismissal.
- (12) ~~the~~ The office or station to which the employee is currently assigned.

(b) For the purposes of this section, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity.

(c) Subject only to rules and regulations for the safekeeping of records adopted by the local board of education, every person having custody of the records shall permit them to be inspected and examined and copies made by any person during regular business hours. The name of a participant in the Address Confidentiality Program established pursuant to Chapter 15C of the General Statutes shall not be open to inspection and shall be redacted from any record released pursuant to this section. Any person who is denied access to any record for the purpose of inspecting, examining or copying the record shall have a right to compel compliance with the provisions of this section by application to a court of competent jurisdiction for a writ of mandamus or other appropriate relief."

SECTION 18.(c) G.S. 115D-28 reads as rewritten:

"§ 115D-28. Certain records open to inspection.

(a) Each board of trustees shall maintain a record of each of its employees, showing the following information with respect to each employee:

- (1) ~~name,~~ Name.
- (2) ~~age,~~ Age.
- (3) ~~date~~ Date of original employment or ~~appointment,~~ appointment.
- (4) ~~the~~ The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the board has the written contract or a record of the oral contract in its ~~possession,~~ possession.
- (5) ~~current position,~~ Current position.
- (6) ~~title,~~ Title.
- (7) ~~current salary,~~ Current salary.
- (8) ~~date~~ Date and amount of ~~most recent each~~ increase or decrease in ~~salary,~~ salary with that community college.

- (9) ~~date~~Date and type of most recent each promotion, demotion, transfer, suspension, separation, or other change in position classification, and classification with that community college.
- (10) Date and general description of the reasons for each promotion with that community college.
- (11) Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the community college. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the board of trustees setting forth the specific acts or omissions that are the basis of the dismissal.
- (12) ~~the~~The office or station to which the employee is currently assigned.

(b) For the purposes of this section, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity.

(c) Subject only to rules and regulations for the safekeeping of records adopted by the board of trustees, every person having custody of the records shall permit them to be inspected and examined and copies made by any person during regular business hours. Any person who is denied access to any record for the purpose of inspecting, examining or copying the record shall have a right to compel compliance with the provisions of this section by application to a court of competent jurisdiction for a writ of mandamus or other appropriate relief."

SECTION 18.(d) G.S. 122C-158(b) reads as rewritten:

"(b) The following information with respect to each employee is a matter of public record:

- (1) ~~name;~~Name.
- (2) ~~age;~~Age.
- (3) ~~date~~Date of original employment or appointment to the area authority;~~authority.~~
- (4) ~~the~~The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the agency has the written contract or a record of the oral contract in its possession;~~possession.~~
- (5) ~~current position;~~Current position.
- (6) ~~title;~~Title.
- (7) ~~current salary;~~Current salary.
- (8) ~~date~~Date and amount of most recent each increase or decrease in salary;~~salary with that area authority.~~
- (9) ~~date~~Date and type of the most recent each promotion, demotion, transfer, suspension, separation, or other change in position classification, and classification with that area authority.
- (10) Date and general description of the reasons for each promotion with that area authority.
- (11) Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the area authority. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the area authority setting forth the specific acts or omissions that are the basis of the dismissal.
- (12) ~~the~~The office to which the employee is currently assigned.

(b1) For the purposes of this subsection, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity.

(b2) The area authority shall determine in what form and by whom this information will be maintained. Any person may have access to this information for the purpose of inspection, examination, and copying during regular business hours, subject only to rules for the safekeeping of public records as the area authority may have adopted. Any person denied

access to this information may apply to the appropriate division of the General Court of Justice for an order compelling disclosure, and the court shall have jurisdiction to issue these orders."

SECTION 18.(e) G.S. 153A-98(b) reads as rewritten:

"(b) The following information with respect to each county employee is a matter of public record:

- (1) ~~name;~~ Name.
- (2) ~~age;~~ Age.
- (3) ~~date~~ Date of original employment or appointment to the county ~~service;~~ service.
- (4) ~~the~~ The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the county has the written contract or a record of the oral contract in its ~~possession;~~ possession.
- (5) ~~current position~~ Current position.
- (6) ~~title;~~ Title.
- (7) ~~current salary;~~ Current salary.
- (8) ~~date~~ Date and amount of ~~the most recent~~ each increase or decrease in ~~salary;~~ salary with that county.
- (9) ~~date~~ Date and type of ~~the most recent~~ each promotion, demotion, transfer, suspension, separation or other change in position ~~classification; and~~ classification with that county.
- (10) Date and general description of the reasons for each promotion with that county.
- (11) Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the county. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the county setting forth the specific acts or omissions that are the basis of the dismissal.
- (12) ~~the~~ The office to which the employee is currently assigned.

(b1) For the purposes of this subsection, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity.

(b2) The board of county commissioners shall determine in what form and by whom this information will be maintained. Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the board of commissioners may have adopted. Any person denied access to this information may apply to the appropriate division of the General Court of Justice for an order compelling disclosure, and the court shall have jurisdiction to issue such orders."

SECTION 18.(f) G.S. 160A-168(b) reads as rewritten:

"(b) The following information with respect to each city employee is a matter of public record:

- (1) ~~name;~~ Name.
- (2) ~~age;~~ Age.
- (3) ~~date~~ Date of original employment or appointment to the ~~service;~~ service.
- (4) ~~the~~ The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the city has the written contract or a record of the oral contract in its ~~possession;~~ possession.
- (5) ~~current position~~ Current position.
- (6) ~~title;~~ Title.
- (7) ~~current salary;~~ Current salary.
- (8) ~~date~~ Date and amount of ~~the most recent~~ each increase or decrease in ~~salary;~~ salary with that municipality.

- (9) ~~date~~ Date and type of the most recent each promotion, demotion, transfer, suspension, separation, or other change in position ~~classification; and classification with that municipality.~~
- (10) Date and general description of the reasons for each promotion with that municipality.
- (11) Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the municipality. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the municipality setting forth the specific acts or omissions that are the basis of the dismissal.
- (12) ~~the~~ The office to which the employee is currently assigned.

(b1) For the purposes of this subsection, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity.

(b2) The city council shall determine in what form and by whom this information will be maintained. Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the city council may have adopted. Any person denied access to this information may apply to the appropriate division of the General Court of Justice for an order compelling disclosure, and the court shall have jurisdiction to issue such orders."

SECTION 18.(g) G.S. 162A-6.1(b) reads as rewritten:

"(b) The following information with respect to each authority employee is a matter of public record:

- (1) ~~name;~~ Name.
- (2) ~~age;~~ Age.
- (3) ~~date~~ Date of original employment or appointment to the ~~service;~~ service.
- (4) ~~the~~ The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the authority has the written contract or a record of the oral contract in its ~~possession;~~ possession.
- (5) ~~current position-~~ Current position.
- (6) ~~title;~~ Title.
- (7) ~~current salary;~~ Current salary.
- (8) ~~date~~ Date and amount of the ~~most recent~~ each increase or decrease in ~~salary;~~ salary with that authority.
- (9) ~~date~~ Date and type of the most recent each promotion, demotion, transfer, suspension, separation, or other change in position ~~classification; and classification with that authority.~~
- (10) Date and general description of the reasons for each promotion with that authority.
- (11) Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the authority. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the authority setting forth the specific acts or omissions that are the basis of the dismissal.
- (12) ~~the~~ The office to which the employee is currently assigned.

(b1) For the purposes of this subsection, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity.

(b2) The authority shall determine in what form and by whom this information will be maintained. Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the authority may have adopted. Any person denied access to this information may apply to the appropriate division of the General

Court of Justice for an order compelling disclosure, and the court shall have jurisdiction to issue such orders."

SECTION 18.(h) This section becomes effective October 1, 2010.

SECTION 19.(a) G.S. 120C-600 is amended by adding a new subsection to read:

"(d) The Secretary shall publish annual statistics on complaints received and systematic reviews conducted under this section, including the number of systematic reviews, the number of complaints, the number of apparent violations of this Chapter referred to a district attorney, the number of complaints dismissed, and the number and age of complaints pending. Subject to the provisions of Chapter 132 of the General Statutes, the levy of all civil fines, including the amount of the fine and the identity of the person or governmental unit against whom it was levied, shall be a public record as defined in G.S. 132-1(a)."

SECTION 19.(b) G.S. 120C-601 is amended by adding a new subsection to read:

"(d) The Commission shall publish annual statistics on complaints, including the number of complaints, the number of apparent violations of this Chapter referred to a district attorney, the number of dismissals, and the number and age of complaints pending."

SECTION 20. G.S. 120C-700 is amended by adding a new subdivision to read:

"(9) Anything of value given or received in connection with seeking or hosting a national convention of a political party."

SECTION 21.(a) Article 5 of Chapter 7A of the General Statutes is amended by adding a new section to read:

"§ 7A-38.3E. Mediation of public records disputes.

(a) Voluntary Mediation. – The parties to a public records dispute under Chapter 132 of the General Statutes may agree at any time prior to filing a civil action under Chapter 132 of the General Statutes to mediation of the dispute under the provisions of this section. Mediation of a public records dispute shall be initiated by filing a request for mediation with the clerk of superior court in a county in which the action may be brought.

(b) Mandatory Mediation. – Subsequent to filing a civil action under Chapter 132 of the General Statutes, a person shall initiate mediation pursuant to this section. Such mediation shall be initiated no later than 30 days from the filing of responsive pleadings with the clerk in the county where the action is filed.

(c) Initiation of Mediation. – The Administrative Office of the Courts shall prescribe a request for mediation form. The party filing the request for mediation shall mail a copy of the request by certified mail, return receipt requested, to each party to the dispute. The clerk shall provide each party with a list of mediators certified by the Dispute Resolution Commission. If the parties agree in writing to the selection of a mediator from that list, the clerk shall appoint that mediator selected by the parties. If the parties do not agree on the selection of a mediator, the party filing the request for mediation shall bring the matter to the attention of the clerk, and a mediator shall be appointed by the senior resident superior court judge. The clerk shall notify the mediator and the parties of the appointment of the mediator.

(d) Mediation Procedure. – Except as otherwise expressly provided in this section, mediation under this section shall be conducted in accordance with the provisions for mediated settlement of civil cases in G.S. 7A-38.1 and G.S. 7A-38.2 and rules and standards adopted pursuant to those sections. The Supreme Court may adopt additional rules and standards to implement this section, including an exemption from the provisions of G.S. 7A-38.1 for cases in which mediation was attempted under this section.

(e) Waiver of Mediation. – The parties to the dispute may waive the mediation required by this section by informing the mediator of the parties' waiver in writing. No costs shall be assessed to any party if all parties waive mediation prior to the occurrence of an initial mediation meeting.

(f) Certification That Mediation Concluded. – Immediately upon a waiver of mediation under subsection (e) of this section or upon the conclusion of mediation, the mediator shall prepare a certification stating the date on which the mediation was concluded and the general results of the mediation, including, as applicable, that the parties waived the mediation, that an

agreement was reached, that mediation was attempted but an agreement was not reached, or that one or more parties, to be specified in the certification, failed or refused without good cause to attend one or more mediation meetings or otherwise participate in the mediation. The mediator shall file the original of the certification with the clerk and provide a copy to each party.

(g) Time Periods Tolled. – Time periods relating to the filing of a claim or the taking of other action with respect to a public records dispute, including any applicable statutes of limitations, shall be tolled upon the filing of a request for mediation under this section, until 30 days after the date on which the mediation is concluded as set forth in the mediator's certification, or if the mediator fails to set forth such date, until 30 days after the filing of the certification under subsection (f) of this section.

(h) Nothing in this section shall prevent a party seeking production of public records from seeking injunctive or other relief, including production of public records prior to any scheduled mediation."

SECTION 21.(b) G.S. 7A-38.2(a) reads as rewritten:

"(a) The Supreme Court may adopt standards of conduct for mediators and other neutrals who are certified or otherwise qualified pursuant to G.S. 7A-38.1, 7A-38.3, 7A-38.3B, 7A-38.3D, 7A-38.3E, and 7A-38.4A, or who participate in proceedings conducted pursuant to those sections. The standards may also regulate mediator and other neutral training programs. The Supreme Court may adopt procedures for the enforcement of those standards."

SECTION 21.(c) G.S. 132-9 reads as rewritten:

"§ 132-9. Access to records.

(a) Any person who is denied access to public records for purposes of inspection and examination, or who is denied copies of public records, may apply to the appropriate division of the General Court of Justice for an order compelling disclosure or copying, and the court shall have jurisdiction to issue such ~~orders.~~ orders if the person has complied with G.S. 7A-38.3E. Actions brought pursuant to this section shall be set down for immediate hearing, and subsequent proceedings in such actions shall be accorded priority by the trial and appellate courts.

(b) In an action to compel disclosure of public records which have been withheld pursuant to the provisions of G.S. 132-6 concerning public records relating to the proposed expansion or location of particular businesses and industrial projects, the burden shall be on the custodian withholding the records to show that disclosure would frustrate the purpose of attracting that particular business or industrial project.

(c) In any action brought pursuant to this section in which a party successfully compels the disclosure of public records, the court shall allow ~~the prevailing~~ a party seeking disclosure of public records who substantially prevails to recover its reasonable attorneys' fees if attributed to those public records, ~~unless the court finds the agency acted with substantial justification in denying access to the public records or the court finds circumstances that would make the award of attorneys' fees unjust.~~ records. The court may not assess attorneys' fees against the governmental body or governmental unit if the court finds that the governmental body or governmental unit acted in reasonable reliance on any of the following:

- (1) A judgment or an order of a court applicable to the governmental unit or governmental body.
- (2) The published opinion of an appellate court, an order of the North Carolina Business Court, or a final order of the Trial Division of the General Court of Justice.
- (3) A written opinion, decision, or letter of the Attorney General.

Any attorneys' fees assessed against a public agency under this section shall be charged against the operating expenses of the agency; provided, however, that the court may order that all or any portion of any attorneys' fees so assessed be paid personally by any public employee or public official found by the court to have knowingly or intentionally committed, caused, permitted, suborned, or participated in a violation of this Article. No order against any public

employee or public official shall issue in any case where the public employee or public official seeks the advice of an attorney and such advice is followed.

(d) If the court determines that an action brought pursuant to this section was filed in bad faith or was frivolous, the court shall assess a reasonable attorney's fee against the person or persons instituting the action and award it to the public agency as part of the costs.

(e) Notwithstanding subsection (c) of this section, the court may not assess attorneys' fees against a public hospital created under Article 2 of Chapter 131E of the General Statutes if the court finds that the action was brought by or on behalf of a competing health care provider for obtaining information to be used to gain a competitive advantage.

SECTION 21.(d) This section becomes effective October 1, 2010, and applies to actions filed on or after that date.

SECTION 22.(a) G.S. 138A-14(b) reads as rewritten:

"(b) The Commission shall ~~make~~offer basic ethics education and awareness presentations to all public servants and their immediate staffs, upon their election, appointment, or employment, and shall offer periodic refresher presentations as the Commission deems appropriate. Every public servant shall participate in an ethics presentation approved by the Commission within six months of the public servant's election, reelection, appointment, or employment, and shall attend refresher ethics education presentations at least every two years thereafter in a manner as the Commission deems appropriate."

SECTION 22.(b) G.S. 138A-24(c2) is recodified as G.S. 138A-22(c2).

SECTION 22.(c) The catch line of G.S. 138A-37 reads as rewritten:

"§ 138A-37. **Legislator participation in ~~official~~legislative actions.**"

SECTION 22.(d) G.S. 138A-38(a)(6) and (7) read as rewritten:

"§ 138A-38. **Permitted participation exception.**

(a) Notwithstanding G.S. 138A-36 and G.S. 138A-37, a covered person may participate in an official action or legislative action under any of the following circumstances except as specifically limited:

...

(6) When a public or legislative body records in its minutes that it cannot obtain a quorum in order to take the official or legislative action because the covered person is disqualified from acting under ~~G.S. 130-36, G.S. 138A-36,~~ G.S. 138A-37, or this section, the covered person may be counted for purposes of a quorum, but shall otherwise abstain from taking any further action.

(7) When a public servant notifies the Commission in writing that the public ~~servant~~judicial employee, servant, or someone whom the public servant appoints to act in the public servant's stead, or both, are the only individuals having legal authority to take an official action, and the public servant discloses in writing the circumstances and nature of the conflict of interest."

SECTION 22.(e) G.S. 120-104(c) reads as rewritten:

"(c) A legislator who acts in reliance on a formal advisory opinion issued by the Committee under this section shall be entitled to the immunity granted under ~~G.S. 138A-13(b),~~ G.S. 138A-13(b1)."

SECTION 22.(f) G.S. 120C-800(b) reads as rewritten:

"(b) If the person making the reportable expenditure in subsection (a) of this section is outside North Carolina, and the designated individual accepting the reportable expenditure is also outside North Carolina at the time the designated individual accepts the reportable expenditure, then the designated individual accepting the reportable expenditure shall be responsible for filing the report or reporting the information in the designated individual's statement of economic interest in accordance with ~~G.S. 138A-24(a)(2),~~ G.S. 138A-24(a)(8)."

SECTION 23.(a) G.S. 138A-12(b)(2) reads as rewritten:

"(2) For legislators, the application ~~of~~or alleged violations of Part 1 of Article 14 of Chapter 120 of the General Statutes."

SECTION 23.(b) G.S. 138A-12(c)(1) reads as rewritten:

"(1) A sworn complaint filed under this Chapter shall state the name, address, and telephone number of the individual filing the complaint, the name and job title or appointive position of the covered person or legislative employee against whom the complaint is filed, and a concise statement of the nature of the complaint and specific facts indicating that a violation of this Chapter or Chapter 120 of the General Statutes or G.S. 126-14 or the criminal law in the performance of that individual's official duties has occurred, the date the alleged violation occurred, and either (i) that the contents of the complaint are within the knowledge of the individual verifying the complaint, or (ii) the basis upon which the individual verifying the complaint believes the allegations to be true."

SECTION 23.(c) G.S. 138A-12(c)(5) reads as rewritten:

"(5) The Commission shall send a copy of the complaint to the covered person or legislative employee who is the subject of the complaint and the employing entity, within ~~30~~10 business days of the filing."

SECTION 23.(d) G.S. 138A-12(d) reads as rewritten:

"(d) Conduct of Inquiry of Complaints by the Commission. – The Commission shall conduct an inquiry into all complaints properly before the Commission in a timely manner. The Commission shall initiate an inquiry into a complaint within ~~60~~10 business days of the filing of the complaint. The Commission is authorized to initiate inquiries upon request of any member of the Commission if there is reason to believe that a covered person or legislative employee has or may have violated this Chapter. Commission-initiated complaint inquiries under this section shall be initiated within two years of the date the Commission knew of the conduct upon which the complaint is based, except when the conduct is material to the continuing conduct of the duties in office. In determining whether there is reason to believe that a violation has or may have occurred, a member of the Commission may take general notice of available information even if not formally provided to the Commission in the form of a complaint. The Commission may utilize the services of a hired investigator when conducting inquiries."

SECTION 23.(e) G.S. 138A-12(f) reads as rewritten:

"(f) Dismissal of Complaint After Preliminary Inquiry. – The Commission shall conclude the preliminary inquiry within 20 business days. The Commission shall dismiss the complaint, if the Commission determines if at the end of its preliminary inquiry inquiry the Commission determines that any of the following apply:

- ~~(i)~~(1) ~~the~~The individual who is the subject of the complaint is not a covered person or legislative employee subject to the Commission's jurisdiction and authority under this ~~Chapter, Chapter, or~~
- ~~(ii)~~(2) ~~the~~The complaint does not allege facts sufficient to constitute a violation within the jurisdiction of the Commission under subsection (b) of this section, ~~the Commission shall dismiss the complaint.~~section.
- (3) The complaint is determined to be frivolous or brought in bad faith."

SECTION 23.(f) G.S. 120-103.1(c) reads as rewritten:

"(c) Investigation of Complaints. – The Committee shall investigate all complaints properly before the Committee in a timely manner. Within ~~60~~10 business days of receiving a complaint or a referral of a complaint to the Committee, the Committee shall do at least one of the following:

- (1) Dismiss the complaint.
- (2) Initiate a preliminary investigation of the complaint.
- (3) Refer the complaint for further investigation and a hearing in accordance with subsection (i) of this section.
- (4) Make recommendations to the house in which the legislator who is the subject of the complaint is a member without further investigation, if the referral is from the State Ethics Commission."

SECTION 23.(g) G.S. 120-103.1(c1) reads as rewritten:

"(c1) Preliminary Investigation. – The Committee may initiate a preliminary investigation if it determines that the complaint alleges facts sufficient to constitute a violation of matters over which the Committee has jurisdiction as set forth in subsection (a) of this section. In determining whether there is reason to believe that a violation has or may have occurred, a member of the Committee may take general notice of available information even if not formally provided to the Committee in the form of a complaint. The Committee may utilize the services of a hired investigator when conducting investigations. The Committee shall provide written notification of the initiation of an investigation under this section to the legislator who is the subject of the complaint within 10 days of the date of the Committee's decision to initiate an investigation. The Commission shall conclude the preliminary inquiry within 20 business days."

SECTION 23.(h) G.S. 138A-12(c)(3) reads as rewritten:

"(3) The Commission may decline to accept, refer, or conduct an inquiry into any complaint that does not meet all of the requirements set forth in subdivision (1) of this subsection, or the Commission may, in its sole discretion, request additional information to be provided by the complainant within a specified period of time of no less than ~~seven~~five business days."

SECTION 24.(a) The introductory language in Section 1 of S.L. 2009-129 reads as rewritten:

"~~SECTION 1. G.S. 120-29(2)~~G.S. 120-129(2) reads as rewritten:"

SECTION 24.(b) G.S. 120-132 reads as rewritten:**"§ 120-132. Testimony by legislative employees.**

(a) Except as provided in subsections (b) and (c) of this section, ~~No~~no present or former legislative ~~employees~~employee may be required to disclose any information that the individual, while employed or retained by the State, may have acquired:

- (1) In a standing, select, or conference committee or subcommittee of either house of the General Assembly or a legislative commission;
- (2) On the floor of either house of the General Assembly, ~~or~~in any office of a legislator, legislator, or at any other location of the State legislative buildings and grounds as defined in G.S. 120-32.1(d);
- (3) As a result of communications that are confidential under G.S. 120-130 and G.S. 120-131.

(b) A present or former legislative employee may disclose information acquired under subsection (a) of this section that would be reflected in the official public record or was otherwise publicly disseminated.

(c) Notwithstanding the provisions of the preceding sentence, Subject to G.S. 120-9, G.S. 120-133, and the common law of legislative privilege and legislative immunity, the presiding judge of a court of competent jurisdiction may compel that disclosure, disclosure of information acquired under subsection (a) of this section if in his the judge's opinion, the same disclosure is necessary to a proper administration of justice."

SECTION 24.(c) This section becomes effective October 1, 2010.

SECTION 25.(a) The Legislative Ethics Committee shall study the need for additional regulation of campaign contributions to State officials and candidates for State office by persons doing business with, or regulated by, the office held by the State official. In particular, the Committee shall study the need to regulate campaign activities by persons doing or seeking to do business of any kind, engaged in activities that are regulated or controlled by, or having financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the State official. The Committee shall also study the statement of economic interest required to be filed under Article 4 of Chapter 138A of the General Statutes, particularly whether that statement accurately and informatively discloses required information.

SECTION 25.(b) The Committee shall report its findings and recommendations to the 2011 Regular Session of the General Assembly on or before April 1, 2011.

SECTION 26.(a) There is established the Public Funding of Council of State Elections Commission, which shall consist of the following members:

- (1) Five members appointed by the Speaker of the House of Representatives, to include:
 - a. Two members of the House of Representatives, of whom no more than one shall be of the same political party as the Speaker of the House of Representatives.
 - b. An individual in business recommended by the North Carolina Chamber.
 - c. An individual representing groups opposing public financing of elections.
 - d. An individual who has received public financing for a campaign.
- (2) Five members appointed by the President Pro Tempore of the Senate, to include:
 - a. Two members of the Senate, of whom no more than one shall be of the same political party as the President Pro Tempore of the Senate.
 - b. An individual in business recommended by a business association other than the North Carolina Chamber.
 - c. An individual representing groups advocating and supporting public financing of elections.
 - d. An individual representing the North Carolina State Bar.

SECTION 26.(b) The Commission shall study issues related to the continuation of public funding for Council of State elections, including:

- (1) The existing program, funding sources for existing programs, and the financial needs of the existing program;
- (2) Whether to expand the program to the remainder of the Council of State, and the financial needs to accomplish that expansion;
- (3) Potential funding mechanisms to fund the needs of the existing program and the expansion; and
- (4) Any other matter pertinent to public financing of campaigns for elected office, including issues raised by the First Amendment and all legal precedents related to those issues.

SECTION 26.(c) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each appoint a co-chair from among their respective appointees. A co-chair or other member of the Commission continues to serve until a successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment. Members serve at the pleasure of the appointing officer.

SECTION 26.(d) The Commission shall meet upon the call of its House and Senate co-chairs. A quorum of the Commission is a majority of its members. No action may be taken except by a majority vote at a meeting at which a quorum is present.

SECTION 26.(e) The Commission while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and Article 5A of Chapter 120 of the General Statutes. The Commission may contract for professional, clerical, or consultant services, as provided by G.S. 120-32.02.

SECTION 26.(f) Members of the Commission shall receive per diem, subsistence, and travel allowance as provided in G.S. 120-3.1, 138-5 and 138-6, as appropriate.

SECTION 26.(g) The Legislative Services Officer shall assign professional and clerical staff to assist the Commission in its work. The Director of Legislative Assistants of the House of Representatives and the Director of Legislative Assistants of the Senate shall assign clerical support staff to the Commission.

SECTION 26.(h) The Commission shall report the results of its study and its recommendations to the 2011 General Assembly no later than March 1, 2011.

SECTION 27. Notwithstanding Page J-8, Item 29, of the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets dated June 28, 2010, of the funds appropriated to the State Ethics Commission, the sum of ninety-one thousand five hundred forty-one dollars (\$91,541) in recurring funds and two thousand two hundred fifty dollars (\$2,250) in nonrecurring funds shall be used to fund two Paralegal III positions and provide operating expenses to respond to customer service queries regarding State ethics law compliance and any additional ethics rules or standards implemented by the Governor.

SECTION 28. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of July, 2010.

Became law upon approval of the Governor at 2:50 p.m. on the 2nd day of August, 2010.

Session Law 2010-170

H.B. 748

AN ACT TO DEFINE COORDINATION AND COORDINATED EXPENDITURE; TO REQUIRE REPORTING OF AND DISCLOSURES ON INDEPENDENT EXPENDITURES FOR POLITICAL ADVERTISEMENTS THAT IS THE SAME AS THAT OF POLITICAL COMMITTEES; TO REPEAL ARTICLES 22E AND 22F OF CHAPTER 163 OF THE GENERAL STATUTES; TO CLARIFY THE EXEMPTION OF POLITICAL EXPENDITURES TO THE DEFINITION OF "GIFT" UNDER THE STATE GOVERNMENT ETHICS ACT AND THE MISCELLANEOUS REPORTING UNDER CHAPTER 120C OF THE GENERAL STATUTES; TO REPEAL THE UNCONSTITUTIONAL BAN ON CORPORATE INDEPENDENT EXPENDITURES; TO REQUIRE DISCLOSURES ON ELECTIONEERING COMMUNICATION ADVERTISEMENTS; AND TO CLARIFY NO WRITE-IN CANDIDATES ON A NONPARTISAN RUNOFF ELECTION BALLOT.

The General Assembly Of North Carolina enacts:

SECTION 1. G.S. 163-278.6 reads as rewritten:

"§ 163-278.6. Definitions.

When used in this Article:

- (1) The term "board" means the State Board of Elections with respect to all candidates for State, legislative, and judicial offices and the county or municipal board of elections with respect to all candidates for county and municipal offices. The term means the State Board of Elections with respect to all statewide referenda and the county or municipal board of elections conducting all local referenda.
- (2) The term "broadcasting station" means any commercial radio or television station or community antenna radio or television station. Special definitions of "radio" and "television" that apply only in Part 1A of this Article are set forth in G.S. 163-278.38Z.
- (3) The term "business entity" means any partnership, joint venture, joint-stock company, company, firm, or any commercial or industrial establishment or enterprise.
- (4) The term "candidate" means any individual who, with respect to a public office listed in G.S. 163-278.6(18), has taken positive action for the purpose of bringing about that individual's nomination or election to public office. Examples of positive action include:
 - a. Filing a notice of candidacy or a petition requesting to be a candidate,

- b. Being certified as a nominee of a political party for a vacancy,
- c. Otherwise qualifying as a candidate in a manner authorized by law,
- d. Making a public announcement of a definite intent to run for public office in a particular election, or
- e. Receiving funds or making payments or giving the consent for anyone else to receive funds or transfer anything of value for the purpose of bringing about that individual's nomination or election to office. Transferring anything of value includes incurring an obligation to transfer anything of value.

Status as a candidate for the purpose of this Article continues if the individual is receiving contributions to repay loans or cover a deficit or is making expenditures to satisfy obligations from an election already held. Special definitions of "candidate" and "candidate campaign committee" that apply only in Part 1A of this Article are set forth in G.S. 163-278.38Z.

- (5) The term "communications media" or "media" means broadcasting stations, carrier current stations, newspapers, magazines, periodicals, outdoor advertising facilities, billboards, newspaper inserts, and any person or individual whose business is polling public opinion, analyzing or predicting voter behavior or voter preferences. Special definitions of "print media," "radio," and "television" that apply only in Part 1A of this Article are set forth in G.S. 163-278.38Z.
- (5h) The term "coordination" means in concert or cooperation with, or at the request or suggestion of.
- (5g) The term "coordinated expenditure" means an expenditure that is made in concert or cooperation with, or at the request or suggestion of, a candidate, a candidate campaign committee as defined in G.S. 163-278.38Z(3), the agent of the candidate, or the agent of the candidate campaign committee. An expenditure for the distribution of information relating to a candidate's campaign, positions, or policies, that is obtained through publicly available resources, including a candidate campaign committee, is not a coordinated expenditure if it is not made in concert or cooperation with, or at the request or suggestion of, a candidate, the candidate campaign committee, the agent of the candidate, or the agent of the candidate campaign committee.
- (6) The terms "contribute" or "contribution" mean any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, pledge or subscription of money or anything of value whatsoever, made ~~to~~, or in coordination with, a candidate to support or oppose the nomination or election of one or more clearly identified candidates, to a political committee, to a political party, or to a referendum committee, whether or not made in an election year, and any contract, agreement, or other obligation to make a contribution. An expenditure forgiven by a person or entity to whom it is owed shall be reported as a contribution from that person or entity. These terms include, without limitation, such contributions as labor or personal services, postage, publication of campaign literature or materials, in-kind transfers, loans or use of any supplies, office machinery, vehicles, aircraft, office space, or similar or related services, goods, or personal or real property. These terms also include, without limitation, the proceeds of sale of services, campaign literature and materials, wearing apparel, tickets or admission prices to campaign events such as rallies or dinners, and the proceeds of sale of any campaign-related services or goods. Notwithstanding the foregoing meanings of "contribution," the word shall not be construed to include services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate, political committee, or

referendum committee. The term "contribution" does not include an "independent expenditure." If:

- a. Any individual, person, committee, association, or any other organization or group of individuals, including but not limited to, a political organization (as defined in section 527(e)(1) of the Internal Revenue Code of 1986) makes, or contracts to make, any disbursement for any electioneering communication, as defined in ~~G.S. 163-278.80(2) and (3) and G.S. 163-278.90(2) and (3); this section;~~ and
- b. That disbursement is coordinated with a candidate, an authorized political committee of that candidate, a State or local political party or committee of that party, or an agent or official of any such candidate, party, or committee

that disbursement or contracting shall be treated as a contribution to the candidate supported by the electioneering communication or that candidate's party and as an expenditure by that candidate or that candidate's party.

- (7) The term "corporation" means any corporation established under either domestic or foreign charter, and includes a corporate subsidiary and any business entity in which a corporation participates or is a stockholder, a partner or a joint venturer. The term applies regardless of whether the corporation does business in the State of North Carolina.
- (7a) The term "costs of collection" means monies spent by the State Board of Elections in the collection of the penalties levied under this Article to the extent the costs do not constitute more than fifty percent (50%) of the civil penalty. The costs are presumed to be ten percent (10%) of the civil penalty unless otherwise determined by the State Board of Elections based on the records of expenses incurred by the State Board of Elections for its collection procedures.
- (7b) The term "day" means calendar day.
- (7c) The term "election cycle" means the period of time from January 1 after an election for an office through December 31 after the election for the next term of the same office. Where the term is applied in the context of several offices with different terms, "election cycle" means the period from January 1 of an odd-numbered year through December 31 of the next even-numbered year.
- (8) The term "election" means any general or special election, a first or second primary, a run-off election, or an election to fill a vacancy. The term "election" shall not include any local or statewide referendum.
- (8a) The term "enforcement costs" means salaries, overhead, and other monies spent by the State Board of Elections in the enforcement of the penalties provisions of this Article, including the costs of investigators, attorneys, travel costs for State Board employees and its attorneys, to the extent the costs do not constitute more than fifty percent (50%) of the sum levied for the enforcement costs and civil late penalty.
- (8j) The term "electioneering communication" means any broadcast, cable, or satellite communication, or mass mailing, or telephone bank that has all the following characteristics:
 - a. Refers to a clearly identified candidate for elected office.
 - b. Is aired or transmitted within 60 days of the time set for absentee voting to begin pursuant to G.S. 163-227.2 in an election for that office.
 - c. May be received by either:

1. 50,000 or more individuals in the State in an election for statewide office or 7,500 or more individuals in any other election if in the form of broadcast, cable, or satellite communication.
 2. 20,000 or more households, cumulative per election, in a statewide election or 2,500 households, cumulative per election, in any other election if in the form of mass mailing or telephone bank.
- (8k) The term "electioneering communication" does not include any of the following:
- a. A communication appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, unless those facilities are owned or controlled by any political party, political committee, or candidate.
 - b. A communication that constitutes an expenditure or independent expenditure under this Article.
 - c. A communication that constitutes a candidate debate or forum conducted pursuant to rules adopted by the Board or that solely promotes that debate or forum and is made by or on behalf of the person sponsoring the debate or forum.
 - d. A communication made while the General Assembly is in session which, incidental to advocacy for or against a specific piece of legislation pending before the General Assembly, urges the audience to communicate with a member or members of the General Assembly concerning that piece of legislation or a solicitation of others as defined in G.S. 120C-100(a)(13) properly reported under Chapter 120C of the General Statutes.
 - e. A communication that meets all of the following criteria:
 1. Does not mention any election, candidacy, political party, opposing candidate, or voting by the general public.
 2. Does not take a position on the candidate's character or qualifications and fitness for office.
 3. Proposes a commercial transaction.
 - f. A public opinion poll conducted by a news medium, as defined in G.S. 8-53.11(a)(3), conducted by an organization whose primary purpose is to conduct or publish public opinion polls, or contracted for by a person to be conducted by an organization whose primary purpose is to conduct or publish public opinion polls. This sub-subdivision shall not apply to a push poll. For the purpose of this sub-subdivision, "push poll" shall mean the political campaign technique in which an individual or organization attempts to influence or alter the view of respondents under the guise of conducting a public opinion poll.
 - g. A communication made by a news medium, as defined in G.S. 8-53.11(a)(3), if the communication is in print.
- (9) The terms "expend" or "expenditure" mean any purchase, advance, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, pledge or subscription of money or anything of value whatsoever, whether or not made in an election year, and any contract, agreement, or other obligation to make an expenditure, to support or oppose the nomination, election, or passage of one or more clearly identified candidates, or ballot measure. An expenditure forgiven by a person or entity to whom it is owed shall be reported as a contribution from that person or entity. Supporting or

opposing the election of clearly identified candidates includes supporting or opposing the candidates of a clearly identified political party. The term "expenditure" also includes any payment or other transfer made by a candidate, political committee, or referendum committee.

- (9a) The term "independently expend" or "independent expenditure" means an expenditure to support or oppose the nomination or election of one or more clearly identified candidates that is ~~made without consultation or coordination with a candidate or agent of a candidate whose nomination or election the expenditure supports or whose opponent's nomination or election the expenditure opposes.~~ not a coordinated expenditure. Supporting or opposing the election of clearly identified candidates includes supporting or opposing the candidates of a clearly identified political party. A contribution is not an independent expenditure. As applied to referenda, the term "independent expenditure" applies if consultation or coordination does not take place with a referendum committee that supports a ballot measure the expenditure supports, or a referendum committee that opposes the ballot measure the expenditure opposes.
- (10) The term "individual" means a single individual or more than one individual.
- (11) The term "insurance company" means any person whose business is making or underwriting contracts of insurance, and includes mutual insurance companies, stock insurance companies, and fraternal beneficiary associations.
- (12) The term "labor union" means any union, organization, combination or association of employees or workmen formed for the purposes of securing by united action favorable wages, improved labor conditions, better hours of labor or work-related benefits, or for handling, processing or righting grievances by employees against their employers, or for representing employees collectively or individually in dealings with their employers. The term includes any unions to which Article 10, Chapter 95 applies.
- (12k) The term "mass mailing" means any mailing by United States mail or facsimile to 20,000 or more households, cumulative per election, in a statewide election or 2,500 households, cumulative per election, in any other election.
- (13) The term "person" means any business entity, corporation, insurance company, labor union, or professional association.
- (14) The term "political committee" means a combination of two or more individuals, such as any person, committee, association, organization, or other entity that makes, or accepts anything of value to make, contributions or expenditures and has one or more of the following characteristics:
- a. Is controlled by a candidate;
 - b. Is a political party or executive committee of a political party or is controlled by a political party or executive committee of a political party;
 - c. Is created by a corporation, business entity, insurance company, labor union, or professional association pursuant to G.S. 163-278.19(b); or
 - d. Has the major purpose to support or oppose the nomination or election of one or more clearly identified candidates.

Supporting or opposing the election of clearly identified candidates includes supporting or opposing the candidates of a clearly identified political party. If the entity qualifies as a "political committee" under sub-subdivision a., b., c., or d. of this subdivision, it continues to be a political committee if it receives contributions or makes expenditures or maintains assets or

liabilities. A political committee ceases to exist when it winds up its operations, disposes of its assets, and files its final report.

The term "political committee" includes the campaign of a candidate who serves as his or her own treasurer.

Special definitions of "political action committee" and "candidate campaign committee" that apply only in Part 1A of this Article are set forth in G.S. 163-278.38Z.

- (15) The term "political party" means any political party organized or operating in this State, whether or not that party is recognized under the provisions of G.S. 163-96. A special definition of "political party organization" that applies only in Part 1A of this Article is set forth in G.S. 163-278.38Z.
- (16) Repealed by Session Laws 1999-31, s. 4.
- (17) The term "professional association" means any trade association, group, organization, association, or collection of persons or individuals formed for the purposes of advancing, representing, improving, furthering or preserving the interests of persons or individuals having a common vocation, profession, calling, occupation, employment, or training.
- (18) The term "public office" means any office filled by election by the people on a statewide, county, municipal or district basis, and this Article shall be applicable to such elective offices whether the election therefor is partisan or nonpartisan.
- (18a) The term "referendum" means any question, issue, or act referred to a vote of the people of the entire State by the General Assembly, a unit of local government, or by the people under any applicable local act and includes constitutional amendments and State bond issues. The term "referendum" includes any type of municipal, county, or special district referendum and any initiative or referendum authorized by a municipal charter or local act. A recall election shall not be considered a referendum within the meaning of this Article.
- (18b) The term "referendum committee" means a combination of two or more individuals such as a committee, association, organization, or other entity or a combination of two or more business entities, corporations, insurance companies, labor unions, or professional associations such as a committee, association, organization, or other entity the primary purpose of which is to support or oppose the passage of any referendum on the ballot. If the entity qualifies as a "referendum committee" under this subdivision, it continues to be a referendum committee if it receives contributions or makes expenditures or maintains assets or liabilities. A referendum committee ceases to exist when it winds up its operations, disposes of its assets, and files its final report.
- (18k) The term "telephone bank" means telephone calls that are targeted to the relevant electorate, except when those telephone calls are made by volunteer workers, whether or not the design of the telephone bank system, development of calling instructions, or training of volunteers was done by paid professionals.
- (19) The term "treasurer" means an individual appointed by a candidate, political committee, or referendum committee as provided in G.S. 163-278.7 or G.S. 163-278.40A."

SECTION 2. G.S. 163-278.12 reads as rewritten:

"§ 163-278.12. Special reporting of contributions and independent expenditures.

(a) Subject to G.S. 163-278.39 and G.S. 163-278.14, individuals and other entities not otherwise prohibited from doing so may make independent expenditures. In the event an ~~individual~~individual, person, or other entity making independent expenditures but not otherwise

required to report them makes independent expenditures in excess of one hundred dollars (\$100.00), that ~~individual~~individual, person, or entity shall file a statement of such independent expenditure with the appropriate board of elections in the manner prescribed by the State Board of Elections.

(b) Any person or entity other than an individual that is permitted to make contributions but is not otherwise required to report them shall report each contribution in excess of one hundred dollars (\$100.00) with the appropriate board of elections in the manner prescribed by the State Board of Elections.

(c) In assuring compliance with subsections (a) and (b) of this section, the State Board of Elections shall require the identification of each person or entity making a donation of more than one hundred dollars (\$100.00) to the entity filing the report if the donation was made ~~for the purpose of furthering~~to further the reported independent expenditure or contribution. If the donor is an individual, the statement shall also contain the principal occupation of the donor. The "principal occupation of the donor" shall mean the same as the "principal occupation of the contributor" in G.S. 163-278.11.

(d) Contributions or independent expenditures required to be reported under this section shall be reported within 30 days after they exceed one hundred dollars (\$100.00) or 10 days before an election the contributions or independent expenditures affect, whichever occurs earlier.

(e) The State Board of Elections shall require subsequent reporting of independent expenditures according to the same schedule required of political committees under G.S. 163-278.9(a). An individual or person that makes an independent expenditure shall disclose by report to the State Board of Elections within 48 hours of incurring an expense of five thousand dollars (\$5,000) or more or receiving a donation of one thousand dollars (\$1,000) or more for making an independent expenditure before an election but after the period covered by the last report due before that election.

(f) For the purposes of subsection (c) of this section, a donation to the person or entity making the independent expenditure is deemed to have been donated to further the independent expenditure if any of subdivisions (1) through (4) of this subsection apply. For purposes of this subsection, the "filer" is the person or entity making the independent expenditure and responsible for filing the report, or an agent of that person or entity. For purposes of this subsection, the "donor" is the person or entity donating to the filer the funds or other thing of value, or an agent of that person or entity.

- (1) The donor designates, requests, or suggests that the donation be used for an independent expenditure or for multiple independent expenditures, and the filer agrees to use the donation for an independent expenditure.
- (2) The filer expressly solicited the donor for a donation for making or paying for an independent expenditure.
- (3) The donor and the filer engaged in substantial written or oral discussion regarding the donor's making, donating, or paying for an independent expenditure.
- (4) The donor or the filer knew or had reason to know of the filer's intent to make independent expenditures with the donation.

A donation shall not be deemed to be made to further an independent expenditure if the donation was a commercial transaction occurring in the ordinary course of business between the donor and the filer unless there is affirmative evidence that the amounts were donated to further an independent expenditure. In determining the amount of a donation that was made to further any particular independent expenditure, there shall be excluded any amount that was designated by the donor with respect to a different election than the election that is the subject of the independent expenditure covered by the report.

Subdivisions (1) through (4) of this subsection shall also apply to reports made under subsection (c) of this section concerning contributions. However, nothing in this section shall

be interpreted to limit the effect of the prohibition on making contributions in the name of another in G.S. 163-278.14.

(g) All reports required by this section shall be filed according to rules adopted by the State Board of Elections. If the expense incurred is greater than five thousand dollars (\$5,000), the report shall be filed electronically. The State Board of Elections shall provide the software necessary to file the electronic report to any individual or person required to file an electronic report at no cost to that individual or person."

SECTION 3. Article 22A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-278.12C. Special reporting of electioneering communications.

(a) Every individual or person that incurs an expense for the direct costs of producing or airing electioneering communications aggregating in excess of five thousand dollars (\$5,000) shall file the following reports with the appropriate board of elections in the manner prescribed by the State Board of Elections:

- (1) The identification of the individual or person incurring the expense, of any individual or person sharing or exercising direction or control over the activities of that individual or person, and of the custodian of the books and accounts of the individual or person incurring the expense.
- (2) The principal place of business of the person incurring the expense, if not an individual.
- (3) The amount of each expense incurred during the period covered by the statement and the identification of the individual or person to whom the expense was incurred.
- (4) The elections to which the electioneering communications pertain, if any, and the names, if known, of the candidates identified or to be identified.
- (5) The names and addresses of all entities that donated, to further an electioneering communication or electioneering communications, funds or anything of value whatsoever in an aggregate amount of more than one thousand dollars (\$1,000) during the reporting period. If the donor is an individual, the statement shall also contain the principal occupation of the donor. The "principal occupation of the donor" shall mean the same as the "principal occupation of the contributor" in G.S. 163-278.11.

(b) The initial report shall be filed with the State Board no later than the 10th day following the day the individual or person incurs an expense for the direct costs of producing or airing an electioneering communication. The State Board shall require subsequent reporting according to the same schedule required of political committees under G.S. 163-278.9(a). An individual or person that produces or airs an electioneering communication shall disclose by report to the State Board within 48 hours of incurring an expense of five thousand dollars (\$5,000) or more or receiving a donation of one thousand dollars (\$1,000) or more for making an electioneering communication before an election but after the period covered by the last report due before that election.

(c) For the purposes of subdivision (a)(5) of this section, a donation to the person or entity making the electioneering communication is deemed to have been donated to further the electioneering communication if any of subdivisions (1) through (4) of this subsection apply. For purposes of this subsection, the "filer" is the person or entity making the electioneering communication and responsible for filing the report, or an agent of that person or entity. For purposes of this subsection, the "donor" is the person or entity donating to the filer the funds or other thing of value, or an agent of that person or entity.

- (1) The donor designates, requests, or suggests that the donation be used for an electioneering communication or electioneering communications, and the filer agrees to use the donation for that purpose.
- (2) The filer expressly solicited the donor for a donation for making or paying for an electioneering communication.

- (3) The donor and the filer engaged in substantial written or oral discussion regarding the donor's making, donating, or paying for an electioneering communication.
- (4) The donor or the filer knew or had reason to know of the filer's intent to make electioneering communication with the donation.

A donation shall not be deemed to be made to further an electioneering communication if the donation was a commercial transaction occurring in the ordinary course of business between the donor and the filer unless there is affirmative evidence that the amounts were donated to further an electioneering communication. In determining the amount of a donation that was made to further any particular electioneering communication, there shall be excluded any amount that was designated by the donor with respect to a different election than the election that is the subject of the electioneering communication covered by the report.

(d) All reports required by this section shall be filed according to rules adopted by the State Board. If the expense incurred is greater than five thousand dollars (\$5,000), the report shall be filed electronically. The State Board shall provide the software necessary to file the electronic report to any individual or person required to file an electronic report at no cost to that individual or person."

SECTION 4. G.S. 163-278.17 reads as rewritten:

"§ 163-278.17. Statements of media outlets receiving campaign expenditures regarding political advertising.

(a) Repealed by Session Laws 1985, c. 183, s. 1.

(b) Each media outlet shall require written authority for each expenditure from each candidate, treasurer or individual making or authorizing an expenditure. A candidate may authorize advertisement paid for by a treasurer appointed by the candidate. All written authorizations of expenditures signed by a candidate, treasurer or individual shall be deemed public records and copies of ~~said those written~~ authorizations shall be available for inspection during normal business hours at the office(s) of the media outlet making the publication or broadcast nearest to the place(s) of publication or broadcast.

(c) Repealed by Session Laws 1985, c. 183, s. 2.

(d) Each media outlet shall require written authority for each independent expenditure or electioneering communication from each individual, person, or entity making or authorizing an independent expenditure or electioneering communication. All written authorizations of independent expenditures or electioneering communications shall be deemed public records, and copies of those written authorizations shall be available for inspection during normal business hours at the office(s) of the media outlet making the publication or broadcast nearest to the place(s) of publication or broadcast. The written authorization shall include all of the following:

- (1) The name and address of the individual, person, or entity making the independent expenditure or electioneering communication.
- (2) The information required by G.S. 163-278.39(a), provided however that the provisions of G.S. 163-278.39(a)(7) and (a)(8) shall not apply to radio or television advertising."

SECTION 5. G.S. 163-278.19 reads as rewritten:

"§ 163-278.19. Violations by corporations, business entities, labor unions, professional associations and insurance companies.

(a) Except as provided in subsections (a2), (b), (d), (e), (f), and (g) of this section it shall be unlawful for any corporation, business entity, labor union, professional association or insurance company directly or ~~indirectly~~ indirectly do any of the following:

- (1) To make any contribution to a candidate or political ~~committee~~ or to make any expenditure to support or oppose the nomination or election of a clearly identified candidate; committee.
- (2) To pay or use or offer, consent or agree to pay or use any of its money or property for any contribution to a candidate or political ~~committee~~ or for any

~~expenditure to support or oppose the nomination or election of a clearly identified candidate; or committee.~~

- (3) To compensate, reimburse, or indemnify any person or individual for money or property so used or for any contribution or expenditure so ~~made;~~made.

~~and it~~It shall also be unlawful for any officer, director, stockholder, attorney, agent or member of any corporation, business entity, labor union, professional association or insurance company to aid, abet, advise or consent to any such ~~contribution or expenditure;~~contribution, or for any person or individual to solicit or knowingly receive any such ~~contribution or expenditure.~~contribution. Supporting or opposing the election of clearly identified candidates includes supporting or opposing the candidates of a clearly identified political party. Any officer, director, stockholder, attorney, agent or member of any corporation, business entity, labor union, professional association or insurance company aiding or abetting in any contribution ~~or expenditure~~ made in violation of this section shall be guilty of a Class 2 misdemeanor, and shall in addition be liable to such corporation, business entity, labor union, professional association or insurance company for the amount of such contribution ~~or expenditure,~~ and the same may be recovered of him upon suit by any stockholder or member thereof.

(a1) A transfer of funds shall be deemed to have been a contribution ~~or expenditure~~ made indirectly if it is made to any committee or political party account, whether inside or outside this State, with the intent or purpose of being exchanged in whole or in part for any other funds to be contributed or expended in an election for North Carolina office or to offset any other funds contributed or expended in an election for North Carolina office.

(a2) Proceeds of loans made in the ordinary course of business by financial institutions may be used for contributions made in compliance with this Chapter. Financial institutions may also grant revolving credit to political committees and referendum committees in the ordinary course of business.

(b) It shall, however, be lawful for any corporation, business entity, labor union, professional association or insurance company to communicate with its employees, stockholders or members and their families on any subject; to conduct nonpartisan registration and get-out-the-vote campaigns aimed at their employees, stockholders, or members and their families; or for officials and employees of any corporation, insurance company or business entity or the officials and members of any labor union or professional association to establish, administer, contribute to, and to receive and solicit contributions to a separate segregated fund to be utilized for political purposes, and those individuals shall be deemed to become and be a political committee as that term is defined in G.S. 163-278.6(14) or a referendum committee as defined in G.S. 163-278.6(18b); provided, however, that it shall be unlawful for any such fund to make a contribution or expenditure by utilizing contributions secured by physical force, job discrimination, financial reprisals or the threat of force, job discrimination or financial reprisals, or by dues, fees, or other moneys required as a condition of membership or employment or as a requirement with respect to any terms or conditions of employment, including, without limitation, hiring, firing, transferring, promoting, demoting, or granting seniority or employment-related benefits of any kind, or by moneys obtained in any commercial transaction whatsoever.

(c) A violation of this section is a Class 2 misdemeanor. In addition, the acceptance of any contribution, ~~expenditure, payment,~~ reimbursement, ~~indemnification, or anything of value~~ or indemnification under subsection (a) shall be a Class 2 misdemeanor.

(d) Whenever a candidate or treasurer is an officer, director, stockholder, attorney, agent, or employee of any corporation, business entity, labor union, professional association or insurance company, and by virtue of his position therewith uses office space and communication facilities of the corporation, business entity, labor union, professional association or insurance company in the normal and usual scope of his employment, the fact that the candidate or treasurer receives telephone calls, mail, or visits in such office which relates to activities prohibited by this Article shall not be considered a violation under this section.

(e) Notwithstanding the prohibitions specified in this Article and Article 22 of this Chapter, a political committee organized under provisions of this Article shall be entitled to receive and the corporation, business entity, labor union, professional association, or insurance company designated on the committee's organizational report as the parent entity of the employees or members who organized the committee is authorized to give reasonable administrative support that shall include record keeping, computer services, billings, mailings to members of the committee, membership development, fund-raising activities, office supplies, office space, and such other support as is reasonably necessary for the administration of the committee.

The approximate cost of any reasonable administrative support shall be submitted to the committee, in writing, and the committee shall include that cost on the report required by G.S. 163-278.9(a)(6). Also included in the report shall be the approximate allocable portion of the compensation of any officer or employee of the corporation, business entity, labor union, professional association, or insurance company who has devoted more than thirty-five percent (35%) of his time during normal business hours of the corporation, business entity, labor union, professional association, or insurance company during the period covered by the required report. The approximate cost submitted by the parent corporation, business entity, labor union, professional association, or insurance company shall be entered on the committee's report as the final entry on its list of "contributions" and a copy of the written approximate cost received by it shall be attached.

The reasonable administrative support given by a corporation, business entity, labor union, professional association, or insurance company shall be designated on the books of the corporation, business entity, labor union, professional association, or insurance company as such and may not be treated by it as a business deduction for State income tax purposes.

(f) This section does not prohibit a contribution ~~or independent expenditure~~ by an person or entity that:

- (1) Has as an express purpose promoting social, educational, or political ideas and not to generate business income;
- (2) Does not have shareholders or other persons which have an economic interest in its assets and earnings; and
- (3) Was not established by a business corporation, by an insurance company, by a business entity, including, but not limited to, those chartered under Chapter 55, Chapter 55A, Chapter 55B, or Chapter 58 of the General Statutes, by a professional association, or by a labor union and does not receive substantial revenue from such entities. Substantial revenue is rebuttably presumed to be more than ten percent (10%) of total revenues in a calendar year.

(g) If a political committee has as its only purpose accepting contributions and making expenditures to influence elections, and that political committee incorporates as a nonprofit corporation to shield its participants from liability created outside this Chapter, that political committee is not considered to be a corporation for purposes of this section. Incorporation of a political committee does not relieve any individual, person, or other entity of any liability, duty, or obligation created pursuant to any provision of this Chapter. To obtain the benefits of this subsection, an incorporating political committee must state exactly the following language as the only purpose for which the corporation can be organized: "to accept contributions and make expenditures to influence elections as a political committee pursuant to G.S. 163-278.6(14) only." No political committee shall do business as a political committee after incorporation unless it has been certified by the State Board of Elections as being in compliance with this subsection."

SECTION 6. G.S. 163-278.22 is amended by adding a new subdivision to read:

"(15) To establish a process for determination as to whether communication is an expenditure, independent expenditure, or electioneering communication prior to the airing or distribution of that communication when so requested by an individual or person producing a communication. The responsibility

for the determination may be delegated to the Executive Director. If the responsibility is delegated to the Executive Director, the process established by the State Board shall require a written determination by the Executive Director to include stated findings and an opportunity for immediate appeal to the State Board of the determination by the Executive Director."

SECTION 7. G.S. 163-278.38Z(7) reads as rewritten:

"(7) "Print media" means billboards, cards, newspapers, newspaper inserts, magazines, mass mailings, pamphlets, fliers, periodicals, and outdoor advertising facilities. ~~A "mass mailing" is a mailing with more than 500 pieces."~~

SECTION 8. G.S. 163-278.39 reads as rewritten:

"§ 163-278.39. Basic disclosure requirements for all political ~~campaign~~-advertisements.

(a) Basic Requirements. – It shall be unlawful for any sponsor to sponsor an advertisement in the print media or on radio or television that constitutes an expenditure expenditure, independent expenditure, electioneering communication, or contribution required to be disclosed under this Article unless all the following conditions are met:

- (1) It bears the legend or includes the statement: "Paid for by _____ [Name of candidate, candidate campaign committee, political party organization, political action committee, referendum committee, individual, or other sponsor]." In television advertisements, this disclosure shall be made by visual legend.
- (2) The name used in the labeling required in subdivision (1) of this subsection is the name that appears on the statement of organization as required in ~~G.S. 163-278.7(b)(1)~~ G.S. 163-278.7(b)(1) or G.S. 163-278.12C(a).
- (3) Repealed by Session Laws 2001-353, s. 5, effective August 10, 2001.
- (4) The sponsor states in the advertisement its position for or against a ballot measure, provided that this subdivision applies only if the advertisement is made for or against a ballot measure.
- (5) In a print media advertisement supporting or opposing the nomination or election of one or more clearly identified candidates, the sponsor states whether it is authorized by a candidate. The visual legend in the advertisement shall state either "Authorized by [name of candidate], candidate for [name of office]" or "Not authorized by a candidate." This subdivision does not apply if the sponsor of the advertisement is the candidate the advertisement supports or that candidate's campaign committee.
- (6) In a print media advertisement that identifies a candidate the sponsor is opposing, the sponsor discloses in the advertisement the name of the candidate who is intended to benefit from the advertisement. This subdivision applies only when the sponsor coordinates or consults about the advertisement or the expenditure for it with the candidate who is intended to benefit.
- (7) In a print media advertisement supporting or opposing the nomination or election of one or more clearly identified candidates that is an independent expenditure, the sponsor discloses the names of the individuals or persons making the five largest donations to the sponsor within the six-month period prior to the purchase of the advertisement if those donations are required to be reported under G.S. 163-278.12.
- (8) In a print media advertisement that is an electioneering communication, the sponsor discloses the names of the individuals or person making the five largest donations to the sponsor within the six-month period prior to the purchase of the advertisement if those donations are required to be reported under G.S. 163-278.12C.

If an advertisement described in this section is jointly sponsored, the disclosure statement shall name all the sponsors.

(b) **Size Requirements.** – In a print media advertisement covered by subsection (a) of this section, the height of all disclosure statements required by that subsection shall constitute at least five percent (5%) of the height of the printed space of the advertisement, provided that the type shall in no event be less than 12 points in size. In an advertisement in a newspaper or a newspaper insert, the total height of the disclosure statement need not constitute five percent of the printed space of the advertisement if the type of the disclosure statement is at least 28 points in size. If a single advertisement consists of multiple pages, folds, or faces, the disclosure requirement of this section applies only to one page, fold, or face. In a television advertisement covered by subsection (a) of this section, the visual disclosure legend shall constitute ~~32 scan lines~~ four percent (4%) of vertical picture height in size. In a radio advertisement covered by subsection (a) of this section, the disclosure statement shall last at least two seconds, provided the statement is spoken so that its contents may be easily understood.

(c) **Misrepresentation of Authorization.** – Notwithstanding G.S. 163-278.27(a), any candidate, candidate campaign committee, political party organization, political action committee, referendum committee, individual, or other sponsor making an advertisement in the print media or on radio or television bearing any legend required by subsection (a) of this section that misrepresents the sponsorship or authorization of the advertisement is guilty of a Class 1 misdemeanor."

SECTION 9. G.S. 163-278.39A reads as rewritten:

"§ 163-278.39A. Disclosure requirements for television and radio advertisements supporting or opposing the nomination or election of one or more clearly identified candidates.

(a) **Expanded Disclosure Requirements.** – Any political ~~campaign~~ advertisement on radio or television shall comply with the expanded disclosure requirements set forth in this section. To the extent that it provides the same information required by G.S. 163-278.39, a statement made pursuant to this section satisfies the requirements of G.S. 163-278.39 for the same advertisement.

(b) **Disclosure Requirements for Television.** –

- (1) **Candidate advertisements on television.** – Television advertisements purchased by a candidate or by a candidate campaign committee supporting or opposing the nomination or election of one or more clearly identified candidates shall include a disclosure statement spoken by the candidate and containing at least the following words: "I am (or "This is ____") [name of candidate], candidate for [name of office], and I (or "my campaign ____") sponsored this ad." This subdivision applies only to an advertisement that mentions the name of, shows the picture of, transmits the voice of, or otherwise refers to an opposing candidate for the same office as the sponsoring candidate.
- (2) **Political party advertisements on television.** – Television advertisements purchased by a political party organization supporting or opposing the nomination or election of one or more clearly identified candidates shall include a disclosure statement spoken by the chair, executive director, or treasurer of the political party organization and containing at least the following words: "The [name of political party organization] sponsored this ad opposing/supporting [name of candidate] for [name of office]." The disclosed name of the political party organization shall include the name of the political party as it appears on the ballot.
- (3) **Political action committee advertisements on television.** – Television advertisements purchased by a political action committee supporting or opposing the nomination or election of one or more clearly identified candidates shall include a disclosure statement spoken by the chief executive

officer or treasurer of the political action committee and containing at least the following words: "The [name of political action committee] political action committee sponsored this ad opposing/supporting [name of candidate] for [name of office]." The name of the political action committee used in the advertisement shall be the name that appears on the statement of organization as required in G.S. 163-278.7(b)(1).

- (4) Advertisements on television by an individual. – Television advertisements purchased by an individual supporting or opposing the nomination or election of one or more clearly identified candidates shall include a disclosure statement spoken by the individual and containing at least the following words: "I am [individual's name], and I sponsored this advertisement opposing/supporting [name of candidate] for [name of office]."
 - (5) Advertisements on television by another sponsor. – Television advertisements purchased by a sponsor other than a candidate, a candidate campaign committee, a political party organization, a political action committee, or an individual which supports or opposes the nomination or election of one or more clearly identified candidates shall include a disclosure statement spoken by the chief executive or principal decision maker of the sponsor and containing at least the following words: "[Name of sponsor] sponsored this ad." If the sponsor is a corporation that has the purpose of promoting social, educational, or political ideas, the advertisement shall also include a legible listing on the screen indicating that the viewer may obtain additional information on the sponsor and the sponsor's donors from the appropriate board of elections, containing at least the following words: "For donor information contact [Name of board of elections with whom information filed]."
 - (6) All advertisements on television. – In any television advertisement described in subdivisions (1) through (4) of this subsection, an unobscured, full-screen picture containing the disclosing individual, either in photographic form or through the actual appearance of the disclosing individual on camera, shall be featured throughout the duration of the disclosure statement.
 - (7) Electioneering communications on television. – Television advertisements purchased by an individual that are electioneering communications shall include a disclosure statement spoken by the individual and containing at least the following words: "I am [individual's name], and I sponsored this advertisement opposing/supporting [name of candidate] for [name of office]." Television advertisements purchased by a sponsor other than a candidate, a candidate campaign committee, a political party organization, a political action committee, or an individual that are electioneering communications shall include a disclosure statement spoken by the chief executive or principal decision maker of the sponsor and containing at least the following words: "[Name of sponsor] sponsored this ad." If the sponsor is a corporation that has the purpose of promoting social, educational, or political ideas, the advertisement shall also include a legible listing on the screen indicating that the viewer may obtain additional information on the sponsor and the sponsor's donors from the appropriate board of elections, containing at least the following words: "For donor information contact [Name of board of elections with whom information filed]."
- (c) Disclosure Requirements for Radio. –
- (1) Candidate advertisements on radio. – Radio advertisements purchased by a candidate or by a candidate campaign committee supporting or opposing the nomination or election of one or more clearly identified candidates shall

- include a disclosure statement spoken by the candidate and containing at least the following words: "I am (or "This is ___") [name of candidate], candidate for [name of office], and this ad was paid for (or "sponsored" or "furnished") by [name of candidate campaign committee that paid for the advertisement]." This subdivision applies only to an advertisement that mentions the name of, transmits the voice of, or otherwise refers to an opposing candidate for the same office as the sponsoring candidate.
- (2) Political party advertisements on radio. – Radio advertisements purchased by a political party organization supporting or opposing the nomination or election of one or more clearly identified candidates shall include a disclosure statement spoken by the chair, executive director, or treasurer of the political party organization and containing at least the following words: "This ad opposing/supporting [name of candidate] for [name of office] was paid for (or "sponsored" or "furnished") by [name of political party]." The disclosed name of the political party organization shall include the name of the political party as it appears on the ballot.
- (3) Political action committee advertisements on radio. – Radio advertisements purchased by a political action committee supporting or opposing the nomination or election of one or more clearly identified candidates shall include a disclosure statement spoken by the chief executive officer or treasurer of the political action committee and containing at least the following words: "This ad opposing/supporting [name of candidate] for [name of office] was paid for (or "sponsored" or "furnished") by [name of political action committee] political action committee." The name of the political action committee used in the advertisement shall be the name that appears on the statement of organization as required by G.S. 163-278.7(b)(1).
- (4) Advertisements on radio by an individual. – Radio advertisements purchased by an individual supporting or opposing the nomination or election of one or more clearly identified candidates shall include a disclosure statement spoken by the individual and containing at least the following words: "I am [individual's name], and this ad opposing/supporting [name of candidate] for [name of office] was paid for (or "sponsored" or "furnished") by me."
- (5) Advertisements on radio by another sponsor. – Radio advertisements purchased by a sponsor other than a candidate, a candidate campaign committee, a political party organization, a political action committee, or an individual which supports or opposes the nomination or election of one or more clearly identified candidates shall include a disclosure statement spoken by the chief executive or principal decision maker of the sponsor and containing at least the following words: "[Name of sponsor] paid for (or "sponsored" or "furnished") this ad." If the sponsor is a corporation that has the purpose of promoting social, educational, or political ideas, the advertisement shall also include an aural disclosure indicating that the viewer may obtain additional information on the sponsor and the sponsor's donors from the appropriate board of elections, containing at least the following words: "For donor information contact [Name of board of elections with whom information filed]."
- (6) Electioneering communication on the radio. – Radio advertisements purchased by an individual that are electioneering communications shall include a disclosure statement spoken by the individual and containing at least the following words: "I am [individual's name], and this ad opposing/supporting [name of candidate] for [name of office] was paid for (or "sponsored" or "furnished") by me." Radio advertisements purchased by

a sponsor other than a candidate, a candidate campaign committee, a political party organization, a political action committee, or an individual that are electioneering communications shall include a disclosure statement spoken by the chief executive or principal decision maker of the sponsor and containing at least the following words: "[Name of sponsor] paid for (or "sponsored" or "furnished") this ad." If the sponsor is a corporation that has the purpose of promoting social, educational, or political ideas, the advertisement shall also include an aural disclosure indicating that the viewer may obtain additional information on the sponsor and the sponsor's donors from the appropriate board of elections, containing at least the following words: "For donor information contact [Name of board of elections with whom information filed]."

(d) Placement of Disclosure Statement in Television and Radio Advertisements. – In advertisements on television, a sponsor may place the disclosure statement required by this section at any point during the advertisement, except if the duration of the advertisement is more than five minutes, the disclosure statement shall be made both at the beginning and end of the advertisement. The sponsor may provide the oral disclosure statement required by this section at the same time as the visual disclosure required under the Communications Act of 1934, 47 U.S.C. §§ 315 and 317, is shown. But any visual disclosure legend shall be at least ~~32 scan lines~~ four percent (4%) of vertical picture height in size. For advertisements on radio, the placement of the oral disclosure statement shall comply with the requirements of the Communications Act of 1934, 47 U.S.C. §§ 315 and 317.

(e) Choice of Supporting or Opposing a Candidate. – In its oral disclosure statement, a sponsoring political party organization, political action committee, individual, or other noncandidate sponsor shall choose either to identify an advertisement as supporting or opposing the nomination or election of one or more clearly identified candidates.

(e1) Joint Sponsors. – If an advertisement described in this section is jointly sponsored, the disclosure statement shall name all the sponsors and the disclosing individual shall be one of those sponsors. If a candidate is one of the sponsors, that candidate shall be the disclosing individual, and if more than one candidate is the sponsor, at least one of the candidates shall be the disclosing individual.

(f) Legal Remedy. – Pursuant to the conditions established in subdivisions (1), (2), and (3) of this subsection, a candidate for an elective office who complied with the television and radio disclosure requirements throughout that candidate's entire campaign shall have a monetary remedy in a civil action against (i) an opposing candidate or candidate committee whose television or radio advertisement violates these disclosure requirements and (ii) against any political party organization, political action committee, individual, or other sponsor whose advertisement for that elective office violates these disclosure requirements:

- (1) Any plaintiff candidate in a statewide race in an action under this section shall complete and file a Notice of Complaint Regarding Failure to Disclose on Television or Radio Campaign Advertising with the State Board of Elections after the airing of the advertisement but no later than the first Friday after the Tuesday on which the election occurred. Candidates in nonstatewide races may file the notice during the same time period with one county board of elections within the electoral area in which they are candidates. The timely filing of this notice preserves the candidate's right to bring an action in superior court any time within 90 days after the election. A candidate shall bring the civil action in the county where the candidate filed the notice.
- (2) Upon receiving a favorable verdict in accordance with existing law, the plaintiff candidate shall receive a monetary award of actual damages. The price of actual damages shall be calculated as the total dollar amount of television and radio advertising time that was aired and that the plaintiff

candidate correctly identifies as being in violation of the disclosure requirements of this section.

The plaintiff candidate shall also receive an award that trebles the amount of actual damages if:

- a. The plaintiff candidate can establish having notified or attempted to notify the sponsor of the advertisement properly by return-receipt mail about the failure of a particular advertisement or advertisements to comply with the disclosure requirements of this section, and
- b. After the notice or attempted notice, the advertisement continued to be aired.

The treble damages shall be calculated from the date on which the return-receipt notice was accepted or rejected by a defendant sponsoring candidate or candidate committee, political party organization, political action committee, or individual. The plaintiff candidate or candidate committee shall send a copy of any return-receipt mailing to the relevant board of elections as provided in subdivision (1) of this subsection within five days after the notice is returned to the possession of the candidate or candidate committee.

The plaintiff candidate may bring the civil action personally or authorize his or her candidate campaign committee to bring the civil action.

- (3) A candidate who violates the disclosure requirements of State law in this section and that candidate's campaign committee shall be jointly and severally liable for the payment of damages and attorneys' fees. If the candidate is held personally liable for any payment of damages or attorneys' fees, the candidate for state or local office shall not use or be reimbursed by funds from the candidate's campaign committee in paying any amount.

(g) Relation to the Communications Act of 1934. – Television advertisements by a sponsor supporting or opposing the nomination or election of one or more clearly identified candidates shall comply with the oral disclosure requirements under State law in this section. Those advertisements shall also comply with disclosure requirements under the Communications Act of 1934, 47 U.S.C. §§ 315 and 317 by use of visual legends. The content of those visual legends is specified by the Communications Act of 1934, 47 U.S.C. §§ 315 and 317, and G.S. 163-278.39(a)(1). The size of those visual legends is determined by G.S. 163-278.39(b), which satisfies requirements under the Communications Act of 1934, 47 U.S.C. §§ 315 and 317. In the case of radio advertisements, the oral disclosure requirements under State law in this section incorporate the content requirements under the Communications Act of 1934, 47 U.S.C. §§ 315 and 317.

(h) No Additional Liability of Television or Radio Outlets. – Television or radio outlets shall not be liable under this Part for carriage of political advertisements that fail to include the disclosure requirements provided for in this Part.

(i) No Criminal Liability. – Nothing in this section regarding the disclosure requirements in subsections (b) and (c) of this section shall be relied upon or otherwise interpreted to create criminal liability."

SECTION 10. Article 22E of Chapter 163 of the General Statutes is repealed.

SECTION 11. Article 22F of Chapter 163 of the General Statutes is repealed.

SECTION 12. G.S. 163-278.62(5a) reads as rewritten:

"(5a) Electioneering communication. – As defined in ~~G.S. 163-278.80~~ and ~~G.S. 163-278.90~~, G.S. 163-278.6, except that it is made during the period beginning 30 days before absentee ballots become available for a primary and ending on primary election day and during the period 60 days before absentee ballots become available for a general election and ending on general election day."

SECTION 13. G.S. 163-278.96(6a) reads as rewritten:

"(6a) Electioneering communication. – As defined in ~~G.S. 163-278.80 and G.S. 163-278.90~~, G.S. 163-278.6, except that it is made during the period beginning 30 days before absentee ballots become available for a primary and ending on primary election day and during the period 60 days before absentee ballots become available for a general election and ending on general election day."

SECTION 14. G.S. 138A-3(15) reads as rewritten:

"(15) Gift. – Anything of monetary value given or received without valuable consideration by or from a lobbyist, lobbyist principal, liaison personnel, or a person described under G.S. 138A-32(d)(1), (2), or (3). The following shall not be considered gifts under this subdivision:

- a. Anything for which fair market value, or face value if shown, is paid by the covered person or legislative employee.
- b. Commercially available loans made on terms not more favorable than generally available to the general public in the normal course of business if not made for the purpose of lobbying.
- c. Contractual arrangements or commercial relationships or arrangements made in the normal course of business if not made for the purpose of lobbying.
- d. Academic or athletic scholarships based on the same criteria as applied to the public.
- e. ~~Campaign contributions~~ Anything of value properly received and reported as required under Article 22A of Chapter 163 of the General Statutes.
- f. Expressions of condolence related to a death of an individual, sent within a reasonable time of the death, if the expression is one of the following:
 1. A sympathy card, letter, or note.
 2. Flowers.
 3. Food or beverages for immediate consumption.
 4. Donations to a religious organization, charity, the State or a political subdivision of the State, not to exceed a total of two hundred dollars (\$200.00) per death per donor."

SECTION 15. G.S. 120C-800(e) reads as rewritten:

"(e) This section shall not apply to any of the following:

- (1) ~~Lawful campaign contributions~~ Anything of value properly received and reported as required under Article 22A of Chapter 163 of the General Statutes.
- (2) Any reportable expenditure from a designated individual's extended family member to a designated individual.
- (3) Reportable expenditures associated primarily with the designated individual's employment or that designated individual's immediate family member's employment.
- (4) Reportable expenditures, other than food, beverages, travel, and lodging, which are received from a person who is a citizen of a country other than the United States or a state other than North Carolina and given during a ceremonial presentation or as a custom.
- (5) A thing of value that is paid for by the State.
- (6) A scholarship paid for by a nonpartisan state, regional, national, or international legislative organization of which the General Assembly is a member or a legislator or legislative employee is a member or participant of by virtue of that legislator's or legislative employee's public position, or to an

affiliated organization of that nonpartisan state, regional, national, or international organization."

SECTION 15.5.(a) G.S. 163-293(b) reads as rewritten:

"(b) If no candidate for a single office receives a majority of the votes cast, or if an insufficient number of candidates receives a majority of the votes cast for a group of offices, a runoff election shall be held as herein provided:

- (1) If no candidate for a single office receives a majority of the votes cast, the candidate receiving the highest number of votes shall be declared elected unless the candidate receiving the second highest number of votes requests a runoff election in accordance with subsection (c) of this section. In the runoff election only the names of the two candidates who received the highest and next highest number of votes shall be printed on the ballot. No space for write-in votes shall be included on the ballot for the runoff election.
- (2) If candidates for two or more offices (constituting a group) are to be selected and aspirants for some or all of the positions within the group do not receive a majority of the votes, those candidates equal in number to the positions remaining to be filled and having the highest number of votes shall be declared elected unless some one or all of the candidates equal in number to the positions remaining to be filled and having the second highest number of votes shall request a runoff election in accordance with subsection (c) of this section. In the runoff election to elect candidates for the positions in the group remaining to be filled, the names of all those candidates receiving the highest number of votes and demanding a runoff election shall be printed on the ballot. No space for write-in votes shall be included on the ballot for the runoff election."

SECTION 15.5.(b) This section becomes effective January 1, 2011, and applies with respect to elections held on or after that date.

SECTION 16. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION 17. Sections 1 through 15 of this act become effective upon preclearance by the United States Department of Justice. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of July, 2010.

Became law upon approval of the Governor at 2:55 p.m. on the 2nd day of August, 2010.

Session Law 2010-171

S.B. 144

AN ACT TO MAKE VARIOUS AMENDMENTS TO THE LAW REGARDING THE INNOCENCE INQUIRY COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-1469 reads as rewritten:

"§ 15A-1469. **Postcommission three-judge panel.**

(a) If the Commission concludes there is sufficient evidence of factual innocence to merit judicial review, the Chair of the Commission shall request the Chief Justice to appoint a three-judge panel, not to include any trial judge that has had substantial previous involvement in the case, and issue commissions to the members of the three-judge panel to convene a special session of the superior court of the original jurisdiction to hear evidence relevant to the Commission's recommendation. The senior judge of the panel shall preside. The Chief Justice

shall appoint the three-judge panel within 20 days of the filing of the Commission's opinion finding sufficient evidence of factual innocence to merit judicial review.

(a1) If there is an allegation of or evidence of prosecutorial misconduct in the case, the Chair of the Commission or the district attorney of the district of conviction may request the Director of the Administrative Office of the Courts to appoint a special prosecutor to represent the State in lieu of the district attorney of the district of conviction or the district attorney's designee. The request for the special prosecutor shall be made within 20 days of the filing of the Commission's opinion finding sufficient evidence of innocence to merit judicial review.

Upon receipt of a request under this subsection to appoint a special prosecutor, the Director of the Administrative Office of the Courts may temporarily assign a district attorney, assistant district attorney, or other qualified attorney, including one from the prosecutorial district where the convicted person was tried, to represent the State at the hearing before the three-judge panel. However, the Director of the Administrative Office of the Courts shall not appoint as special prosecutor any attorney who prosecuted or assisted with the prosecution in the trial of the convicted person. The appointment shall be made pursuant to G.S. 7A-64 and shall be made no later than 20 days after the receipt of the request.

(b) The senior resident superior court judge shall enter an order setting the case for hearing at the special session of superior court for which the three-judge panel is commissioned and shall require the State to file a response to the Commission's opinion within ~~60~~90 days of the date of the order. Such response, at the time of original filing or through amendment at any time before or during the proceedings, may include joining the defense in a motion to dismiss the charges with prejudice on the basis of innocence.

(c) The district attorney of the district of conviction, or the district attorney's designee, shall represent the State at the hearing before the three-judge ~~panel~~panel, except as otherwise provided by this section.

(d) The three-judge panel shall conduct an evidentiary hearing. At the hearing, the ~~court~~ court, and the defense and prosecution through the court, may compel the testimony of any witness, including the convicted person. All evidence relevant to the case, even if considered by a jury or judge in a prior proceeding, may be presented during the hearing. The convicted person may not assert any privilege or prevent a witness from testifying. The convicted person has a right to be present at the evidentiary hearing and to be represented by counsel. A waiver of the right to be present shall be in writing.

(e) The senior resident superior court judge shall determine the convicted person's indigency status and, if appropriate, enter an order for the appointment of counsel. The court may also enter an order relieving an indigent convicted person of all or a portion of the costs of the proceedings.

(f) The clerk of court shall provide written notification to the victim 30 days prior to any case-related hearings.

(g) Upon the motion of either party, the senior judge of the panel may direct the attorneys for the parties to appear before him or her for a conference on any matter in the case.

(h) The three-judge panel shall rule as to whether the convicted person has proved by clear and convincing evidence that the convicted person is innocent of the charges. Such a determination shall require a unanimous vote. If the vote is unanimous, the panel shall enter dismissal of all or any of the charges. If the vote is not unanimous, the panel shall deny relief.

(i) A person who is determined by the three-judge panel to be innocent of all charges and against whom the charges are dismissed pursuant to this section is eligible for compensation under Article 8 of Chapter 148 of the General Statutes without obtaining a pardon of innocence from the Governor."

SECTION 2. G.S. 7A-64 reads as rewritten:

"§ 7A-64. Temporary assistance for district attorneys.

(a) A district attorney may apply to the Director of the Administrative Office of the Courts to:

- (1) Temporarily assign an assistant district attorney from another district, after consultation with the district attorney thereof, to assist in the prosecution of cases in the requesting district;
- (2) Authorize the temporary appointment, by the requesting district attorney, of a qualified attorney to assist the requesting district attorney; or
- (3) Enter into contracts with local governments for the provision of services by the State pursuant to G.S. 153A-212.1 or G.S. 160A-289.1.

(a1) If there is an allegation of or evidence of prosecutorial misconduct in a case that is scheduled for a hearing of a claim of factual innocence under G.S. 15A-1469, the Chair of the North Carolina Innocence Inquiry Commission or the district attorney of the district of the conviction may apply to the Administrative Office of the Courts to authorize the temporary appointment of a district attorney, assistant district attorney, or other qualified attorney as a special prosecutor to represent the State in that hearing.

(b) The Director of the Administrative Office of the Courts may provide this assistance only upon a showing by the requesting ~~district attorney,~~ district attorney or the Chair of the North Carolina Innocence Inquiry Commission, as appropriate, supported by facts, that:

- (1) Criminal cases have accumulated on the dockets of the superior or district courts of the district beyond the capacity of the district attorney and the district attorney's full-time assistants to keep the dockets reasonably current;
or
- (2) The overwhelming public interest warrants the use of additional resources for the speedy disposition of cases involving drug offenses, domestic violence, or other offenses involving a threat to public ~~safety;~~ safety; or
- (3) There is an allegation of or evidence of prosecutorial misconduct in the case that is the subject of the hearing under G.S. 15A-1469.

(c) The length of service and compensation of any temporary appointee or the terms of any contract entered into with local governments shall be fixed by Director of the Administrative Office of the Courts in each case. Nothing in this section shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this section or to obligate the Administrative Office of the Courts to provide the administrative costs of establishing or maintaining the positions or services provided for under this section. Further, nothing in this section shall be construed to obligate the Administrative Office of the Courts to maintain positions or services initially provided for under this section."

SECTION 3. G.S. 148-82 reads as rewritten:

"§ 148-82. **Provision for compensation.**

(a) Any person who, having been convicted of a felony and having been imprisoned therefor in a State prison of this State, and who was thereafter or who shall hereafter be granted a pardon of innocence by the Governor upon the grounds that the crime with which the person was charged either was not committed at all or was not committed by that person, may as hereinafter provided present by petition a claim against the State for the pecuniary loss sustained by the person through his or her erroneous conviction and imprisonment, provided the petition is presented within five years of the granting of the pardon.

(b) Any person who, having been convicted of a felony and having been imprisoned therefor in a State prison of this State, and who is determined to be innocent of all charges and against whom the charges are dismissed pursuant to G.S. 15A-1469 may as hereinafter provided present by petition a claim against the State for the pecuniary loss sustained by the person through his or her erroneous conviction and imprisonment, provided the petition is presented within five years of the date that the dismissal of the charges is entered by the three-judge panel under G.S. 15A-1469."

SECTION 4. G.S. 148-84(a) reads as rewritten:

"(a) At the hearing the claimant may introduce evidence in the form of affidavits or testimony to support the claim, and the Attorney General may introduce counter affidavits or testimony in refutation. If the Industrial Commission finds from the evidence that the claimant

received a pardon of innocence for the reason that the crime was not committed at all, ~~or received a pardon of innocence for the reason that the crime~~ was not committed by the claimant, or that the claimant was determined to be innocent of all charges by a three-judge panel under G.S. 15A-1469 and also finds that the claimant was imprisoned and has been vindicated in connection with the alleged offense for which he or she was imprisoned, the Industrial Commission shall award to the claimant an amount equal to fifty thousand dollars (\$50,000) for each year or the pro rata amount for the portion of each year of the imprisonment actually served, including any time spent awaiting trial. However, (i) in no event shall the compensation, including the compensation provided in subsection (c) of this section, exceed a total amount of seven hundred fifty thousand dollars (\$750,000), and (ii) a claimant is not entitled to compensation for any portion of a prison sentence during which the claimant was also serving a concurrent sentence for conviction of a crime other than the one for which the pardon of innocence was granted.

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

SECTION 5. Section 12 of S.L. 2006-184 reads as rewritten:

"SECTION 12. This act is effective when it becomes law ~~and applies to claims of factual innocence filed on or before December 31, 2010.~~ law."

SECTION 6. Sections 1 and 2 of this act become effective October 1, 2010, and apply to all claims of factual innocence filed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law upon approval of the Governor at 3:21 p.m. on the 2nd day of August, 2010.

Session Law 2010-172

S.B. 1154

AN ACT TO AUTHORIZE THE CONSTRUCTION AND THE FINANCING, WITHOUT APPROPRIATIONS FROM THE GENERAL FUND, OF CERTAIN CAPITAL IMPROVEMENTS PROJECTS OF THE CONSTITUENT INSTITUTIONS AND AFFILIATED ENTERPRISES OF THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. The purpose of this act is: (i) to authorize the construction by certain constituent institutions and affiliated enterprises of The University of North Carolina of the capital improvements projects listed in the act for the respective institutions and (ii) to authorize the financing of these projects with funds available to the institutions from gifts, grants, receipts, self-liquidating indebtedness, Medicare reimbursements for education costs, hospital receipts from patient care, or other funds, or any combination of these funds, but not including funds received for tuition or appropriated from the General Fund of the State.

SECTION 2. The capital improvements projects, and their respective costs, authorized by this act to be constructed and financed as provided in Section 1 of this act, including by revenue bonds, by special obligation bonds as authorized in Section 6 of this act, or by both, are as follows:

Appalachian State University

Steam and Chilled Water Tunnel Serving the

Center for Student Leadership and Development

Plemmons Student Union Expansion

\$ 2,752,000

20,619,000

Center for Student Leadership and Development Honors Residence Hall	32,887,000
Steam Distribution System Improvements – Phase IV-A	2,492,000
Winkler and Belk Residence Halls Fire Suppression Sprinkler System Installations	1,162,000
 East Carolina University	
Clement and Greene Residence Halls Fire Suppression Sprinkler System Installations	2,910,600
 North Carolina A & T University	
Aggie Stadium Press Box Renovation and Expansion	3,200,000
 North Carolina State University	
Talley Student Center Renovation and Expansion	120,000,000
Greek Village Townhouses	25,000,000
 The University of North Carolina at Asheville	
Governors Village Renovation and Expansion	24,917,000
 The University of North Carolina at Chapel Hill	
Carolina North Infrastructure Improvements	5,000,000
Graham Student Union Renovations	7,500,000
Kenan Stadium Improvements, Phase 2 – Carolina Student Athlete Center for Excellence	55,000,000
Lenoir Hall Renovations	5,000,000
Woollen Gymnasium Renovations, Phase 2	7,100,000
 The University of North Carolina at Charlotte	
Football Complex	45,394,000
Parking Deck I	28,080,000
 The University of North Carolina at Greensboro	
Quad Residence Halls Comprehensive Renovation and Expansion	52,500,000
Dining Hall Comprehensive Renovation	31,500,000
Ragsdale and Mendenhall Residence Hall Fire Suppression Sprinkler System Installations	1,700,000
 Western Carolina University	
Residence Halls Renovation	4,735,300

SECTION 3. The capital improvements projects, and their respective costs, authorized by this act to be financed as provided in Section 1 of this act, including by revenue bonds, by special obligation bonds as authorized in Section 6 of this act, or by both, are as follows:

UNC Hospitals	
Ambulatory Care Center (ACC) Expansion and Renovation	\$ 26,777,000
Imaging and Outpatient Center	21,871,000
General Internal Hospital Renovations and Equipment	6,000,000

SECTION 4. Pursuant to G.S. 143C-8-12, the following projects are authorized for planning only and, for that purpose, are to be funded entirely with non-General Fund money:

The University of North Carolina at Charlotte	
New Residence Hall Phase X	\$ 5,156,500
Residence Dining Hall Renovations/Replacement	2,033,000
Parking Deck J	2,741,800

The University of North Carolina at Pembroke	
Student Health Services Comprehensive Renovation and Addition	390,052

SECTION 5. At the request of the Board of Governors of The University of North Carolina and upon determining that it is in the best interest of the State to do so, the Director of the Budget may authorize an increase or decrease in the cost of, or a change in the method of, funding the projects authorized by this act. In determining whether to authorize a change in cost or funding, the Director of the Budget may consult with the Joint Legislative Commission on Governmental Operations.

SECTION 6. Pursuant to G.S. 116D-26, the Board of Governors may issue, subject to the approval of the Director of the Budget, at one time or from time to time, special obligation bonds of the Board of Governors for the purpose of paying all or any part of the cost of acquiring, constructing, or providing for the projects authorized by Sections 2 and 3 of this act. The maximum principal amount of bonds to be issued shall not exceed the specified project costs in Sections 2 and 3 of this act plus five percent (5%) of such amount to pay issuance expenses, fund reserve funds, pay capitalized interest, and pay other related additional costs, plus any increase in the specific project costs authorized by the Director of the Budget pursuant to Section 5 of this act.

SECTION 7. With respect to the University of North Carolina at Chapel Hill's Kenan Stadium Improvements, Phase 2 Carolina Student Athlete Center for Excellence, capital project, the institution may accomplish construction and financing through lease arrangements to and from the Educational Foundation, Inc., or any other special purpose entity created for that purpose. After the completion of the renovation and improvement and acquisition of the project by the institution, and notwithstanding any provision of the General Statutes governing the negotiation and execution of contracts or leases for the operation and management of a facility, the institution may provide for the operation and management of all or part of the renovated and improved portion of Kenan Stadium by contracting with the Educational Foundation, Inc., or by leasing that portion of Kenan Stadium to the Educational Foundation, Inc., or by contracting with or leasing to any other special purpose entity created for that purpose.

SECTION 8. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Became law upon approval of the Governor at 4:10 p.m. on the 2nd day of August, 2010.

Session Law 2010-173

H.B. 466

AN ACT TO AMEND THE CONSUMER CHOICE AND INVESTMENT ACT OF 2009.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62-133.5(g) reads as rewritten:

"(g) The following sections of Chapter 62 of the General Statutes shall not apply to local exchange companies subject to price regulation under the terms of subsection (a) of this ~~section~~: section or electing companies subject to alternative regulation under the terms of

subsection (h) of this section: G.S. 62-35(c), 62-45, 62-51, 62-81, 62-111, 62-130, 62-131, 62-132, 62-133, 62-134, 62-135, 62-136, 62-137, 62-139, 62-142, and 62-153."

SECTION 2. G.S. 62-133.5(h) reads as rewritten:

"(h) Notwithstanding any other provision of this Chapter, a local exchange company that is subject to rate of return regulation or subject to another form of regulation authorized under this section and whose territory is open to competition from competing local providers may elect to have its rates, terms, and conditions for its services determined pursuant to the plan described in this subsection by filing notice of its intent to do so with the Commission. The election is effective immediately upon filing. A local exchange company shall not be permitted to make the election under this section unless it commits to provide stand-alone basic residential lines to rural customers at rates that are less than or comparable to those rates charged to urban customers for the same service.

- (1) Definitions. – The following definitions apply in this subsection:
 - a. Local exchange company. – The same meaning as provided in G.S. 62-3(16a).
 - b. Open to competition from competing local providers. – Both of the following apply:
 1. G.S. 62-110(f1) applies to the franchised area and to local exchange and exchange access services offered by the local exchange company.
 2. The local exchange company is open to interconnection with competing local providers that possess a certificate of public convenience and necessity issued by the Commission. The Commission is authorized to resolve any disputes concerning whether a local exchange company is open to interconnection under this section.
 - c. Single-line basic residential service. – Single-line residential flat rate basic voice grade local service with touch tone within a traditional local calling area that provides access to available emergency services and directory assistance, the capability to access interconnecting carriers, relay services, access to operator services, and one annual local directory listing (white pages or the equivalent).
 - d. Stand-alone basic residential line. – Single-line basic residential service that is billed on a billing account that does not also contain another service, feature, or product that is sold by the local exchange company or an affiliate of the local exchange company and is billed on a recurring basis on the local exchange company's bill.
- (2) Beginning on the date that the local exchange company's election under this subsection becomes effective, the local exchange company shall continue to offer stand-alone basic residential lines to all customers who choose to subscribe to that service, and the local exchange company may increase rates for those lines annually by a percentage that does not exceed the percentage increase over the prior year in the Gross Domestic Product Price Index as reported by the United States Department of Commerce, Bureau of Economic Analysis, unless otherwise authorized by the Commission. With the sole exception of ensuring the local exchange company's compliance with the preceding sentence, the Commission shall not:
 - a. Impose any requirements related to the terms, conditions, rates, or availability of any of the local exchange company's stand-alone basic residential lines.
 - b. Otherwise regulate any of the local exchange company's stand-alone basic residential lines.

- (3) Except to the extent provided in subdivision (2) of this subsection, beginning on the date the local exchange company's election under this subsection becomes effective, the Commission shall not do ~~either any~~ of the following:
- a. Impose any requirements related to the terms, conditions, rates, or availability of any of the local exchange company's retail services.
 - b. Otherwise regulate any of the local exchange company's retail services.
 - c. Impose any tariffing requirements on any of the local exchange company's services that were not tariffed as of the date of the election; or impose any constraints on the rates of the local exchange company's services that were subject to full pricing flexibility as of the date of election.
- (4) A local exchange company's election under this subsection does not affect the obligations or rights of an incumbent local exchange carrier, as that term is defined by section 251(h) of the Federal Telecommunications Act of 1996 (Act), under sections 251 and 252 of the Act or any Federal Communications Commission regulation relating to sections 251 and 252 of the Act, nor does it affect any authority of the Commission to act in accordance with federal or State laws or regulations, including those granting authority to set rates, terms, and conditions for access to unbundled network elements and to arbitrate and enforce interconnection agreements.
- (5) A local exchange company's election under this subsection does not prevent a consumer from seeking the assistance of the Public Staff of the North Carolina Utilities Commission to resolve a complaint with that local exchange company, as provided in G.S. 62-73.1.
- (6) A local exchange company's election under this subsection does not affect the Commission's jurisdiction concerning the following:
- a. Enforce federal requirements on the local exchange company's marketing activities. However, the Commission may not adopt, impose, or enforce other requirements on the local exchange company's marketing activities.
 - b. The telecommunications relay service pursuant to G.S. 62-157.
 - c. The Life Line or Link Up programs consistent with Federal Communications Commission rules, including, but not limited to, 47 C.F.R. § 54.403(a)(3), as amended from time to time, and relevant orders of the North Carolina Utilities Commission.
 - d. Universal service funding pursuant to G.S. 62-110(f1).
 - e. Carrier of last resort obligations pursuant to G.S. 62-110.
 - f. The authority delegated to it by the Federal Communications Commission to manage the numbering resources involving that local exchange company.
 - g. Regulatory authority over the rates, terms, and conditions of wholesale services."

SECTION 3. G.S. 62-133.5(i) reads as rewritten:

"(i) ~~To the extent applicable, a~~ A competing local provider authorized by the Commission to do business under the provisions of G.S. 62-110(f1) may also elect to have its rates, terms, and conditions for its services determined pursuant to the plan described in subsection (h) of this section. However, it is provided further that any provisions of subsection (h) of this section requiring the provision of a specific retail service or impacting the pricing of such service, including stand-alone residence service, shall not apply to competing local providers."

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

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Became law upon approval of the Governor at 4:11 p.m. on the 2nd day of August, 2010.

Session Law 2010-174

H.B. 726

AN ACT TO MAKE TECHNICAL AND CONFORMING CHANGES TO STATUTES RELATED TO EXPUNCTION OF RECORDS; TO REQUIRE STATE AND NATIONAL CRIMINAL RECORD CHECKS WHEN EXPUNGING RECORDS; AND TO REQUIRE SEX OFFENDERS RESIDING IN THIS STATE TO REGISTER AS A SEX OFFENDER FOR CONVICTIONS OBTAINED OUTSIDE THIS STATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-50.30 reads as rewritten:

"§ 14-50.30. **Expunction of records.**

Any person who has not previously been convicted of any felony or misdemeanor other than a traffic violation under the laws of the United States or the laws of this State or any other state, may, if the offense was committed before the person attained the age of 18 years, be eligible to apply for expunction of certain offenses under this Article pursuant to G.S. 15A-145.1.

~~information and that the conviction be expunged from the records of the court agencies, the Department of Correction, the Division of Motor Vehicles, and any other State or local government agencies identified by the petitioner as conviction petitioner's shall notify State and local agencies of the court's order as provided in G.S. 15A-150."~~

SECTION 2. G.S. 15A-145(a) reads as rewritten:

"(a) Whenever any person who has not previously been convicted of any felony, or misdemeanor other than a traffic violation, under the laws of the United States, the laws of this State or any other state, (i) pleads guilty to or is guilty of a misdemeanor other than a traffic violation, and the offense was committed before the person attained the age of 18 years, or (ii) pleads guilty to or is guilty of a misdemeanor possession of alcohol pursuant to G.S. 18B-302(b)(1), and the offense was committed before the person attained the age of 21 years, he may file a petition in the court where he was convicted for expunction of the misdemeanor from his criminal record. The petition cannot be filed earlier than: (i) two years after the date of the conviction, or (ii) the completion of any period of probation, whichever occurs later, and the petition shall contain, but not be limited to, the following:

- (1) An affidavit by the petitioner that he has been of good behavior for the two-year period since the date of conviction of the misdemeanor in question and has not been convicted of any felony, or misdemeanor other than a traffic violation, under the laws of the United States or the laws of this State or any other state.
- (2) Verified affidavits of two persons who are not related to the petitioner or to each other by blood or marriage, that they know the character and reputation of the petitioner in the community in which he lives and that his character and reputation are good.
- (3) A statement that the petition is a motion in the cause in the case wherein the petitioner was convicted.
- (4) ~~Affidavits of the clerk of superior court, chief of police, where appropriate, and sheriff of the county in which the petitioner was convicted and, if different, the county of which the petitioner is a resident, showing that the petitioner has not been convicted of a felony or misdemeanor other than a traffic violation under the laws of this State at any time prior to the~~

~~conviction for the misdemeanor in question or during the two-year period following that conviction.~~

- (4a) An application on a form approved by the Administrative Office of the Courts requesting and authorizing a name-based State and national criminal record check by the Department of Justice using any information required by the Administrative Office of the Courts to identify the individual and a search of the confidential record of expunctions maintained by the Administrative Office of the Courts. The application shall be forwarded to the Department of Justice and to the Administrative Office of the Courts, which shall conduct the searches and report their findings to the court.
- (5) An affidavit by the petitioner that no restitution orders or civil judgments representing amounts ordered for restitution entered against him are outstanding.

The petition shall be served upon the district attorney of the court wherein the case was tried resulting in conviction. The district attorney shall have 10 days thereafter in which to file any objection thereto and shall be duly notified as to the date of the hearing of the petition.

The judge to whom the petition is presented is authorized to call upon a probation officer for any additional investigation or verification of the petitioner's conduct during the two-year period that he deems desirable."

SECTION 3. G.S. 15A-145(d1) reads as rewritten:

"(d1) Notwithstanding subsection (a) of this section and any other provision of law, a person may file a petition in the court where the person was convicted for expunction of a misdemeanor conviction from the person's criminal record if the person has no prior felony convictions and was convicted for misdemeanor larceny pursuant to G.S. 14-72(a) more than 15 years prior to the filing of the petition.

The petition shall contain, but not be limited to, the following:

- (1) An affidavit by the petitioner that he has not been convicted of any felony, has been of good behavior for the 15-year period preceding the filing of the petition, and has not been convicted of any misdemeanor other than a traffic violation, under the laws of the United States or the laws of this State or any other state during the 15-year period.
 - (2) Verified affidavits of two persons who are not related to the petitioner or to each other by blood or marriage, that they know the character and reputation of the petitioner in the community in which he lives and that his character and reputation are good.
 - (3) A statement that the petition is a motion in the cause in the case wherein the petitioner was convicted.
 - (4) ~~Affidavits of the clerk of superior court, chief of police, where appropriate, and sheriff of the county in which the petitioner was convicted and, if different, the county of which the petitioner is a resident, showing that the petitioner has not been convicted of a felony or misdemeanor other than a traffic violation under the laws of this State during the 10-year period preceding the filing of the petition.~~
- (4a) An application on a form approved by the Administrative Office of the Courts requesting and authorizing a name-based State and national criminal record check by the Department of Justice using any information required by the Administrative Office of the Courts to identify the individual and a search of the confidential record of expunctions maintained by the Administrative Office of the Courts. The application shall be forwarded to the Department of Justice and to the Administrative Office of the Courts, which shall conduct the searches and report their findings to the court.

- (5) An affidavit by the petitioner that no restitution orders or civil judgments representing amounts ordered for restitution entered against him are outstanding.

The petition shall be served upon the district attorney of the court wherein the case was tried resulting in conviction. The district attorney shall have 10 days thereafter in which to file any objection thereto and shall be duly notified as to the date of the hearing of the petition.

The judge to whom the petition is presented is authorized to call upon a probation officer for any additional investigation or verification of the petitioner's conduct during the ~~10-year~~15-year period that he deems desirable.

If the court, after hearing, finds that the petitioner had remained of good behavior and been free on conviction of any felony or misdemeanor, other than a traffic violation, during the ~~10-year~~15-year period preceding the petition, the petitioner has no outstanding restitution orders or civil judgments representing amounts ordered for restitution entered against him, and the petitioner was convicted of misdemeanor larceny pursuant to G.S. 14-72(a) more than ~~10-15~~ years prior to the filing of the petition, it shall order that such person be restored, in the contemplation of the law, to the status he occupied before such arrest or indictment or information. No person as to whom such order has been entered shall be held thereafter under any provision of any laws to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge such arrest, or indictment, information, or trial, or response to any inquiry made of him for any purpose.

The provisions of subsections (c), (d), and (e) of this section shall apply to a petition for expunction filed or granted pursuant to this subsection."

SECTION 4. G.S. 15A-145.1 reads as rewritten:

"§ 15A-145.1. Expunction of records for first offenders under the age of 18 at the time of conviction of certain gang offenses.

(a) Whenever any person who has not previously been convicted of any felony or misdemeanor other than a traffic violation under the laws of the United States or the laws of this State or any other state pleads guilty to or is guilty of (i) a Class H felony under Article 13A of Chapter 14 of the General Statutes or (ii) an enhanced offense under G.S. 14-50.22, or has been discharged and had the proceedings against the person dismissed pursuant to G.S. 14-50.29, and the offense was committed before the person attained the age of 18 years, the person may file a petition in the court where the person was convicted for expunction of the offense from the person's criminal record. Except as provided in G.S. 14-50.29 upon discharge and dismissal, the petition cannot be filed earlier than (i) two years after the date of the conviction or (ii) the completion of any period of probation, whichever occurs later. The petition shall contain, but not be limited to, the following:

- (1) An affidavit by the petitioner that the petitioner has been of good behavior (i) during the period of probation since the decision to defer further proceedings on the offense in question pursuant to G.S. 14-50.29 or (ii) during the two-year period since the date of conviction of the offense in question, whichever applies, and has not been convicted of any felony or misdemeanor other than a traffic violation under the laws of the United States or the laws of this State or any other state.
- (2) Verified affidavits of two persons who are not related to the petitioner or to each other by blood or marriage, that they know the character and reputation of the petitioner in the community in which the petitioner lives, and that the petitioner's character and reputation are good.
- (3) If the petition is filed subsequent to conviction of the offense in question, a statement that the petition is a motion in the cause in the case wherein the petitioner was convicted.
- (4) ~~Affidavits of the clerk of superior court, chief of police, where appropriate, and sheriff of the county in which the petitioner was convicted and, if different, the county of which the petitioner is a resident, showing that the~~

~~petitioner has not been convicted of a felony or misdemeanor other than a traffic violation under the laws of this State (i) during the period of probation since the decision to defer further proceedings on the offense in question pursuant to G.S. 14-50.29 or (ii) at any time prior to the conviction for the offense in question or during the two-year period following that conviction, whichever applies.~~

- (4a) An application on a form approved by the Administrative Office of the Courts requesting and authorizing a name-based State and national criminal record check by the Department of Justice using any information required by the Administrative Office of the Courts to identify the individual and a search of the confidential record of expunctions maintained by the Administrative Office of the Courts. The application shall be forwarded to the Department of Justice and to the Administrative Office of the Courts, which shall conduct the searches and report their findings to the court.
- (5) An affidavit by the petitioner that no restitution orders or civil judgments representing amounts ordered for restitution entered against the petitioner are outstanding.

The petition shall be served upon the district attorney of the court wherein the case was tried resulting in conviction. The district attorney shall have 10 days thereafter in which to file any objection thereto and shall be duly notified as to the date of the hearing of the petition.

The judge to whom the petition is presented is authorized to call upon a probation officer for any additional investigation or verification of the petitioner's conduct during the probationary period or during the two-year period after conviction.

(b) If the court, after hearing, finds that (i) the petitioner was dismissed and the proceedings against the petitioner discharged pursuant to G.S. 14-50.29 and that the person had not yet attained 18 years of age at the time of the offense or (ii) the petitioner has remained of good behavior and been free of conviction of any felony or misdemeanor other than a traffic violation for two years from the date of conviction of the offense in question, the petitioner has no outstanding restitution orders or civil judgments representing amounts ordered for restitution entered against ~~him~~the petitioner, and the petitioner had not attained the age of 18 years at the time of the offense in question, it shall order that such person be restored, in the contemplation of the law, to the status occupied by the petitioner before such arrest or indictment or ~~information.~~ information, and that the record be expunged from the records of the court. No person as to whom such order has been entered shall be held thereafter under any provision of any laws to be guilty of perjury or otherwise giving a false statement by reason of the person's failure to recite or acknowledge such arrest, or indictment or information, or trial, or response to any inquiry made of the person for any purpose. The court shall also ~~order that the said conviction be expunged from the records of the court and direct all law enforcement agencies~~ agencies, the Department of Correction, the Division of Motor Vehicles, and any other State or local government agencies identified by the petitioner as bearing record of the same to expunge their records of the petitioner's criminal charge and any conviction as the result of a criminal ~~resulting from the charge.~~ resulting from the charge. The clerk shall ~~forward a certified copy of the order to the sheriff, chief of police, or other arresting agency. The sheriff, chief of police, or head of such other arresting agency shall then transmit the copy of the order with a form supplied by the State Bureau of Investigation to the State Bureau of Investigation, and the State Bureau of Investigation shall forward the order to the Federal Bureau of Investigation.~~ notify State and local agencies of the court's order as provided in G.S. 15A-150.

(c) This section is supplemental and in addition to existing law and shall not be construed so as to repeal any existing provision contained in the General Statutes of North Carolina."

SECTION 5. G.S. 15A-145.2 reads as rewritten:

"§ 15A-145.2. Expunction of records for first offenders not over 21 years of age at the time of the offense of certain drug offenses.

(a) Whenever a person is discharged, and the proceedings against the person dismissed, pursuant to G.S. 90-96(a) or (a1), and the person was not over 21 years of age at the time of the offense, the person may apply to the court for an order to expunge from all official records ~~(other than the confidential file to be retained by the Administrative Office of the Courts under G.S. 90-96(e))~~ records, other than the confidential files retained under G.S. 15A-151, all recordation relating to ~~his~~ the person's arrest, indictment or information, trial, finding of guilty, and dismissal and discharge pursuant to this section. The applicant shall attach to the application the following:

- (1) An affidavit by the ~~applicant~~ petitioner that he or she has been of good behavior during the period of probation since the decision to defer further proceedings on the offense in question and has not been convicted of any felony or misdemeanor other than a traffic violation under the laws of the United States or the laws of this State or any other state;
- (2) Verified affidavits by two persons who are not related to the ~~applicant~~ petitioner or to each other by blood or marriage, that they know the character and reputation of the petitioner in the community in which he or she lives, and that ~~his~~ the petitioner's character and reputation are good;
- (3) ~~Affidavits of the clerk of superior court, chief of police, where appropriate, and sheriff of the county in which the petitioner was convicted, and, if different, the county of which the petitioner is a resident, showing that the applicant has not been convicted of a felony or misdemeanor other than a traffic violation under the laws of this State at any time prior to the conviction for the offense in question or during the period of probation following the decision to defer further proceedings on the offense in question.~~
- (3a) An application on a form approved by the Administrative Office of the Courts requesting and authorizing a name-based State and national criminal record check by the Department of Justice using any information required by the Administrative Office of the Courts to identify the individual and a search of the confidential record of expunctions maintained by the Administrative Office of the Courts. The application shall be forwarded to the Department of Justice and to the Administrative Office of the Courts, which shall conduct the searches and report their findings to the court.

The judge to whom the petition is presented is authorized to call upon a probation officer for any additional investigation or verification of the petitioner's conduct during the probationary period deemed desirable.

If the court determines, after hearing, that such person was discharged and the proceedings against him or her dismissed and that ~~he~~ the person was not over 21 years of age at the time of the offense, it shall enter such order. The effect of such order shall be to restore such person in the contemplation of the law to the status ~~he~~ the person occupied before such arrest or indictment or information. No person as to whom such order was entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of ~~his~~ the person's failures to recite or acknowledge such arrest, or indictment or information, or trial in response to any inquiry made of him or her for any purpose.

The court shall also order that ~~said conviction and the records relating thereto~~ all records of the proceeding be expunged from the records of the court and direct all law enforcement agencies ~~agencies, the Department of Correction, the Division of Motor Vehicles, and any other State and local government agencies identified by the petitioner as bearing records of the same~~ to expunge their records of the ~~conviction proceeding~~. The clerk shall ~~forward a certified copy of the order to the sheriff, chief of police, or other arresting agency, as appropriate, and the~~

~~sheriff, chief of police, or other arresting agency, as appropriate, shall forward such order to the State Bureau of Investigation with a form supplied by the State Bureau of Investigation. The State Bureau of Investigation shall forward the court order in like manner to the Federal Bureau of Investigation.~~ notify State and local agencies of the court's order as provided in G.S. 15A-150.

(b) Whenever any person is charged with a misdemeanor under Article 5 of Chapter 90 of the General Statutes by possessing a controlled substance included within Schedules II through VI of Article 5 of Chapter 90 of the General Statutes or a felony under G.S. 90-95(a)(3) by possessing less than one gram of cocaine, upon dismissal by the State of the charges against ~~him, the person~~, upon entry of a nolle prosequi, or upon a finding of not guilty or other adjudication of innocence, such person may apply to the court for an order to expunge from all official records all recordation relating to his or her arrest, indictment or information, or trial. If the court determines, after hearing, that such person was not over 21 years of age at the time the offense for which the person was charged occurred, it shall enter such order. The clerk shall notify State and local agencies of the court's order as provided in G.S. 15A-150. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of ~~his~~ the person's failures to recite or acknowledge such arrest, or indictment or information, or trial in response to any inquiry made of him or her for any purpose.

(c) Whenever any person who has not previously been convicted of an offense under Article 5 of Chapter 90 of the General Statutes or under any statute of the United States or any state relating to controlled substances included in any schedule of Article 5 of Chapter 90 of the General Statutes or to that paraphernalia included in Article 5B of Chapter 90 of the General Statutes pleads guilty to or has been found guilty of (i) a misdemeanor under Article 5 of Chapter 90 of the General Statutes by possessing a controlled substance included within Schedules II through VI of Article 5 of Chapter 90 of the General Statutes or by possessing drug paraphernalia as prohibited by G.S. 90-113.22 or (ii) a felony under G.S. 90-95(a)(3) by possessing less than one gram of cocaine, the court may, upon application of the person not sooner than 12 months after conviction, order cancellation of the judgment of conviction and expunction of the records of ~~his~~ the person's arrest, indictment or information, trial, and conviction. A conviction in which the judgment of conviction has been canceled and the records expunged pursuant to this subsection shall not be thereafter deemed a conviction for purposes of this subsection or for purposes of disqualifications or liabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions of Article 5 of Chapter 90 of the General Statutes. Cancellation and expunction under this subsection may occur only once with respect to any person. Disposition of a case under this subsection at the district court division of the General Court of Justice shall be final for the purpose of appeal.

The granting of an application filed under this subsection shall cause the issue of an order to expunge from all official records ~~(other than the confidential file to be retained by the Administrative Office of the Courts under G.S. 90-96(e))~~ records, other than the confidential files retained under G.S. 15A-151, all recordation relating to the petitioner's arrest, indictment or information, trial, finding of guilty, judgment of conviction, cancellation of the judgment, and expunction of records pursuant to this subsection.

The judge to whom the petition is presented is authorized to call upon a probation officer for additional investigation or verification of the petitioner's conduct since conviction. If the court determines that the petitioner was convicted of (i) a misdemeanor under Article 5 of Chapter 90 of the General Statutes for possessing a controlled substance included within Schedules II through VI of Article 5 of Chapter 90 of the General Statutes or for possessing drug paraphernalia as prohibited in G.S. 90-113.22 or (ii) a felony under G.S. 90-95(a)(3) for possession of less than one gram of cocaine, that ~~he~~ the petitioner was not over 21 years of age at the time of the offense, that ~~he~~ the petitioner has been of good behavior since his or her conviction, that ~~he~~ the petitioner has successfully completed a drug education program

approved for this purpose by the Department of Health and Human Services, and that ~~he~~ the petitioner has not been convicted of a felony or misdemeanor other than a traffic violation under the laws of this State at any time prior to or since the conviction for the offense in question, it shall enter an order of expunction of the petitioner's court record. The effect of such order shall be to restore the petitioner in the contemplation of the law to the status ~~he~~ the petitioner occupied before arrest or indictment or information or conviction. No person as to whom such order was entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of ~~his~~ the person's failures to recite or acknowledge such arrest, or indictment or information, or conviction, or trial in response to any inquiry made of him or her for any purpose. The judge may waive the condition that the petitioner attend the drug education school if the judge makes a specific finding that there was no drug education school within a reasonable distance of the defendant's residence or that there were specific extenuating circumstances which made it likely that the petitioner would not benefit from the program of instruction.

The court shall also order all law enforcement ~~agencies~~ agencies, the Department of Correction, the Division of Motor Vehicles, and any other State or local agencies identified by the petitioner as bearing records of the conviction and records relating thereto to expunge their records of the conviction. The clerk shall forward a certified copy of the order to the sheriff, chief of police, or other arresting agency, as appropriate, and the arresting agency shall forward the order to the State Bureau of Investigation with a form supplied by the State Bureau of Investigation. The State Bureau of Investigation shall forward the court order in like manner to the Federal Bureau of Investigation. notify State and local agencies of the court's order as provided in G.S. 15A-150.

~~The clerk of superior court in each county in North Carolina shall, as soon as practicable after each term of court in his county, file with the Administrative Office of the Courts the names of those persons whose judgments of convictions have been canceled and expunged under the provisions of this subsection, and the Administrative Office of the Courts shall maintain a confidential file containing the names of persons whose judgments of convictions have been canceled and expunged. The information contained in the file shall be disclosed only to judges of the General Court of Justice of North Carolina for the purpose of ascertaining whether any person charged with an offense under Article 5 of Chapter 90 of the General Statutes has been previously granted cancellation and expunction of a judgment of conviction pursuant to the terms of this subsection.~~

(d) A person who files a petition for expunction of a criminal record under this section must pay the clerk of superior court a fee of sixty-five dollars (\$65.00) at the time the petition is filed. Fees collected under this subsection shall be deposited in the General Fund. This subsection does not apply to petitions filed by an indigent."

SECTION 6. G.S. 15A-145.3 reads as rewritten:

"§ 15A-145.3. Expunction of records for first offenders not over 21 years of age at the time of the offense of certain toxic vapors offenses.

(a) Whenever a person is discharged and the proceedings against the person dismissed under G.S. 90-113.14(a) or (a1), such person, if he or she was not over 21 years of age at the time of the offense, may apply to the court for an order to expunge from all official ~~records (other than the confidential file to be retained by the Administrative Office of the Courts under G.S. 90-113.14(e))~~ records, other than the confidential files retained under G.S. 15A-151, all recordation relating to ~~his~~ the person's arrest, indictment or information, trial, finding of guilty, and dismissal and discharge pursuant to this section. The applicant shall attach to the application the following:

- (1) An affidavit by the ~~applicant that he~~ petitioner that the petitioner has been of good behavior during the period of probation since the decision to defer further proceedings on the misdemeanor in question and has not been convicted of any felony or misdemeanor other than a traffic violation under the laws of the United States or the laws of this State or any other state;

- (2) Verified affidavits by two persons who are not related to the applicant petitioner or to each other by blood or marriage, that they know the character and reputation of the petitioner in the community in which ~~he~~ the petitioner lives, and that his or her character and reputation are good;
- (3) ~~Affidavits of the clerk of superior court, chief of police, where appropriate, and sheriff of the county in which the petitioner was convicted, and, if different, the county of which the petitioner is a resident, showing that the applicant has not been convicted of a felony or misdemeanor other than a traffic violation under the laws of this State at any time prior to the conviction for the misdemeanor in question or during the period of probation following the decision to defer further proceedings on the misdemeanor in question.~~
- (3a) An application on a form approved by the Administrative Office of the Courts requesting and authorizing a name-based State and national criminal record check by the Department of Justice using any information required by the Administrative Office of the Courts to identify the individual and a search of the confidential record of expunctions maintained by the Administrative Office of the Courts. The application shall be forwarded to the Department of Justice and to the Administrative Office of the Courts, which shall conduct the searches and report their findings to the court.

The judge to whom the petition is presented is authorized to call upon a probation officer for any additional investigation or verification of the petitioner's conduct during the probationary period deemed desirable.

If the court determines, after hearing, that such person was discharged and the proceedings against ~~him~~ the person dismissed and that he or she was not over 21 years of age at the time of the offense, it shall enter such order. The effect of such order shall be to restore such person in the contemplation of the law to the status ~~he~~ the person occupied before such arrest or indictment or information. No person as to whom such order was entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of ~~his~~ the person's failures to recite or acknowledge such arrest, or indictment or information, or trial in response to any inquiry made of him or her for any purpose.

The court shall also order that ~~said conviction and the records relating thereto~~ all records of the proceeding be expunged from the records of the court and direct all law enforcement agencies bearing records of the same to expunge their records of the ~~conviction proceeding~~. The clerk shall ~~forward a certified copy of the order to the sheriff, chief of police, or other arresting agency, as appropriate, and the sheriff, chief of police, or other arresting agency, as appropriate, shall forward such order to the State Bureau of Investigation with a form supplied by the State Bureau of Investigation. The State Bureau of Investigation shall forward the court order in like manner to the Federal Bureau of Investigation.~~ notify State and local agencies of the court's order as provided in G.S. 15A-150.

(b) Whenever any person is charged with a misdemeanor under Article 5A of Chapter 90 of the General Statutes or possessing drug paraphernalia as prohibited by G.S. 90-113.22, upon dismissal by the State of the charges against ~~him~~ the person or upon entry of a nolle prosequi or upon a finding of not guilty or other adjudication of innocence, such person may apply to the court for an order to expunge from all official records all recordation relating to ~~his~~ the person's arrest, indictment or information, and trial. If the court determines, after hearing that such person was not over 21 years of age at the time the offense for which the person was charged occurred, it shall enter such order. The clerk shall notify State and local agencies of the court's order as provided in G.S. 15A-150. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of ~~his~~ the person's failures to recite or acknowledge such

arrest, or indictment or information, or trial in response to any inquiry made of him or her for any purpose.

(c) Whenever any person who has not previously been convicted of an offense under Article 5 or 5A of Chapter 90 of the General Statutes or under any statute of the United States or any state relating to controlled substances included in any schedule of Article 5 of Chapter 90 of the General Statutes or to that paraphernalia included in Article 5B of Chapter 90 of the General Statutes pleads guilty to or has been found guilty of a misdemeanor under Article 5A of Chapter 90 of the General Statutes, the court may, upon application of the person not sooner than 12 months after conviction, order cancellation of the judgment of conviction and expunction of the records of ~~his~~the person's arrest, indictment or information, trial, and conviction. A conviction in which the judgment of conviction has been cancelled and the records expunged pursuant to this subsection shall not be thereafter deemed a conviction for purposes of this subsection or for purposes of disqualifications or liabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions of violation of Article 5A of Chapter 90 of the General Statutes. Cancellation and expunction under this subsection may occur only once with respect to any person. Disposition of a case under this subsection at the district court division of the General Court of Justice shall be final for the purpose of appeal.

The granting of an application filed under this subsection shall cause the issue of an order to expunge from all official records ~~(other than the confidential file to be retained by the Administrative Office of the Courts under G.S. 90-113.14(e))~~records, other than the confidential files retained under G.S. 15A-151, all recordation relating to ~~his~~the person's arrest, indictment or information, trial, finding of guilty, judgment of conviction, cancellation of the judgment, and expunction of records pursuant to this subsection.

The judge to whom the petition is presented is authorized to call upon a probation officer for additional investigation or verification of the petitioner's conduct since conviction. If the court determines that the petitioner was convicted of a misdemeanor under Article 5A of Chapter 90 of the General Statutes, or for possessing drug paraphernalia as prohibited by G.S. 90-113.22, that ~~he~~the petitioner was not over 21 years of age at the time of the offense, that the petitioner ~~he~~ has been of good behavior since his or her conviction, that the petitioner ~~he~~ has successfully completed a drug education program approved for this purpose by the Department of Health and Human Services, and that the petitioner ~~he~~ has not been convicted of a felony or misdemeanor other than a traffic violation under the laws of this State at any time prior to or since the conviction for the misdemeanor in question, it shall enter an order of expunction of the petitioner's court record. The effect of such order shall be to restore the petitioner in the contemplation of the law to the status he occupied before such arrest or indictment or information or conviction. No person as to whom such order was entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of ~~his~~the person's failures to recite or acknowledge such arrest, or indictment or information, or conviction, or trial in response to any inquiry made of him or her for any purpose. The judge may waive the condition that the petitioner attend the drug education school if the judge makes a specific finding that there was no drug education school within a reasonable distance of the defendant's residence or that there were specific extenuating circumstances which made it likely that the petitioner would not benefit from the program of instruction.

~~The court clerk shall also order all law enforcement agencies bearing records of the conviction and records relating thereto to expunge their records of the conviction. The clerk shall forward a certified copy of the order to the sheriff, chief of police, or other arresting agency, as appropriate, and the arresting agency shall forward the order to the State Bureau of Investigation with a form supplied by the State Bureau of Investigation. The State Bureau of Investigation shall forward the court order in like manner to the Federal Bureau of Investigation.~~ notify State and local agencies of the court's order as provided in G.S. 15A-150.

~~The clerk of superior court in each county in North Carolina shall, as soon as practicable after each term of court in his county, file with the Administrative Office of the Courts the names of those persons whose judgments of convictions have been cancelled and expunged under the provisions of this subsection, and the Administrative Office of the Courts shall maintain a confidential file containing the names of persons whose judgments of convictions have been cancelled and expunged. The information contained in the file shall be disclosed only to judges of the General Court of Justice of North Carolina for the purpose of ascertaining whether any person charged with an offense under Article 5A of Chapter 90 of the General Statutes has been previously granted cancellation and expunction of a judgment of conviction pursuant to the terms of this subsection."~~

SECTION 7. G.S. 15A-150 reads as rewritten:

"§ 15A-150. **Notification requirements.**

(a) Notification to AOC. – The clerk of superior court in each county in North Carolina shall, as soon as practicable after each term of court, file with the Administrative Office of the Courts the names of the following:

- (1) Persons granted ~~a discharge or an expunction~~ under this Article.
- (2) Persons granted ~~an expunction~~ a conditional discharge under ~~G.S. 14-50.29 or G.S. 14-50.30~~ G.S. 14-50.29.
- (3) Persons granted a conditional discharge ~~or an expunction~~ under G.S. 90-96 or G.S. 90-113.14.
- (4) ~~Persons whose judgments of convictions have been canceled and expunged under G.S. 90-96 or G.S. 90-113.14.~~

(b) Notification to Other State and Local Agencies. – The clerk of superior court in each county in North Carolina shall send a certified copy of an order granting an expunction to a person named in subsection (a) of this section to all of the agencies listed in this subsection. An agency receiving an order under this subsection shall expunge from its records all entries made as a result of the charge or conviction ordered ~~expunged~~ expunged, except as provided in G.S. 15A-151.

- (1) The sheriff, chief of police, or other arresting agency.
- (2) When applicable, the Division of Motor Vehicles and the Department of Correction.
- (3) Any State or local agency identified by the petition as bearing record of the offense that has been expunged.

(c) Notification to SBI and FBI. – An arresting agency that receives a certified copy of an order under this section shall forward a copy of the order with the form supplied by the State Bureau of Investigation to the State Bureau of Investigation. The State Bureau of Investigation shall forward the order to the Federal Bureau of Investigation.

(d) Notification to Private Entities. – A State agency that receives a certified copy of an order under this section shall notify any private entity with which it has a licensing agreement for bulk extracts of data from the agency criminal record database to delete the record in question. The private entity shall notify any other entity to which it subsequently provides in a bulk extract data from the agency criminal database to delete the record in question from its database."

SECTION 8. G.S. 15A-151 reads as rewritten:

"§ 15A-151. ~~AOC maintain confidential file.~~ Confidential agency files; exceptions to expunction.

(a) The Administrative Office of the Courts shall maintain a confidential file containing the names of those people for whom it received a notice under G.S. 15A-150. The information contained in the file may be disclosed only as follows:

- (1) To a judge of the General Court of Justice of North Carolina for the purpose of ascertaining whether a person charged with an offense has been previously granted a discharge or an expunction.

- (2) To a person requesting confirmation of the person's own discharge or expunction, as provided in G.S. 15A-152.
- (3) To the General Court of Justice of North Carolina in response to a subpoena or other court order issued pursuant to a civil action under G.S. 15A-152.

(b) All agencies required under G.S. 15A-150 to expunge from records all entries made as a result of a charge or conviction ordered expunged who maintain a licensing agreement to provide record information to a private entity shall maintain a confidential file containing information verifying the expunction and subsequent notification to private entities as required by G.S. 15A-150(d). The information contained in the file shall be disclosed only to a person requesting confirmation of expunction of the record of the person's own discharge or expunction, as provided in G.S. 15A-152.

(c) The Division of Motor Vehicles shall not be required to expunge a record if the expunction of the record is expressly prohibited by the federal Commercial Motor Vehicle Safety Act of 1986, the federal Motor Carrier Safety Improvement Act of 1999, or regulations adopted pursuant to either act."

SECTION 9. G.S. 15A-152 reads as rewritten:

"§ 15A-152. **Civil liability for dissemination of certain criminal history information.**

(a) **Duty to Delete Record.** – A private entity that holds itself out as being in the business of compiling and disseminating criminal history record information for compensation shall destroy and shall not disseminate any information in the possession of the entity with respect to which the entity has received a notice to delete the record in question. The private entity shall delete the record within the specified time and pursuant to the terms of the licensing agreement with the State agency. If the license does not specify a time for deletion, or if no license agreement exists between the private entity and state agency, the private entity shall delete the record within 10 business days of receiving notice to delete the record in question.

(b) **Dissemination of Information.** – Unless the entity is regulated by the federal Fair Credit Reporting, Act 15 U.S.C. § 1681, et seq. or the Gramm-Leach-Bliley Act 15 U.S.C. §§ 6801-6809, a private entity described by subsection (a) of this section that is licensed to access a State agency's criminal history record database may disseminate that information only if, within the 90-day period preceding the date of dissemination, the entity originally obtained the information or received the information as an updated record information to its database. The private entity must notify the State agency from which it receives the information of any other entity to which it subsequently provides a bulk extract of the information.

(c) **Civil Liability.** – A private entity subject to the provisions of this section that disseminates information in violation of this section is liable for any damages that are sustained as a result of the violation by the person who is the subject of that information. A person who prevails in an action brought under this section is also entitled to recover court costs and reasonable attorneys' fees. This subsection does not apply to an entity regulated by and subject to the civil liability remedies of the federal Fair Credit Reporting Act, 15 U.S.C. § 1681, et seq., or the Gramm Leach-Bliley Act, 15 U.S.C. 6801-6809, et seq.

(d) **Certificate of Verification.** – Prior to filing an action under this section, a person who is the subject of a record that has been expunged may apply to the Administrative Office of the Courts for a certificate verifying that the person is the subject of a record that has been expunged and that notice of the expunction was made in accordance with G.S. 15A-150. The application must include a sworn affidavit attesting, under penalty of perjury, that the applicant is the person who was the subject of the record in question and identifying the specific case expunged. A notary or official taking an acknowledgment, oath, or affirmation of an ~~applicant~~ applicant's affidavit under this subsection may not disclose the nature ~~of~~ or content of the application, except as required in a court action related to the application. Unless made part of the record of a subsequent court proceeding, a certificate of verification and an application for the certificate are not public records under G.S. 132-1. The Administrative Office of the Courts may establish procedures pertaining to the application for and issuance of certificates of verification.

(e) Notice of Record Removal. – Prior to filing an action under this section, a person who is the subject of a record that has been expunged may request a notice of record removal of the expunction and subsequent notification to private entities as required by G.S. 15A-150(d) from an agency required under G.S. 15A-150 to expunge that person's record who maintains a licensing agreement to provide record information to a private entity. The application must include a sworn affidavit attesting, under penalty of perjury, that the applicant is the person who was the subject of the record in question and identifying the specific case expunged. A notary or official taking an acknowledgment, oath, or affirmation of an applicant's affidavit under this subsection may not disclose the nature or content of the application, except as required in a court action related to the application. Unless made part of the record of a subsequent court proceeding, a notice of record removal and an application for the notice are not public records under G.S. 132-1. State and local agencies may establish procedures pertaining to the application for and issuance of notices of record removal."

SECTION 10. G.S. 90-96(b) reads as rewritten:

"(b) Upon the discharge of such person, and dismissal of the proceedings against ~~him~~ the person under subsection (a) or (a1) of this section, such person, if he ~~were~~ or she was not over 21 years of age at the time of the offense, may be eligible to apply for expunction of certain records relating to the offense pursuant to G.S. 15A-145.2(a).

~~other than the confidential file retained by the Administrative Office of the Courts under G.S. 15A-151, agencies, the Department of Correction, the Division of Motor Vehicles, and any other State or local government agencies identified by the petitioner as notify State and local agencies of the court's order as provided in G.S. 15A-150."~~

SECTION 11. G.S. 90-96(d) reads as rewritten:

"(d) Whenever any person is charged with a misdemeanor under this Article by possessing a controlled substance included within Schedules II through VI of this Article or a felony under G.S. 90-95(a)(3) by possessing less than one gram of cocaine, upon dismissal by the State of the charges against ~~him~~ such person, upon entry of a nolle prosequi, or upon a finding of not guilty or other adjudication of innocence, the person may be eligible to apply for expunction of certain records relating to the offense pursuant to G.S. 15A-145.2(b). ~~The clerk shall notify State and local agencies of the court's order as provided in G.S. 15A-150."~~

SECTION 12. G.S. 90-96(e) reads as rewritten:

"(e) Whenever any person who has not previously been convicted of an offense under this Article or under any statute of the United States or any state relating to controlled substances included in any schedule of this Article or to that paraphernalia included in Article 5B of Chapter 90 of the General Statutes pleads guilty to or has been found guilty of (i) a misdemeanor under this Article by possessing a controlled substance included within Schedules II through VI of this Article, or by possessing drug paraphernalia as prohibited by G.S. 90-113.22 or (ii) a felony under G.S. 90-95(a)(3) by possessing less than one gram of cocaine, the person may be eligible to apply for cancellation of the judgment and expunction of certain records related to the offense pursuant to G.S. 15A-145.2(c).

~~other than the confidential file retained by the Administrative Office of the Courts under G.S. 15A-151, agencies, the Department of Correction, the Division of Motor Vehicles, and any other State or local government agency identified by the petitioner as notify State and local agencies of the court's order as provided in G.S. 15A-150."~~

SECTION 13. G.S. 90-113.14(b) reads as rewritten:

"(b) Upon the dismissal of such person, and discharge of the proceedings against ~~him~~ the person under subsection (a) or (a1) of this section, such person, if he ~~or she was~~ were not over 21 years of age at the time of the offense, may be eligible to apply for expunction of certain records relating to the offense pursuant to G.S. 15A-145.3(a).

~~other than the confidential file retained by the Administrative Office of the Courts under G.S. 15A-151, notify State and local agencies of the court's order as provided in G.S. 15A-150."~~

SECTION 14. G.S. 90-113.14(d) reads as rewritten:

"(d) Whenever any person is charged with a misdemeanor under this Article or possessing drug paraphernalia as prohibited by G.S. 90-113.22 upon dismissal by the State of the charges against him or her or upon entry of a nolle prosequi or upon a finding of not guilty or other adjudication of innocence, the person may be eligible to apply for expunction of certain records relating to the offense pursuant to G.S. 15A-145.3(b). ~~The clerk shall notify State and local agencies of the court's order as provided in G.S. 15A-150."~~

SECTION 15. G.S. 90-113.14(e) reads as rewritten:

"(e) Whenever any person who has not previously been convicted of an offense under this Article or under any statute of the United States or any state relating to controlled substances included in any schedule of Article 5 of Chapter 90 of the General Statutes or to that paraphernalia included in Article 5B of Chapter 90 of the General Statutes pleads guilty to or has been found guilty of a misdemeanor under this Article, the person may be eligible to apply for cancellation of the judgment and expunction of certain records related to the offense pursuant to G.S. 15A-145.3(c).

~~other than the confidential file retained by the Administrative Office of the Courts under G.S. 15A-151, notify State and local agencies of the court's order as provided in G.S. 15A-150."~~

SECTION 16.(a) Section 19(e) of S.L. 2006-247 reads as rewritten:

"**SECTION 19.(e)** Section 19(a) of this act becomes effective December 1, 2006, and applies to all offenses committed ~~on~~ prior to, on, or after that date and to all individuals who move into this State ~~on~~ prior to, on, or after that date. The remainder of this section becomes effective December 1, 2006, and applies to all applications for a drivers license, learner's permit, instruction permit, or special identification card submitted on or after that date."

SECTION 16.(b) This section becomes effective October 1, 2010, and applies to any person required to register as a sex offender under Article 27A of Chapter 14 of the General Statutes, any person serving an active sentence or on supervised probation, parole, or post-release supervision, for any offense, on or after that date, and any person convicted of any felony offense on or after that date.

SECTION 17. Sections 7, 8, and 9, of this act become effective October 1, 2010. Except as otherwise provided in this act, the remainder of this act becomes effective October 1, 2010, and applies to petitions for expunctions filed on or after that date.

In the General Assembly read three times and ratified this the 7th day of July, 2010.

Became law upon approval of the Governor at 4:12 p.m. on the 2nd day of August, 2010.

Session Law 2010-175

S.B. 1212

AN ACT TO REPEAL THE LOCAL GOVERNMENT OTHER POST-EMPLOYMENT BENEFITS (OPEB) FUND AND TO ALLOW EACH UNIT OF LOCAL GOVERNMENT TO ESTABLISH A SEPARATE OPEB TRUST FUND THAT MAY THEN BE INVESTED BY THE DEPARTMENT OF STATE TREASURER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 159-30(g) reads as rewritten:

"(g) A local government, public authority, an entity eligible to participate in the Local Government Employee's Retirement System, or a local school administrative unit may make contributions to ~~the a~~ Local Government Other Post-Employment Benefits ~~Fund Trust~~ established ~~in G.S. 147-69.4.~~ pursuant to G.S. 159-30.1."

SECTION 2. G.S. 159-30.1(b) reads as rewritten:

"(b) Restrictions. – Monies in an irrevocable trust established under subsection (a) of this section may be appropriated only for the purposes for which the trust was established. Monies in the trust are not subject to the claims of creditors of the entity that established the trust. An entity that establishes a trust may not deposit money in the trust if the total amount held in trust

would exceed the entity's actuarial liability, determined in accordance with the standards of the Governmental Accounting Standards Board, for the purposes for which the trust was established. A trust established pursuant to subsection (a) of this section shall be referred to as a Local Government Other Post-Retirement Benefits Trust, and the assets of that trust may be invested as provided in G.S. 159-30(c) or deposited with the State Treasurer for investment pursuant to G.S. 147-69.2(b4)."

SECTION 3. G.S. 147-69.2(a) reads as rewritten:

"(a) This section applies to funds held by the State Treasurer to the credit of each of the following:

...
 (17g) ~~The Funds deposited with the State Treasurer by Local Government Other Post-Employment Benefits Fund.~~ Trusts pursuant to G.S. 159-30.1."

...."

SECTION 4. G.S. 147-69.2(b4) reads as rewritten:

"(b4) In addition to the investments authorized under subdivisions (b)(1) through (6) of this section, the State Treasurer may invest funds deposited ~~in the Local Government Other Post-Employment Benefits Fund~~ pursuant to subdivision (17g) of subsection (a) of this section in any of the investments authorized under subdivisions (b)(6c) and (b)(8) of this section, notwithstanding the percentage limitations imposed on the Retirement Systems' investments therein. Funds deposited pursuant to this subsection by a Local Government Other Post-Employment Benefits Trust and interest or other investment income earned from those funds shall be prorated and credited to the contributing trust on the basis of the amounts contributed, figured according to sound accounting principles. For investments ~~from that Fund made~~ under subdivisions (b)(6c) and (b)(8) of this section, the State Treasurer may require a minimum deposit of up to one hundred thousand dollars (\$100,000) and may assess fees of up to 15 basis points per annum as a condition of ~~making the investment.~~ The fee participation pursuant to this subsection. Fees assessed by the State Treasurer may be used to defray the costs of administering the Fund."

SECTION 5. G.S. 147-69.4 is repealed.

SECTION 6. This act becomes effective July 1, 2010.

In the General Assembly read three times and ratified this the 7th day of July, 2010.

Became law upon approval of the Governor at 4:14 p.m. on the 2nd day of August, 2010.

Session Law 2010-176

H.B. 972

AN ACT TO CREATE THE UWHARRIE REGIONAL RESOURCES COMMISSION AS A PERMANENT BODY CORPORATE OF THE STATE TO FOSTER ECONOMIC DEVELOPMENT AND PROTECT AND ENHANCE THE NATURAL RESOURCES OF THAT REGION.

The General Assembly of North Carolina enacts:

SECTION 1. The General Statutes are amended by adding a new Chapter to read:

"Chapter 153C.

"Uwharrie Regional Resources Act.

"§ 153C-1. Short title; findings; purpose.

(a) Short Title. – This Chapter shall be known and may be cited as the "Uwharrie Regional Resources Act."

(b) Findings. – The General Assembly finds that:

(1) The beauty and abundant natural resources of the Uwharrie region of North Carolina are prized by all North Carolinians. Millions of tourists travel to the Uwharrie region of North Carolina to see and experience the natural beauty of the region, including: the vistas near Uwharrie National Forest and

Morrow Mountain State Park; scenic lakes and rivers including Badin, High Rock, and Tuckertown Lakes, and the Uwharrie, Yadkin, and Pee Dee Rivers; as well as nearby attractions, including the North Carolina Zoological Park and the Seagrove area potteries. This tourism is vitally important to this region of the State.

- (2) The federal government recognized the natural abundance and cultural heritage of this region of North Carolina by purchasing tens of thousands of acres of land and designating it the Uwharrie Reservation during the Great Depression. In 1961, President John F. Kennedy proclaimed these lands the Uwharrie National Forest.
- (3) The same beauty and natural abundance that is valued by North Carolina residents, tourists, and the federal government is being adversely affected by natural asset uses that are negatively impacting the value and public's enjoyment of the important regional assets of the region.
- (4) The region is subject to profound economic challenges and pressures due to a loss of manufacturing and industrial activities in recent years. Local governments face challenges as they adapt to new and difficult changes to the landscape.

(c) Purpose. – It is the purpose of this Chapter to encourage quality growth and development while preserving the natural resources of the Uwharrie region of North Carolina.

"§ 153C-2. Definitions.

The following definitions apply in this Article:

- (1) Commission. – The Uwharrie Resources Commission created by this Chapter.
- (2) Important regional resources. – The natural and cultural resources of the Uwharrie region of North Carolina, including, but not limited to: State and federal public lands; forestland; vistas; streams, rivers, and lakes; wildlife habitat; and economic, recreational, historical, and archeological resources.
- (3) Department. – The Department of Commerce.
- (4) Uwharrie region of North Carolina. – The area encompassed by the counties of Davidson, Davie, Montgomery, Rowan, Randolph, and Stanly in the State.

"§ 153C-3. Uwharrie Regional Resources Commission.

(a) Creation. – The Uwharrie Regional Resources Commission is hereby established. The Commission is a permanent body corporate of the State composed of members from the Uwharrie region of North Carolina. The Commission shall be located administratively in the Department of Commerce but shall exercise its statutory powers and duties independently of the Department of Commerce. The Commission shall meet in the Uwharrie region of North Carolina. Funds appropriated for the Commission by the General Assembly shall be disbursed directly to the Commission at the beginning of each fiscal year.

(b) Purpose. – The purposes and functions of the Uwharrie Regional Resources Commission are to do all of the following:

- (1) Identify and evaluate issues affecting important resources of the region and recommend policies and programs to address those issues.
- (2) Coordinate with existing local and regional efforts to address threats to important regional resources and work undertaken by councils of government and the jurisdictions they serve in the Uwharrie region of North Carolina.
- (3) Provide a forum for discussion of issues affecting important regional resources.
- (4) Promote communication, coordination, and education among stakeholders within the Uwharrie region of North Carolina.

- (5) Collect research and information from North Carolina and other states and jurisdictions regarding State and regional approaches to coordinating (i) provision of infrastructure for the protection of important regional resources and (ii) efforts to encourage quality growth to protect such important regional resources.
 - (6) Determine whether new strategies or tools would be helpful to address pressures on important regional resources and whether and how such strategies or tools should be implemented to protect and enhance such resources to maximize their value for the benefit of the citizens of the Uwharrie region as well as the State.
 - (7) Provide guidance and make recommendations to local, State, and federal legislative and administrative bodies and to others as it considers necessary and appropriate for the use, stewardship, and enhancement of important regional resources.
- (c) Authority. – To achieve its purposes, the Commission shall have all of the following powers and duties:
- (1) To develop rules and procedures for the conduct of its business or as may be necessary to perform its duties and carry out its objectives, including, but not limited to, calling meetings and establishing voting procedures. Rules and procedures developed pursuant to this subsection shall be effective upon an affirmative vote by a majority of the Commission members.
 - (2) To pursue efforts directed at the equitable distribution of water for public purposes.
 - (3) To establish standing and ad hoc committees. The Commission shall determine the purpose of each standing or ad hoc committee.
 - (4) To seek, apply for, accept, and expend gifts, grants, donations, services, and other aid from public or private sources. The Commission may accept or expend funds only after an affirmative vote by a majority of the members of the Commission.
 - (5) To exercise the powers of a body corporate, including the power to sue and be sued, own or lease property, and adopt and use a common seal and alter the same.
 - (6) To enter into contracts and execute all instruments necessary or appropriate to achieve the purposes of the Commission.
 - (7) To designate a fiscal agent.
 - (8) To perform any lawful acts necessary or appropriate to achieve the purposes of the Commission.
- (d) Membership. – The Commission shall consist of 10 members as follows:
- (1) One representative from the public at large who is a resident of the Uwharrie region of North Carolina appointed by the President Pro Tempore of the Senate.
 - (2) One representative from the public at large who is a resident of the Uwharrie region of North Carolina appointed by the Speaker of the House of Representatives.
 - (3) Four representatives from the public at large who are residents of the Uwharrie region of North Carolina to be appointed by the Governor, including:
 - a. Two who shall at the time of appointment be actively connected with or have experience in local government within the Uwharrie region of North Carolina.
 - b. One who shall at the time of appointment have experience in tourism or tourism development in the Uwharrie region of North Carolina.

- c. One who shall have experience in economic development in the Uwharrie region of North Carolina.
- (4) Two members to represent each of the following regional councils of government as appointed by those councils: the Centralina Council of Governments and the Piedmont Triad Council of Governments.
- (5) The Secretary of Commerce or the Secretary's designee.
- (6) The Secretary of Environment and Natural Resources or the Secretary's designee.

The members of the Commission shall elect a chair, vice-chair, and any other officers they consider necessary and shall determine the length of the term of office, not to exceed two years, of each officer. A majority of the Commission shall constitute a quorum. Each member appointed to the Commission shall be appointed to serve a four-year term. Any vacancy on the Commission shall be filled by the original appointing authority for the remainder of the unexpired term. Initial terms commence September 1, 2010.

(e) Salary; Expenses. – Members of the Commission shall receive no salary for their service on the Commission but may receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate. All expenses shall be paid from funds available to the Commission through the Uwharrie Regional Resources Fund, but no expenses shall be paid if the Uwharrie Regional Resources Fund lacks the necessary funds.

(f) Staff Support. – The Department of Commerce shall provide staff support and facilities to the Commission within the existing programs of the agency. Additional staff may be hired or contracted by the Commission through funds raised by or provided to it. The duties and compensation of any additional staff shall be determined and fixed by the Commission within available resources.

(g) State Agency Cooperation. – All agencies of the State of North Carolina shall cooperate with the Commission and, upon request, shall assist the Commission in fulfilling its responsibilities. The Secretary of Commerce or the Secretary's designee shall serve as the liaison between the Secretary's agency and the Commission. The Commission may obtain information and data upon request from all officers, agents, agencies, and departments of the State of North Carolina or of local governments while in discharge of its duties.

(h) The role of the Commission is advisory in nature, and in no way shall the Commission be construed to have regulatory authority. No action of the Commission supercedes any decision of any local planning board.

"§ 153C-4. Uwharrie Regional Resources Fund.

(a) Creation. – The Uwharrie Regional Resources Fund is created as a special fund within the Department. The Fund consists of moneys credited to the Fund from appropriations and any gifts, grants, donations, or other aid from public or private sources.

(b) Use. – Moneys in the Fund shall be used by the Commission to implement the provisions of this Chapter."

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

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law upon approval of the Governor at 4:16 p.m. on the 2nd day of August, 2010.

Session Law 2010-177

H.B. 683

AN ACT TO AMEND THE PERMIT EXTENSION ACT OF 2009.

The General Assembly of North Carolina enacts:

SECTION 1. S.L. 2009-406, as amended by Section 5.1 of S.L. 2009-484, Section 5.2 of S.L. 2009-550, and Sections 2 and 3 of S.L. 2009-572, reads as rewritten:

"**SECTION 1.** This act shall be known and may be cited as the "Permit Extension Act of 2009."

"SECTION 2. The General Assembly makes the following findings:

- (1) There exists a state of economic emergency in the State of North Carolina and the nation, which has drastically affected various segments of the North Carolina economy, but none as severely as the State's banking, real estate, and construction sectors.
- (2) The real estate finance sector of the economy is in severe decline due to the creation, bundling, and widespread selling of leveraged securities, such as credit default swaps, and due to excessive defaults on sub-prime mortgages and the resultant foreclosures on a vast scale, thereby widening the mortgage finance crisis. The extreme tightening of lending standards for home buyers and other real estate borrowers has reduced access to the capital markets.
- (3) As a result of the crisis in the real estate finance sector of the economy, real estate developers and redevelopers, including home builders, and commercial, office, and industrial developers, have experienced an industry-wide decline, including reduced demand, cancelled orders, declining sales and rentals, price reductions, increased inventory, fewer buyers who qualify to purchase homes, layoffs, and scaled back growth plans.
- (4) The process of obtaining planning board and zoning board of adjustment approvals for subdivisions, site plans, and variances can be difficult, time consuming, and expensive, both for private applicants and government bodies.
- (5) The process of obtaining the myriad of other government approvals, such as wetlands permits, treatment works approvals, on-site wastewater disposal permits, stream encroachment permits, flood hazard area permits, highway access permits, and numerous waivers and variances, can be difficult and expensive; further, changes in the law can render these approvals, if expired or lapsed, difficult to renew or reobtain.
- (6) County and municipal governments, including local sewer and water authorities, obtain permits and approvals from State government agencies, particularly the Department of Environment and Natural Resources, which permits and approvals may expire or lapse due to the state of the economy and the inability of both the public sector and the private sector to proceed with projects authorized by the permit or approval.
- (7) County and municipal governments also obtain determinations of master plan consistency, conformance, or endorsement with State or regional plans, from State and regional government entities that may expire or lapse without implementation due to the state of the economy.
- (8) The current national recession has severely weakened the building industry, and many landowners and developers are seeing their life's work destroyed by the lack of credit and dearth of buyers and tenants due to the crisis in real estate financing and the building industry, uncertainty over the state of the economy, and increasing levels of unemployment in the construction industry.
- (9) The construction industry and related trades are sustaining severe economic losses, and the lapsing of government development approvals would exacerbate, if not addressed, those losses.
- (10) Financial institutions that lent money to property owners, builders, and developers are experiencing erosion of collateral and depreciation of their assets as permits and approvals expire, and the extension of these permits and approvals is necessary to maintain the value of the collateral and the solvency of financial institutions throughout the State.

- (11) Due to the current inability of builders and their purchasers to obtain financing under existing economic conditions, more and more once-approved permits are expiring or lapsing, and, as these approvals lapse, lenders must reappraise and thereafter substantially lower real estate valuations established in conjunction with approved projects, thereby requiring the reclassification of numerous loans, which, in turn, affects the stability of the banking system and reduces the funds available for future lending, thus creating more severe restrictions on credit and leading to a vicious cycle of default.
- (12) As a result of the continued downturn of the economy and the continued expiration of approvals that were granted by State and local governments, it is possible that thousands of government actions will be undone by the passage of time.
- (13) Obtaining an extension of an approval pursuant to existing statutory or regulatory provisions can be both costly in terms of time and financial resources and insufficient to cope with the extent of the present financial conditions; moreover, the costs imposed fall on the public as well as the private sector.
- (14) It is the purpose of this act to prevent the wholesale abandonment of already approved projects and activities due to the present unfavorable economic conditions by tolling the term of these approvals for a finite period of time as the economy improves, thereby preventing a waste of public and private resources.

"SECTION 3. Definitions. – As used in this act, the following definitions apply:

- (1) Development approval. – Any of the following approvals issued by the State, any agency or subdivision of the State, or any unit of local government, regardless of the form of the approval, that are for the development of land or for the provision of water or wastewater services by a government entity:
 - a. Any detailed statement by a State agency under G.S. 113A-4.
 - b. Any detailed statement submitted by a special purpose unit of government or a private developer of a major development project under G.S. 113A-8.
 - c. Any finding of no significant impact prepared by a State agency under Article 1 of Chapter 113A of the General Statutes.
 - d. Any approval of an erosion and sedimentation control plan granted by a local government or by the North Carolina Sedimentation Control Commission under Article 4 of Chapter 113A of the General Statutes.
 - e. Any permit for major development or minor development, as defined in G.S. 113A-118, or any other permit issued under the Coastal Area Management Act (CAMA), Part 4 of Article 7 of Chapter 113A of the General Statutes.
 - f. Any water or wastewater permit issued under Article 10 or Article 11 of Chapter 130A of the General Statutes.
 - g. Any building permit issued under Article 9 of Chapter 143 of the General Statutes.
 - h. Any nondischarge or extension permit issued under Part 1 of Article 21 of Chapter 143 of the General Statutes.
 - i. Any stream origination certifications issued under Article 21 of Chapter 143 of the General Statutes.
 - j. Any water quality certification under Article 21 of Chapter 143 of the General Statutes.

- k. Any air quality permit issued by the Environmental Management Commission under Article 21B of Chapter 143 of the General Statutes.
 - l. Any approval by a county of sketch plans, preliminary plats, plats regarding a subdivision of land, a site specific development plan or a phased development plan, a development permit, a development agreement, or a building permit under Article 18 of Chapter 153A of the General Statutes.
 - m. Any approval by a city of sketch plans, preliminary plats, plats regarding a subdivision of land, a site specific development plan or a phased development plan, a development permit, a development agreement, or a building permit under Article 19 of Chapter 160A of the General Statutes.
 - n. Any certificate of appropriateness issued by a preservation commission of a city under Part 3C of Article 19 of Chapter 160A of the General Statutes.
- (2) Development. – The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure or facility, or any grading, soil removal or relocation, excavation or landfill, or any use or change in the use of any building or other structure or land or extension of the use of land.

"SECTION 4. For any development approval that is current and valid at any point during the period beginning January 1, 2008, and ending December 31, 2010, the running of the period of the development approval and any associated vested right under G.S. 153A-344.1 or G.S. 160A-385.1 is suspended during the period beginning January 1, 2008, and ending December 31, ~~2010~~2011.

"SECTION 4.1. A unit of local government may by resolution provide that S.L. 2009-406, as amended by Section 5.1 of S.L. 2009-484, Section 5.2 of S.L. 2009-550, Sections 2 and 3 of S.L. 2009-572, and by this act, shall not apply to a development approval issued by that unit of local government. A development approval issued by a unit of local government that opts out pursuant to this section shall expire as it was scheduled to expire pursuant to S.L. 2009-406, as amended by Section 5.1 of S.L. 2009-484, Section 5.2 of S.L. 2009-550, and Sections 2 and 3 of S.L. 2009-572 prior to the enactment of this act.

"SECTION 5. This act shall not be construed or implemented to:

- (1) Extend any permit or approval issued by the United States or any of its agencies or instrumentalities.
- (2) Extend any permit or approval for which the term or duration of the permit or approval is specified or determined pursuant to federal law.
- (3) Shorten the duration that any development approval would have had in the absence of this act.
- (4) Prohibit the granting of such additional extensions as are provided by law.
- (5) Affect any administrative consent order issued by the Department of Environment and Natural Resources in effect or issued at any time from the effective date of this act to December 31, ~~2010~~2011.
- (6) Affect the ability of a government entity to revoke or modify a development approval or to accept voluntary relinquishment of a development approval by the holder of the development approval pursuant to law.
- (7) Modify any requirement of law that is necessary to retain federal delegation by the State of the authority to implement a federal law or program.
- (8) Modify any person's obligations or impair the rights of any party under contract, including bond or other similar undertaking.
- (9) Authorize the charging of a water or wastewater tap fee that has been previously paid in full for a project subject to a development approval.

"SECTION 5.1.(a) This act does not revive a vested right to the water or sewer allocation associated with a development approval that expired between January 1, 2008, and August 5, 2009, and is revived by the operation of this act if both of the following conditions are met:

- (1) The water or sewer capacity was reallocated to other development projects prior to August 5, 2009, based upon the expiration of the development approval.
- (2) There is not sufficient supply or treatment capacity to accommodate the project that is the subject of the revived development approval.

"SECTION 5.1.(b) A person whose development approval is revived under this act but whose water or sewer allocation is not revived under this section must be given first priority if additional supply or treatment capacity becomes available.

"SECTION 5.2.(a) This section applies only to Union County.

"SECTION 5.2.(b) When a development approval that is contingent upon connection to a water supply system or a sanitary sewer system is suspended under Section 4 of this act and there is not sufficient supply or treatment capacity to accommodate requests for additional allocation, the local government that granted the allocation may reallocate ~~reserved~~requested capacity from projects whose approvals are suspended but are not ready to proceed, if the local government meets all of the following requirements:

- (1) Establishes an allocation plan for existing capacity that determines actual capacity and provides for a fair and equitable process to distribute the remaining capacity.
- (2) Establishes a reallocation plan to meet requests for capacity above permitted capacity that is fair and equitable and requires the following:
 - a. That an applicant for a new or additional allocation demonstrate the ability to begin construction.
 - b. That the holder of a development permit suspended under Section 4 of this act demonstrate the ability or intent to begin construction in no less than 120 days in order to retain the reserved capacity.
- (3) Does not reallocate capacity to exceed the amount of the reserved capacity.

"SECTION 5.2.(c) This act does not reduce the original period of a development permit.

"SECTION 6. Within 30 days after the effective date of this act, each agency or subdivision of the State to which this act applies shall place a notice in the North Carolina Register listing the types of development approvals that the agency or subdivision issues and noting the extension provided in this act. This section does not apply to units of local government.

"SECTION 7. The provisions of this act shall be liberally construed to effectuate the purposes of this act.

"SECTION 7.1. Conditions for qualification; termination; right of appeal.

(a) For any development approval extended by S.L. 2009-406, as amended by Section 5.1 of S.L. 2009-484, Section 5.2 of S.L. 2009-550, Sections 2 and 3 of S.L. 2009-572, and by this act, the holder of the development approval shall:

- (1) Comply with all applicable laws, regulations, and policies in effect at the time the development approval was originally issued by the governmental entity.
- (2) Maintain all performance guarantees that are imposed as a condition of the initial development approval for the duration of the period the development approval is extended or until affirmatively released from that obligation by the issuing governmental entity.
- (3) Complete any infrastructure necessary in order to obtain a certificate of occupancy or other final permit approval from the issuing governmental entity.

(b) Failure to comply with any condition in this section may result in termination of the extension of the development approval by the issuing governmental entity. In the event of a

termination of the extension of a development approval, the issuing governmental entity shall provide written notice to the last known address of the original holder of the development approval of the termination of the extension of the development approval, including the reason for the termination.

(c) Termination of an extension of a development approval shall be subject to appeal to the Board of Adjustment under the requirements set forth in law if the development approval was issued by a unit of local government with planning authority under Article 18 of Chapter 153A or Article 19 of Chapter 160A of the General Statutes.

"SECTION 8. This act is effective when it becomes law."

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

In the General Assembly read three times and ratified this the 10th day of July, 2010.

Became law upon approval of the Governor at 4:17 p.m. on the 2nd day of August, 2010.

Session Law 2010-178

S.B. 1119

AN ACT TO REQUIRE ALL EARLY CARE AND EDUCATION PROVIDERS WORKING IN LICENSED CHILD CARE CENTERS OR LICENSED FAMILY CHILD CARE HOMES TO OBTAIN AND MAINTAIN EARLY EDUCATOR CERTIFICATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 110-91 is amended by adding a new subdivision to read:

"(8a) Education Certification. – An individual shall remain current in all certification required by this subdivision as long as the individual is working in licensed child care.

a. Teaching staff. – Teaching staff working in licensed child care centers as of October 1, 2010, shall have their education certified by the North Carolina Institute for Child Development Professionals by July 1, 2012. Teaching staff hired to work in licensed child care centers after October 1, 2010, shall have their education certified by the North Carolina Institute for Child Development Professionals within 60 days of their hiring.

b. Licensed family child care home providers. – Licensed family child care home providers in operation as of October 1, 2010, shall have their education certified by the North Carolina Institute for Child Development Professionals by July 1, 2012. Licensed family child care home providers that begin operation after October 1, 2010, shall have their education certified by the North Carolina Institute for Child Development Professionals within 60 days of licensing.

c. Child care administrators. – Child care administrators shall have their education certified with an Administrator Endorsement by July 1, 2012. Child care administrators hired after July 1, 2012, shall have their education certified with an Administrator Endorsement within 60 days of their hiring."

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

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Became law upon approval of the Governor at 4:19 p.m. on the 2nd day of August, 2010.

Session Law 2010-179

S.B. 836

AN ACT TO: (1) CLARIFY LIABILITY FOR DAMAGES CAUSED BY THE DISCHARGE OF NATURAL GAS, OIL, OR DRILLING WASTE INTO STATE COASTAL FISHING WATERS OR OFFSHORE WATERS; (2) PROVIDE FOR THE REVIEW OF INFORMATION REQUIRED FOR A PROPOSED OFFSHORE FOSSIL FUEL FACILITY IN ORDER TO DETERMINE CONSISTENCY WITH STATE GUIDELINES FOR THE COASTAL AREA; (3) DIRECT THE COASTAL RESOURCES COMMISSION TO REVIEW EXISTING LAWS AND REGULATIONS THAT PERTAIN TO OFFSHORE ENERGY EXPLORATION AND PRODUCTION IN LIGHT OF THE EXPLOSION, SINKING, AND SUBSEQUENT DISCHARGE OF OIL FROM THE BRITISH PETROLEUM DEEPWATER HORIZON OFFSHORE DRILLING RIG; (4) DIRECT THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY TO IMMEDIATELY REVIEW AND UPDATE THE STATE OIL SPILL CONTINGENCY PLAN IN ORDER TO PREPARE THE STATE IN THE EVENT THAT OIL DISCHARGED FROM THE BRITISH PETROLEUM DEEPWATER HORIZON OFFSHORE DRILLING RIG IS TRANSPORTED BY CURRENTS OR OTHER MECHANISMS TO THE NORTH CAROLINA COAST; AND (5) DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO REVIEW LIMITATIONS ON RECOVERY BY THE STATE FOR DAMAGE TO PUBLIC RESOURCES AND FOR THE COST OF OIL OR OTHER HAZARDOUS SUBSTANCE CLEANUP ESTABLISHED PURSUANT TO G.S. 143-215.89.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 143-215.89 reads as rewritten:

"§ 143-215.89. **Multiple liability for necessary ~~expenses~~expenses; limit on State recovery.**

(a) Any person liable for costs of cleanup of oil or other hazardous substances under this Part shall have a cause of action to recover such costs in part or in whole from any other person causing or contributing to the discharge of oil or other hazardous substances into the waters of the State, including any amount recoverable by the State as necessary expenses.

(b) The total recovery by the State for damage to the public resources pursuant to G.S. 143-215.90 and for the cost of oil or other hazardous substances cleanup, arising from any discharge, shall not exceed the applicable limits prescribed by federal law with respect to the United States government on account of such discharge. The limitations on recovery referenced in this subsection shall not apply to damages recoverable pursuant to G.S. 143-215.94CC."

SECTION 1.(b) G.S. 143-215.94BB reads as rewritten:

"§ 143-215.94BB. **Definitions.**

In addition to the definitions set out in G.S. 143-215.77, ~~as used in this Part,~~ the following definitions shall ~~apply~~apply to this Part:

- (1) "Damages" are damages for any of the following:
 - a. Injury or harm to real or personal property, which includes the cost of restoring, repairing, or replacing any real or personal property damaged or destroyed by a discharge under this section, any income lost from the time such property is damaged to the time such property is restored, repaired, or replaced, and any reduction in value of such property caused by such discharge by comparison with its value prior thereto.
 - b. Business loss, including loss of income or impairment of earning capacity due to damage to real or personal property or to damage or destruction of natural resources upon which such income or earning capacity is reasonably dependent.
 - c. Interest on loans obtained or other financial obligations incurred by an injured party for the purpose of ameliorating the adverse effects of

- a discharge pending the payment of a claim in full as provided by this Article.
- d. Costs of cleanup, removal, or treatment of natural gas, oil, or drilling waste discharges.
 - e. Costs of restoration, rehabilitation, and, where possible, replacement of wildlife or other natural resources damaged as a result of a discharge.
 - f. When the injured party is the State or one of its political subdivisions, in addition to any injury described in subparagraphs (a) to (e), inclusive, damages include all of the following:
 1. Injury to natural resources or wildlife, including recreational or commercial fisheries, and loss of use and enjoyment of public beaches and other public resources or facilities within the jurisdiction of the State or one of its political subdivisions.
 2. Costs to assess damages to natural resources, wildlife, or habitat.
 3. Costs incurred to monitor the cleanup of the natural gas, oil, or drilling waste spilled.
 4. Loss of State or local government tax revenues resulting from damages to real or personal property proximately resulting from a discharge.
- (2) For the purposes of this Part, "oil" and "drilling wastes" include, but are not limited to: petroleum, refined or processed petroleum, petroleum by-products, oil sludge, oil refuse, oil mixed with wastes and chemicals, or other materials used in the exploration, recovery, or processing of oil. "Oil" does not include oil carried in a vessel for use as fuel in that vessel.
- (3) "Natural gas" includes natural gas, liquefied natural gas, and natural gas by-products. "Natural gas" does not include natural gas carried in a vessel for use as fuel in that vessel.
- (4) "Exploration" means undersea boring, drilling, and soil sampling, and any other technique employed to assess and evaluate the presence of subterranean oil and natural gas deposits.
- (5) "Injured party" means any person who suffers damages from natural gas, oil, or drilling waste which is discharged or leaks into marine waters, or from offshore exploration. The State, or a county or municipality, may be an injured party.
- (6) "Responsible person" means any of the following:
- a. The owner or transporter of natural gas, oil, or drilling waste which causes an injury covered by this Part.
 - b. The owner, operator, lessee of, or person who charters by demise, any offshore well, undersea site, facility, oil rig, oil platform, vessel, or pipeline which is the source of natural gas, oil, drilling waste, or is the source or location of exploration which causes an injury covered by this Part.
- "Responsible party" does not include the United States, the State, any county, municipality or public governmental agency; however, this exception to the definition of "responsible person" shall not be read to exempt utilities from the provisions of this Part.
- (7) "Offshore waters" shall include both the territorial sea extending seaward from the coastline of North Carolina ~~to the State and federal boundary, and United States jurisdictional waters of the Atlantic Ocean adjacent to the territorial sea of the State~~ or any other coastal state bordering the Atlantic

Ocean, including the Gulf of Mexico, and the exclusive economic zone extending seaward from the territorial sea of each such state.

- (8) "Natural resources" shall include "marine and estuarine resources" and "wildlife resources" as those terms are defined in G.S. 113-129(11) and G.S. 113-129(17), respectively.
- (9) "Coastal fishing waters" has the same meaning as in G.S. 113-129.
- (10) "Exclusive economic zone" has the same meaning as in section 1001(8) of the Oil Pollution Act of 1990, 33 U.S.C. § 2701(8)."

SECTION 1.(c) G.S. 143-215.94CC reads as rewritten:

"§ 143-215.94CC. Liability under this section; exceptions.

(a) Any responsible person shall be strictly liable, notwithstanding any language of limitation found in G.S. 143-215.89, for all cleanup and removal costs and all direct or indirect damages incurred within the territorial jurisdiction of the State by any injured party, ~~which party~~ that arise out of, or are caused by, by any of the following:

- (1) ~~the discharge or leaking~~ The discharge, as defined in G.S. 143-215.77, of natural gas, oil, or drilling waste into or onto "coastal fishing waters" as defined in G.S. 113-129(4), or offshore waters, or by any exploration in or upon coastal fishing waters or offshore waters, from any of the following sources: sources wherever located:
- (1)a. Any ~~offshore~~ well or undersea site at which there is exploration for or extraction or recovery of natural gas or oil.
- (2)b. Any ~~offshore~~ facility, oil rig, or oil platform at which there is exploration for, or extraction, recovery, processing, or storage of, natural gas or oil.
- (3)c. Any vessel ~~offshore~~ in which natural gas, oil, or drilling waste is transported, processed or stored other than for purposes of fuel for the vessel carrying it.
- (4)d. Any pipeline ~~located offshore~~ in which natural gas, oil, or drilling waste is transported.
- (2) Any exploration in or upon coastal fishing waters.
- (3) Any technique or method used for cleanup and removal of any discharge of natural gas, oil, or drilling waste from any source listed in subdivision (1) of this subsection into or onto coastal fishing waters, including, but not limited to, chemical dispersants.

(b) A responsible person is not liable to an injured party under this section for any of the following:

- (1) Damages, other than costs of removal incurred by the State or a local government, caused solely by any act of war, hostilities, civil war, or insurrection or by an unanticipated grave natural disaster or other act of God of an exceptional, inevitable, and irresistible character, which could not have been prevented or avoided by the exercise of due care or foresight.
- (2) Damages caused solely by the negligence or intentional malfeasance of that injured party.
- (3) Damages caused solely by the criminal act of a third party other than the defendant or an agent or employee of the defendant. In any action arising under the provisions of this Article wherein this exception is raised as a defense to liability, the burden of proving that the alleged third-party intervention occurred in such a manner as to limit the liability of the person sought to be held liable shall be upon the person charged.
- (4) Natural seepage not caused by a responsible person.
- (5) ~~Discharge or leaking~~ of oil or natural gas from a private pleasure boat or commercial fishing vessel having a fuel capacity of less than 500 gallons.

- (6) Damages which arise out of, or are caused by, a discharge ~~which that is~~ authorized by and in compliance with a State or federal permit.
- (7) Damages that could have been reasonably mitigated by the injured party in accordance with common law.

(c) A court of suitable jurisdiction in any action under this Part may award reasonable costs of the suit and attorneys' fees, and the costs of any necessary expert witnesses, to any prevailing plaintiff. The court may award reasonable costs of the suit and attorneys' fees to any prevailing defendant only if the court finds that the plaintiff commenced or prosecuted the suit under this Part in bad faith or solely for purposes of harassing the defendant."

SECTION 1.(d) G.S. 143-215.94JJ reads as rewritten:

"§ **143-215.94JJ. Federal law.**

Nothing in this Part shall authorize State agencies to impose any duties or obligations in conflict with limitations on State authority established by federal law at the time such agency action is taken. Likewise, no additional liability is established by this Part to the extent that, at the time of the injury, federal law establishes limits on liability which preempt State law. The federal limits on liability established in the Oil Pollution Act of 1990, 33 U.S.C.A. §§ 2701 to 2762, shall not apply to discharges or pollution by oil within the territorial jurisdiction of the State."

SECTION 2. Part 4 of Article 7 of Chapter 113A of the General Statutes is amended by adding a new section to read:

"§ **113A-119.2. Review of offshore fossil fuel facilities.**

(a) In addition to the definitions set out in G.S. 113A-103, as used in this section, the following definitions shall apply:

- (1) "Coastal fishing waters" has the same meaning as in G.S. 113-129.
- (2) "Discharge" has the same meaning as in G.S. 143-215.77.
- (3) "Offshore fossil fuel facility" means those facilities for the exploration, development, or production of oil or natural gas which, because of their size, magnitude, or scope of impacts, have the potential to affect any land or water use or natural resource of the coastal area. For purposes of this definition, offshore fossil fuel facilities shall include, but are not limited to:
 - a. Structures, including drill ships and floating platforms and structures relocated from other states or countries, located in coastal fishing waters.
 - b. Any equipment associated with a structure described in sub-subdivision a. of this subdivision, including, but not limited to, pipelines and vessels that are used to carry, transport, or transfer oil, natural gas, liquid natural gas, liquid propane gas, or synthetic gas.
 - c. Onshore support or staging facilities associated with a structure described in sub-subdivision a. of this subdivision.
- (4) "Oil" has the same meaning as in G.S. 143-215.77.

(b) In addition to any other information necessary to determine consistency with State guidelines adopted pursuant to G.S. 113A-107, the following information is required for the review of an offshore fossil fuel facility located in coastal fishing waters:

- (1) All information required to be included in an Exploration Plan required pursuant to Subpart B of Part 250 of 30 C.F.R. (July 1, 2009 edition).
- (2) All information required to be included in an Oil-Spill Response Plan required pursuant to Subpart B of Part 254 of 30 C.F.R. (July 1, 2009 edition).
- (3) An assessment of alternatives to the proposed offshore fossil fuel facility that would minimize the likelihood of an unauthorized discharge.
- (4) An assessment of the potential for an unauthorized discharge to cause temporary or permanent violations of the federal and State water quality

standards, including the antidegradation policy adopted pursuant to section 303(d) of the federal Clean Water Act (33 U.S.C. § 1313(d)).

- (5) Any other information that the Commission determines necessary for consistency review."

SECTION 3. In light of the recent events pertaining to the British Petroleum Deepwater Horizon offshore drilling rig, the Coastal Resources Commission shall review existing statutes and modify existing rules that pertain to offshore energy exploration and production and make recommendations, if any, to the Environmental Review Commission on or before April 1, 2011.

SECTION 4. The Department of Crime Control and Public Safety shall immediately review the potential impacts of oil leaking from the British Petroleum Deepwater Horizon offshore drilling rig on the North Carolina coast and shall update the Oil Spill Contingency Plan, required by G.S. 143-215.94HH, as necessary to ensure the State's preparedness in the event the oil leaking from the British Petroleum Deepwater Horizon offshore drilling rig is transported by currents or other mechanisms to the North Carolina coast or the State's waters. In updating the plan, the Department shall assess the actions that are being implemented to manage and mitigate economic and environmental impacts resulting from the spill, determine which solutions have proven successful, identify the best management practices available to address the impacts, and identify the resources necessary to carry out the Oil Spill Contingency Plan.

SECTION 5. The Department of Environment and Natural Resources shall review the limitations on recovery by the State for damage to public resources and for the cost of oil or other hazardous substance cleanup established pursuant to G.S. 143-215.89. The Department shall report the results of its review, including any recommendations for changes to the limitations, to the Environmental Review Commission on or before December 1, 2010.

SECTION 6. This act is effective when it becomes law. Sections 1(a), 1(b), 1(c), and 1(d) of this act apply to any damages, as defined in G.S. 143-215.94BB, incurred on or after that date.

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law upon approval of the Governor at 4:29 p.m. on the 2nd day of August, 2010.

Session Law 2010-180

H.B. 1766

AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS TO: (1) CHANGE THE LOCATION OF THE HORIZONTAL CONTROL MONUMENT FILES FOR PLAT AND SUBDIVISION MAPPING REQUIREMENTS; (2) PROVIDE THAT THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES MAY DESIGNATE MULTIPLE MEMBERS TO SERVE AS COCHAIRS OF THE ENVIRONMENTAL REVIEW COMMISSION; (3) REPEAL THE REQUIREMENT THAT REMEDIAL ACTION PLANS BE RECORDED IN THE REGISTER OF DEEDS OFFICE AND MODIFY THE REQUIREMENT THAT REMEDIAL ACTION PLANS BE PLACED IN EACH PUBLIC LIBRARY IN THE COUNTY; (4) REESTABLISH THE SURFACE WATER IDENTIFICATION TRAINING AND CERTIFICATION PROGRAM AS A COMPONENT OF THE RIPARIAN BUFFER PROTECTION PROGRAM; (5) AMEND THE CUSTOMER REPORTING REQUIREMENTS FOR SMALL WASTEWATER SYSTEMS; (6) AMEND CIVIL PENALTIES FOR CERTAIN AIR QUALITY VIOLATIONS TO CONFORM WITH CHANGES MADE IN S.L. 2007-296; (7) CHANGE THE NAME OF THE NORTH CAROLINA NATIONAL PARK, PARKWAY AND FORESTS DEVELOPMENT COUNCIL TO THE WESTERN NORTH CAROLINA PUBLIC LANDS COUNCIL; (8) CLARIFY THE STANDARDS FOR QUALIFICATION OF VOLUNTARY WATER CONSERVATION AND WATER USE EFFICIENCY

PROGRAMS; (9) AMEND THE ENFORCEMENT AUTHORITY OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES UNDER THE DROUGHT MANAGEMENT PREPAREDNESS AND RESPONSE ACT; (10) AMEND DESIGNATION OF THE MEMBER OF THE SEDIMENTATION CONTROL COMMISSION REPRESENTING A NORTH CAROLINA PUBLIC UTILITY COMPANY; (11) AMEND THE NOTICE REQUIREMENTS FOR CITIES, COUNTIES, SANITARY DISTRICTS, AND WATER AND SEWER AUTHORITIES WHEN IMPOSING OR INCREASING CERTAIN FEES OR CERTAIN CHARGES; (12) PROVIDE THAT THE PROHIBITION ON ANY NEW OR INCREASED NUTRIENT LOADING ALLOCATION APPLIES TO IMPAIRED DRINKING WATER SUPPLY RESERVOIRS; (13) DIRECT CERTAIN STATE AGENCIES TO REVIEW THEIR PLANNING AND REGULATORY PROGRAMS AND RECOMMEND WHETHER THOSE PROGRAMS SHOULD INCLUDE CONSIDERATION OF THE IMPACTS OF GLOBAL CLIMATE CHANGE; (14) REQUIRE ALL PUBLIC AGENCIES TO RECYCLE ALL SPENT FLUORESCENT LIGHTS AND MERCURY THERMOSTATS, REQUIRE THE REMOVAL OF ALL FLUORESCENT LIGHTS AND MERCURY THERMOSTATS FROM BUILDINGS PRIOR TO DEMOLITION, AND BAN MERCURY-CONTAINING PRODUCTS FROM UNLINED LANDFILLS; (15) AUTHORIZE THE ENVIRONMENTAL REVIEW COMMISSION TO STUDY THE PENALTIES APPLICABLE TO VIOLATIONS OF G.S. 130A-309.10 (PROHIBITED ACTS RELATED TO PACKAGING; CODED LABELING OF PLASTIC CONTAINERS REQUIRED; DISPOSAL OF CERTAIN SOLID WASTES IN LANDFILLS OR BY INCINERATION PROHIBITED); (16) PROVIDE THAT LOCAL GOVERNMENTS AND LARGE COMMUNITY WATER SYSTEMS ONLY REQUIRE SEPARATE METERS FOR NEW IN-GROUND IRRIGATION SYSTEMS FOR LOTS PLATTED AND RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS AFTER JULY 1, 2009, THAT ARE CONNECTED TO THEIR SYSTEMS; (17) PROHIBIT THE USE OF HIGH ARSENIC CONTENT GLASS BEADS WHEN MARKING STATE OR MUNICIPAL ROADS OR PUBLIC VEHICULAR AREAS; (18) ENABLE TRADITIONAL COUNTRY STORES TO SELL UNCOOKED SANDWICHES, PREPARED ON PREMISES BY STORE EMPLOYEES; (19) REVISE THE SUNSET PROVISION FOR NUTRIENT OFFSET PAYMENTS; (20) MAKE A TECHNICAL CORRECTION TO THE DEFINITION OF "NOTEBOOK COMPUTER"; AND (21) DELAY THE EFFECTIVE DATE OF THE CLEAN COASTAL WATER AND VESSEL ACT FROM JULY 1, 2010, TO APRIL 1, 2011, TO LIMIT THE ACT'S APPLICATION TO ONLY THOSE AREAS THAT ARE DESIGNATED AS NO DISCHARGE ZONES BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY; AND (22) CLARIFY THE SCOPE OF RESEARCH FOR THE COASTAL WAVE ENERGY RESEARCH AND PROTOTYPE PROJECT AUTHORIZED IN THE CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS APPROPRIATIONS ACT OF 2010; AND (23) TO AMEND THE NC SUSTAINABLE COMMUNITIES TASK FORCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 47-30(f)(9) reads as rewritten:

"(9) Where the plat is the result of a survey, one or more corners shall, by a system of azimuths or courses and distances, be accurately tied to and coordinated with a horizontal control monument of some United States or State Agency survey system, such as the North Carolina Geodetic Survey where the monument is within 2,000 feet of the subject property. Where the North Carolina Grid System coordinates of the monument are on file in the North Carolina Office of State Budget and Management, North Carolina Geodetic Survey Section in the Division of Land Resources of the Department of Environment and Natural Resources, the coordinates of both

the referenced corner and the monuments used shall be shown in X (easting) and Y (northing) coordinates on the plat. The coordinates shall be identified as based on "NAD 83," indicating North American Datum of 1983, or as "NAD 27," indicating North American Datum of 1927. The tie lines to the monuments shall also be sufficient to establish true north or grid north bearings for the plat if the monuments exist in pairs. Within a previously recorded subdivision that has been tied to grid control, control monuments within the subdivision may be used in lieu of additional ties to grid control. Within a previously recorded subdivision that has not been tied to grid control, if horizontal control monuments are available within 2,000 feet, the above requirements shall be met; but in the interest of bearing consistency with previously recorded plats, existing bearing control should be used where practical. In the absence of ~~Grid Control, grid control,~~ other appropriate natural monuments or landmarks shall be used. In all cases, the tie lines shall be sufficient to accurately reproduce the subject lands from the control or reference points used."

SECTION 2. G.S. 120-70.42(b) reads as rewritten:

"(b) The President Pro Tempore of the Senate shall designate one ~~Senator to serve as cochair~~ or more Senators and the Speaker of the House of Representatives shall designate one ~~Representative to serve as cochair~~ or more Representatives to serve as cochairs."

SECTION 3. G.S. 130A-310.4(b) reads as rewritten:

"(b) Before approving any remedial action plan, the Secretary shall make copies of the proposed plan available for inspection as follows:

- (1) A copy of the plan shall be provided to the local health director.
- (2) ~~A copy of the proposed plan shall be filed with the register of deeds in the county or counties in which the site is located.~~
- (3) A copy of the plan shall be provided to the each public library located in closest proximity to the site in the county or counties in which the site is located.
- (4) The Secretary may place copies of the plan in other locations so as to assure the availability thereof to the public.

In addition, copies of the plan shall be available for inspection and copying at cost by the public during regular business hours in the offices of the agency within the Department with responsibility for the administration of the remedial action program."

SECTION 4.(a) Part 1 of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-214.25A. Riparian Buffer Protection Program: Surface Water Identification Training and Certification Program.

(a) The Division of Water Quality of the Department shall develop a program to train and certify individuals to determine the presence of surface waters that would require the application of rules adopted by the Commission for the protection of riparian buffers. The Division may train and certify employees of the Division as determined by the Director of the Division of Water Quality; employees of units of local government to whom responsibility for the implementation and enforcement of the riparian buffer protection rules is delegated pursuant to G.S. 143-214.23; and Registered Foresters under Chapter 89B of the General Statutes who are employees of the Division of Forest Resources of the Department as determined by the Director of the Division of Forest Resources. The Director of the Division of Water Quality may review the determinations made by individuals who are certified pursuant to this section, may override a determination made by an individual certified under this section, and, if the Director of the Division of Water Quality determines that an individual is failing to make correct determinations, revoke the certification of that individual.

(b) The Division of Water Quality shall develop standard forms for use in making and reporting determinations. Each individual who is certified to make determinations under this

section shall prepare a written report of each determination and shall submit the report to the agency that employs the individual. Each agency shall maintain reports of determinations made by its employees, shall forward a copy of each report to the Director of the Division of Water Quality, and shall maintain these reports and all other records related to determinations so that they will be readily accessible to the public."

SECTION 4.(b) In implementing the Surface Water Identification Training and Certification Program established by G.S. 143-214.25A, as enacted by Section 4(a) of this act, the Division of Water Quality of the Department of Environment and Natural Resources shall give priority to training and certifying the most highly qualified and experienced personnel in each agency. The Division of Water Quality shall evaluate the effectiveness of the Surface Water Identification Training and Certification Program and shall submit an annual report of its findings and recommendations, if any, to the Environmental Review Commission on or before October 1 of each year. The Division of Water Quality shall submit the first report required by this section on or before October 1, 2011.

SECTION 4.(c) Sections 4(a), 4(b), and 4(c) of this act shall not be construed to obligate the General Assembly to appropriate any funds to implement the provisions of this act. Every agency to which this section applies shall implement the provisions of this act with funds otherwise appropriated or available to the agency.

SECTION 5. G.S. 143-215.1C(a) reads as rewritten:

"(a) Report to Wastewater System Customers. – The owner or operator of any wastewater collection or treatment works, the operation of which is primarily to collect or treat municipal or domestic wastewater and for which a permit is issued under this ~~Part~~, Part and having an average annual flow greater than 200,000 gallons per day, shall provide to the users or customers of the collection system or treatment works and to the Department an annual report that summarizes the performance of the collection system or treatment works and the extent to which the collection system or treatment works has violated the permit or federal or State laws, regulations, or rules related to the protection of water quality. The report shall be prepared on either a calendar or fiscal year basis and shall be provided no later than 60 days after the end of the calendar or fiscal year."

SECTION 6. G.S. 143-215.112(d)(1a) reads as rewritten:

"(1a) Each governing body, or its authorized agent, shall have the power to assess civil penalties under G.S. 143-215.114A. Any person assessed shall be notified of the assessment by registered or certified mail, and the notice shall specify the reasons for the assessment. If the person assessed fails to pay the amount of the assessment to the governing body or its authorized agent within 30 days after receipt of notice, or such longer period not to exceed 180 days as the governing body or its authorized agent may specify, the governing body may institute a civil action in the superior court of the county in which the violation occurred, to recover the amount of the assessment. If any action or failure to act for which a penalty may be assessed under this section is continuous, the governing body or its authorized agent may assess a penalty not to exceed ~~ten thousand dollars (\$10,000)~~ twenty-five thousand dollars (\$25,000) per day for so long as the violation continues. In determining the amount of the penalty, the governing body or its authorized agent shall consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, and the amount of money the violator saved by not having made the necessary expenditures to comply with the appropriate pollution control requirements."

SECTION 7.(a) The title of Part 17A of Article 7 of Chapter 143B of the General Statutes reads as rewritten:

~~"Part 17A. North Carolina National Park, Parkway and Forests Development Council. Western North Carolina Public Lands Council."~~

SECTION 7.(b) G.S. 143B-324.1 reads as rewritten:

"§ 143B-324.1. ~~North Carolina National Park, Parkway and Forests Development Council; Western North Carolina Public Lands Council~~ creation; powers; duties.

The ~~North Carolina National Park, Parkway and Forests Development Council~~ Western North Carolina Public Lands Council is created within the Department of Environment and Natural Resources. The Council shall:

...."

SECTION 7.(c) G.S. 143B-324.2 reads as rewritten:

"§ 143B-324.2. ~~North Carolina National Park, Parkway and Forests Development Council~~ Western North Carolina Public Lands Council members; selection; officers; removal; compensation; quorum; services.

(a) Members; Selection; and Terms of Service. – The ~~North Carolina National Park, Parkway and Forests Development Council~~ Western North Carolina Public Lands Council within the Department of Environment and Natural Resources shall consist of seven members appointed by the Governor. The composition of the Council shall be as follows:

- (1) ~~one~~ One member shall be a resident of Buncombe ~~County, County.~~
- (2) ~~one~~ One member shall be a resident of Haywood ~~County, County.~~
- (3) ~~one~~ One member shall be a resident of Jackson ~~County, County.~~
- (4) ~~one~~ One member shall be a resident of Swain ~~County, County.~~
- (5) One member shall be a resident of Cherokee County.
- (6) ~~three~~ Two members shall be residents of counties adjacent to the Blue Ridge Parkway, the Great Smoky Mountains National Park or the Pisgah or Nantahala national forests.

The appointment of members shall be for terms of four years, or until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

(b) Officers. – The Council shall elect a ~~chairman, chair,~~ a ~~vice-chairman~~ vice-chair, and a secretary. The ~~chairman and the vice-chairman~~ chair and vice-chair shall all be members of the Council, but the secretary need not be a member of the Council. These officers shall perform the duties usually pertaining to such offices and when elected shall serve for a period of one year, but may be reelected. In case of vacancies by resignation or death, the office shall be filled by the Council for the unexpired term of said officer.

(c) Removal. – The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of G.S. 143B-16 of the Executive Organization Act of 1973.

(d) Compensation. – Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5 and G.S. 143B-15 of the Executive Organization Act of 1973.

(e) Quorum. – Five members of the Council shall constitute a quorum for the transaction of business."

SECTION 7.(d) G.S. 143B-324.3 reads as rewritten:

"§ 143B-324.3. ~~North Carolina National Park, Parkway and Forests Development Council~~ Western North Carolina Public Lands Council meetings.

The ~~North Carolina National Park, Parkway and Forests Development Council~~ Western North Carolina Public Lands Council shall meet monthly and may hold special meetings at any time and place within the State at the call of the ~~chairman~~ chair or upon written request of at least a majority of the members."

SECTION 7.(e) G.S. 143B-432(a) reads as rewritten:

"(a) The Division of Economic Development of the Department of Natural and Economic Resources, the Science and Technology Committee of the Department of Natural and Economic Resources, the Science and Technology Research Center of the Department of Natural and Economic Resources, and the ~~North Carolina National Park, Parkway and Forests~~

~~Development Council~~ Western North Carolina Public Lands Council of the Department of Natural and Economic Resources are each hereby transferred to the Department of Commerce by a Type I transfer, as defined in G.S. 143A-6."

SECTION 7.(f) G.S. 143B-433 reads as rewritten:

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

The Department of Commerce shall be organized to include:

(1) The following agencies:

...

~~p. North Carolina National Park, Parkway and Forests Development Council.~~

...."

SECTION 7.(g) G.S. 153B-3(d) reads as rewritten:

"(d) Membership. – The Commission shall consist of 17 members as follows:

...

(4) One member to represent the ~~North Carolina National Parks, Parkway and Forests Development Council.~~ Western North Carolina Public Lands Council.

...."

SECTION 8. G.S. 143-355.2(h1) reads as rewritten:

"(h1) A trade or professional organization representing commercial car washes may establish a voluntary water conservation and water use efficiency certification program to encourage and promote the use of year-round water conservation and water use efficiency ~~measures~~ measures. Implementation of a voluntary water conservation and water use efficiency program shall be considered in determining compliance with local government water shortage response plans as follows:

- (1) A water conservation and water use efficiency certification may only be issued to a person that demonstrates ~~that water use from its water consuming processes is reduced by and maintained at twenty percent (20%) or more below the yearly average water use for the calendar year preceding application for certification.~~ full implementation of a voluntary water conservation and water use efficiency program that is approved pursuant to subdivision (3) of this subsection. In order to receive and maintain certification, a person must have its facility inspected on an annual basis by a licensed plumbing contractor who will confirm that the applicant is in compliance with the standards of the certification program.
- (2) A unit of local government that provides public water service or a large community water system shall recognize and credit a commercial car wash that has met the standards of a certification program for at least six months prior to the most recent extreme drought designation for water conservation achieved under the program. To the extent that a tiered response stage in the water shortage response plan requires commercial or industrial users to implement a percentage reduction in use, a car wash certified under a program shall be credited with the percentage reduction achieved by measures implemented under the program. Car washes certified under a program shall not be required to reduce consumption more than any other class of commercial or industrial water users during a water shortage emergency.
- (3) To qualify as an approved water conservation and water use efficiency certification program, the Department of Environment and Natural Resources shall determine that the program ~~effectively utilizes industry best management practices for the efficient use of water and achieves year-round reductions in water use.~~ use and results in a reduction of twenty percent (20%) or more in average water use per vehicle. Best management practices

may include, but are not limited to, recycling, reclaiming, or reusing a portion of the water in the consuming processes. If a unit of local government that provides public water service or a large community water system determines that a person certified under such a program is not complying with the terms and standards of the certification program, it may refuse to recognize and credit the conservation measures."

SECTION 9. G.S. 143-355.6 reads as rewritten:

"§ 143-355.6. Enforcement.

(a) The Secretary may assess a civil penalty of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) against any person who:

- (1) Fails to report water use or other information required under G.S. 143-355(k).
- (2) Fails to act in accordance with the terms, conditions, or requirements of an order issued by the Secretary under G.S. 143-355.3.
- (3) Violates any provision of this Article or any rule adopted by the Commission, the Department, or the Secretary implementing this Article.

(b) For each willful action or failure to act for which a penalty may be assessed under this section, the Secretary may consider each day the action or inaction continues after notice is given of the violation as a separate violation. A separate penalty may be assessed for each separate violation.

(c) The Secretary may assess a civil penalty of not more than ten thousand dollars (\$10,000) per month against a unit of local government that provides public water service or a large community water system that fails to implement the water conservation measures set out in the water shortage response plan approved by the Department under G.S. 143-355.2, measures required by the Department under subsections (b) and (d) of G.S. 143-355.2, or the default measures required under rules adopted by the Commission under S.L. 2002-167. ~~The Secretary may remit a civil penalty based on the factors set out in G.S. 143B-282.1(e)(1).~~

(c1) The amount of the civil penalty shall be based on the factors set out in G.S. 143B-282.1(b). The procedures set out in G.S. 143B-282.1 shall apply to civil penalty assessments that are presented to the Commission for final agency decision.

(c2) Requests for remission of civil penalties shall be filed with the Secretary. Remission requests shall not be considered unless made within 30 days of receipt of the notice of assessment. Remission requests must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B of the General Statutes and a stipulation of the facts on which the assessment was based. Consistent with the limitations in G.S. 143B-282.1(c) and (d), remission requests may be resolved by the Secretary and the violator. If the Secretary and the violator are unable to resolve the request, the Secretary shall deliver remission requests and the Secretary's recommended action to the Committee on Civil Penalty Remissions of the Commission appointed pursuant to G.S. 143B-282.1(c).

(c3) If any civil penalty has not been paid within 30 days after the notice of assessment has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or in which the violator's principal place of business is located to recover the amount of the assessment, unless the violator contests the assessment as provided in subsection (e) of this section, or requests remission of the assessment in whole or in part as provided in subsection (c2) of this section. If any civil penalty has not been paid within 30 days after the final agency decision or court order has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or in which the violator's principal place of business is located to recover the amount of the assessment.

(d) The violation of emergency water conservation rules adopted by the Secretary pursuant to G.S. 143-355.3(b) is a Class 1 misdemeanor.

(e) The Secretary shall notify any person assessed a civil penalty of the assessment and the specific reasons for the assessment by registered or certified mail or by any means

authorized by G.S. 1A-1, Rule 4. Contested case petitions shall be filed within 30 days of receipt of the notice of assessment.

(f) The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

SECTION 10. G.S. 143B-299(a) reads as rewritten:

"(a) Creation; Membership. – There is hereby created in the Department of Environment and Natural Resources the North Carolina Sedimentation Control Commission, which is charged with the duty of developing and administering the sedimentation control program provided for in this Article. The Commission shall consist of the following members:

- (1) A person to be nominated jointly by the boards of the North Carolina League of Municipalities and the North Carolina Association of County ~~Commissioners;~~Commissioners.
- (2) A person to be nominated by the Board of the North Carolina Home Builders ~~Association;~~Association.
- (3) A person to be nominated by the Carolinas Branch, Associated General Contractors of ~~America;~~America.
- (4) ~~The president, vice president, or general counsel~~A representative of a North Carolina public utility ~~company;~~company.
- (5) The Director of the North Carolina Water Resources Research ~~Institute;~~Institute.
- (6) A member of the State Mining Commission who shall be a representative of nongovernmental conservation interests, as required by ~~G.S. 74-38(b);~~G.S. 74-38(b).
- (7) A member of the State Soil and Water Conservation ~~Commission;~~Commission.
- (8) A member of the Environmental Management ~~Commission;~~Commission.
- (9) A soil scientist from the faculty of North Carolina State ~~University;~~University.
- (10) Two persons who shall be representatives of nongovernmental conservation ~~interests;~~ and interests.
- (11) A professional engineer registered under the provisions of Chapter 89C of the General Statutes nominated by the Professional Engineers of North Carolina, Inc."

SECTION 11.(a) G.S. 153A-102.1 reads as rewritten:

"§ 153A-102.1. ~~Electronic notice~~Notice of new fees and fee increases; public comment period.

(a) ~~If a county has a Web site maintained by one or more of its employees, the~~A county shall provide notice to interested parties of the imposition of or increase in fees or charges applicable solely to the construction of development subject to the provisions of Part 2 of Article 18 of this Chapter on the county's Web site at least seven days prior to the first meeting where the imposition of or increase in the fees or charges is on the agenda for consideration. The county shall employ at least two of the following means of communication in order to provide the notice required by this section:

- (1) Notice of the meeting in a prominent location on a Web site managed or maintained by the county.
- (2) Notice of the meeting in a prominent physical location, including, but not limited to, any government building, library, or courthouse within the county.
- (3) Notice of the meeting by electronic mail to a list of interested parties that is created by the county for the purpose of notification as required by this section.

- (4) Notice of the meeting by facsimile to a list of interested parties that is created by the county for the purpose of notification as required by this section.

(a1) If a county manages or maintains a Web site, it may provide the notice required pursuant to G.S. 160A-4.1, 130A-64.1, or 162A-9 on its Web site at the request of a city, sanitary district, or water and sewer authority that does not manage or maintain a Web site of its own. Any county that elects to provide such notice shall post the notice to its Web site within seven days of the request made by the city, sanitary district, or water and sewer authority.

(b) During the consideration of the imposition of or increase in fees or charges as provided in subsection (a) of this section, the governing body of the county shall permit a period of public comment.

(c) This section shall not apply if the imposition of or increase in fees or charges is contained in a budget filed in accordance with the requirements of G.S. 159-12."

SECTION 11.(b) G.S. 160A-4.1 reads as rewritten:

"§ 160A-4.1. ~~Electronic notice~~ Notice of new fees and fee increases; public comment period.

(a) ~~If a city has a Web site maintained by one or more of its employees, the~~ A city shall provide notice to interested parties of the imposition of or increase in fees or charges applicable solely to the construction of development subject to the provisions of Part 2 of Article 19 of this Chapter ~~on the city's Web site~~ at least seven days prior to the first meeting where the imposition of or increase in the fees or charges is on the agenda for consideration. The city shall employ at least two of the following means of communication in order to provide the notice required by this section:

- (1) Notice of the meeting in a prominent location on a Web site managed or maintained by the city.
- (2) Notice of the meeting in a prominent physical location, including, but not limited to, any government building, library, or courthouse within the city.
- (3) Notice of the meeting by electronic mail to a list of interested parties that is created by the city for the purpose of notification as required by this section.
- (4) Notice of the meeting by facsimile to a list of interested parties that is created by the city for the purpose of notification as required by this section.

(a1) If a city does not maintain its own Web site, it may employ the notice option provided by subdivision (1) of subsection (a) of this section by submitting a request to a county or counties in which the city is located to post such notice in a prominent location on a Web site that is maintained by the county or counties. Any city that elects to provide such notice shall make its request to the county or counties at least 15 days prior to the date of the first meeting where the imposition of or increase in the fees or charges is on the agenda for consideration.

(b) During the consideration of the imposition of or increase in fees or charges as provided in subsection (a) of this section, the governing body of the city shall permit a period of public comment.

(c) This section shall not apply if the imposition of or increase in fees or charges is contained in a budget filed in accordance with the requirements of G.S. 159-12."

SECTION 11.(c) G.S. 130A-64.1 reads as rewritten:

"§ 130A-64.1. ~~Electronic notice~~ Notice of new or increased charges and rates; public comment period.

(a) ~~If a sanitary district has a Web site maintained by one or more of its employees, the~~ A sanitary district shall provide notice to interested parties of the imposition of or increase in service charges or rates applicable solely to the construction of development subject to Part 2 of Article 19 of Chapter 160A or Part 2 of Article 18 of Chapter 153A of the General Statutes for any service provided by the sanitary district ~~on the sanitary district's Web site~~ at least seven days prior to the first meeting where the imposition of or increase in the charges or rates is on

the agenda for consideration. The sanitary district shall employ at least two of the following means of communication in order to provide the notice required by this section:

- (1) Notice of the meeting in a prominent location on a Web site managed or maintained by the sanitary district.
- (2) Notice of the meeting in a prominent physical location, including, but not limited to, the district's headquarters or any government building, library, or courthouse located within the sanitary district.
- (3) Notice of the meeting by electronic mail to a list of interested parties that is created by the sanitary district for the purpose of notification as required by this section.
- (4) Notice of the meeting by facsimile to a list of interested parties that is created by the sanitary district for the purpose of notification as required by this section.

(a1) If a sanitary district does not maintain its own Web site, it may employ the notice option provided by subdivision (1) of subsection (a) of this section by submitting a request to a county or counties in which the district is located to post such notice in a prominent location on a Web site that is maintained by the county or counties. Any sanitary district that elects to provide such notice shall make its request to the county or counties at least 15 days prior to the date of the first meeting where the imposition of or increase in the fees or charges is on the agenda for consideration.

(b) During the consideration of the imposition of or increase in service charges or rates as provided in subsection (a) of this section, the governing body of the sanitary district shall permit a period of public comment.

(c) This section shall not apply if the imposition of or increase in service charges or rates is contained in a budget filed in accordance with the requirements of G.S. 159-12."

SECTION 11.(d) G.S. 162A-9 reads as rewritten:

"§ 162A-9. Rates and charges; ~~electronic notice~~; contracts for water or services; deposits; delinquent charges.

(a) An authority may establish and revise a schedule of rates, fees, and other charges for the use of and for the services furnished or to be furnished by any water system or sewer system or parts thereof owned or operated by the authority. The rates, fees, and charges established under this subsection are not subject to supervision or regulation by any bureau, board, commission, or other agency of the State or of any political subdivision.

Before an authority sets or revises rates, fees, or other charges for stormwater management programs and structural or natural stormwater and drainage system service, the authority shall hold a public hearing on the matter. At least seven days before the hearing, the authority shall publish notice of the public hearing in a newspaper having general circulation in the area. An authority may impose rates, fees, or other charges for stormwater management programs and stormwater and drainage system service on a person even though the person has not entered into a contract to receive the service.

Rates, fees, and charges shall be fixed and revised so that the revenues of the authority, together with any other available funds, will be sufficient at all times:

- (1) To pay the cost of maintaining, repairing, and operating the systems or parts thereof owned or operated by the authority, including reserves for such purposes, and including provision for the payment of principal of and interest on indebtedness of a political subdivision or of political subdivisions which payment shall have been assumed by the authority, and
- (2) To pay the principal of and the interest on all bonds issued by the authority under the provisions of this Article as the same shall become due and payable and to provide reserves therefor.

The fees established under this subsection must be made applicable throughout the service area. Schedules of rates, fees, charges, and penalties for providing stormwater management programs and structural and natural stormwater and drainage system service may vary

according to whether the property served is residential, commercial, or industrial property, the property's use, the size of the property, the area of impervious surfaces on the property, the quantity and quality of the runoff from the property, the characteristics of the watershed into which stormwater from the property drains, and other factors that affect the stormwater drainage system. Rates, fees, and charges imposed under this subsection for stormwater management programs and stormwater and drainage system service may not exceed the authority's cost of providing a stormwater management program and a structural and natural stormwater and drainage system. The authority's cost of providing a stormwater management program and a structural and natural stormwater and drainage system includes any costs necessary to assure that all aspects of stormwater quality and quantity are managed in accordance with federal and State laws, regulations, and rules.

No stormwater utility fee may be levied under this subsection whenever two or more units of local government operate separate stormwater management programs or separate structural and natural stormwater and drainage system services in the same area within a county. However, two or more units of local government may allocate among themselves the functions, duties, powers, and responsibilities for jointly operating a stormwater management program and structural and natural stormwater and drainage system service in the same area within a county, provided that only one unit may levy a fee for the service within the joint service area. For purposes of this subsection, a unit of local government shall include a regional authority providing stormwater management programs and structural and natural stormwater and drainage system services.

(a1) ~~If an authority has a Web site maintained by one or more of its employees, the An~~ authority shall provide notice to interested parties of the imposition of or increase in rates, fees, and charges under subsection (a) of this section applicable solely to the construction of development subject to Part 2 of Article 19 of Chapter 160A or Part 2 of Article 18 of Chapter 153A of the General Statutes on the authority's Web site at least seven days prior to the first meeting where the imposition of or increase in the rates, fees, and charges is on the agenda for consideration. The authority shall employ at least two of the following means of communication in order to provide the notice required by this subsection:

- (1) Notice of the meeting in a prominent location on a Web site managed or maintained by the authority.
- (2) Notice of the meeting in a prominent physical location, including, but not limited to, the authority's headquarters or any government building, library, or courthouse located within the authority's service area.
- (3) Notice of the meeting by electronic mail to a list of interested parties that is created by the authority for the purpose of notification as required by this section.
- (4) Notice of the meeting by facsimile to a list of interested parties that is created by the authority for the purpose of notification as required by this section.

(a2) If an authority does not maintain its own Web site, it may employ the notice option provided by subdivision (1) of subsection (a1) of this section by submitting a request to a county or counties in which the authority is located to post such notice in a prominent location on a Web site that is maintained by the county or counties. Any authority that elects to provide such notice shall make its request to the county or counties at least 15 days prior to the date of the first meeting where the imposition of or increase in the fees or charges is on the agenda for consideration.

(a3) During the consideration of the imposition of or increase in rates, fees, or charges under this subsection, the authority shall permit a period of public comment.

(a4) ~~This subsection~~ The notice requirements in subsection (a1) of this section shall not apply if the imposition of or increase in rates, fees, and charges is contained in a budget filed in accordance with the requirements of G.S. 159-12.

(b) Notwithstanding any of the foregoing provisions of this section, the authority may enter into contracts relating to the collection, treatment or disposal of sewage or the purchase or sale of water which shall not be subject to revision except in accordance with their terms.

(c) In order to insure the payment of such rates, fees and charges as the same shall become due and payable, the authority may do the following in addition to exercising any other remedies which it may have:

- (1) Require reasonable advance deposits to be made with it to be subject to application to the payment of delinquent rates, fees and charges.
- (2) At the expiration of 30 days after any rates, fees and charges become delinquent, discontinue supplying water or the services and facilities of any water system or sewer system of the authority.
- (3) Specify the order in which partial payments are to be applied when a bill covers more than one service."

SECTION 12. Section 4 of S.L. 2005-190, as amended by Section 31 of S.L. 2006-259, reads as rewritten:

"SECTION 4. Other drinking water supply reservoirs. – The Environmental Management Commission shall not make any new or increased nutrient loading allocation to any person who is required to obtain a permit under G.S. 143-215 for an individual wastewater discharge directly or indirectly into any impaired drinking water supply reservoir for which the Division of Water Quality of the Department of Environment and Natural Resources has prepared or updated a calibrated nutrient response model since 1 July 2002 until permanent rules adopted by the Commission to implement the nutrient management strategy for that reservoir become effective. The Commission shall report its progress in developing and implementing nutrient management strategies for reservoirs to which this section applies to the Environmental Review Commission by 1 April of each year beginning 1 April 2006."

SECTION 13.(a) The Department of Administration, the Department of Agriculture and Consumer Services, the Department of Commerce, the Department of Crime Control and Public Safety, the Department of Environment and Natural Resources, the Department of Health and Human Services, the Department of Insurance, and the Department of Transportation shall:

- (1) Review their respective planning and regulatory programs to determine whether the programs currently consider the impacts of global climate change, including adaptation and sea level rise.
- (2) For those programs that currently consider the impacts of global climate change, the agency shall describe how the program considers the impacts of global climate change, including adaptation and sea level rise, and recommend whether the consideration of the impacts of global climate change should be modified or expanded.
- (3) For those programs that do not currently consider the impacts of global climate change, the agency shall recommend if and how the program should consider the impacts of global climate change, including adaptation and sea level rise.

SECTION 13.(b) No later than September 1, 2011, each State agency shall report the results of its review and any recommendations to the Department of Environment and Natural Resources. The Department shall compile the results and recommendations and report them to the Environmental Review Commission and to any future legislative commission that directly and primarily addresses issues concerning global climate change no later than November 1, 2011.

SECTION 14.(a) Article 9 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 7. Management of Certain Products That Contain Mercury.

"§ 130A-310.60. Recycling required by public agencies.

(a) Each State agency, including the General Assembly, the General Court of Justice, universities, community colleges, public schools, and political subdivisions using State funds for the construction or operation of public buildings shall establish a program in cooperation with the Department of Environment and Natural Resources and the Department of Administration for the collection and recycling of all spent fluorescent lights and thermostats that contain mercury generated in public buildings owned by each respective entity. The program shall include procedures for convenient collection, safe storage, and proper recycling of spent fluorescent lights and thermostats that contain mercury and contractual or other arrangements with buyers of the recyclable materials.

(b) Each State agency, including the General Assembly, the General Court of Justice, universities, community colleges, the Department of Public Instruction on behalf of the public schools, and political subdivisions shall submit a report on or before December 1, 2011, that documents the entity's compliance with the requirements of subsection (a) of this section to the Department of Environment and Natural Resources and the Department of Administration. The Departments shall compile the information submitted and jointly shall submit a report to the Environmental Review Commission on or before January 15, 2012, concerning the activities required by subsection (a) of this section. The information provided shall also be included in the report required by G.S. 130A-309.06(c).

"§ 130A-310.61. Removal and recycling of mercury-containing products from structures to be demolished.

Prior to demolition of any building or structure in the State, the contractor responsible for the demolition activity or the owner of the building or structure to be demolished shall remove all fluorescent lights and thermostats that contain mercury from the building or structure to be demolished.'

SECTION 14.(b) G.S. 130A-309.10 is amended by adding a new subsection to read:

"(m) No person shall knowingly dispose of fluorescent lights and thermostats that contain mercury in a sanitary landfill for the disposal of construction and demolition debris waste that is unlined or in any other landfill that is unlined."

SECTION 14.(c) G.S. 130A-22 reads as rewritten:

"§ 130A-22. Administrative penalties.

(a) The Secretary of Environment and Natural Resources may impose an administrative penalty on a person who violates Article 9 of this Chapter, rules adopted by the Commission pursuant to Article 9, or any term or condition of a permit or order issued under Article 9. Each day of a continuing violation shall constitute a separate violation. The penalty shall not exceed fifteen thousand dollars (\$15,000) per day in the case of a violation involving nonhazardous waste. The penalty shall not exceed thirty-two thousand five hundred dollars (\$32,500) per day in the case of a first violation involving hazardous waste as defined in G.S. 130A-290 or involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical waste entering waters or lands of the State; and shall not exceed fifty thousand dollars (\$50,000) per day for a second or further violation involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical waste entering waters or lands of the State. The penalty shall not exceed thirty-two thousand five hundred dollars (\$32,500) per day for a violation involving a voluntary remedial action implemented pursuant to G.S. 130A-310.9(c) or a violation of the rules adopted pursuant to G.S. 130A-310.12(b). The penalty shall not exceed one hundred dollars (\$100.00) for a first violation; two hundred dollars (\$200.00) for a second violation within any 12-month period; and five hundred dollars (\$500.00) for each additional violation within any 12-month period for any violation of Part 2G of Article 9 of this Chapter. For violations of Part 7 of Article 9 of this Chapter and G.S. 130A-309.10(m): (i) a warning shall be issued for a first violation; (ii) the penalty shall not exceed two hundred dollars (\$200.00) for a second violation; and (iii) the penalty shall not exceed five hundred dollars (\$500.00) for subsequent violations. If a person

fails to pay a civil penalty within 60 days after the final agency decision or court order has been served on the violator, the Secretary of Environment and Natural Resources shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment. Such civil actions must be filed within three years of the date the final agency decision or court order was served on the violator."

SECTION 14.(d) G.S. 130A-25 reads as rewritten:

"§ **130A-25. Misdemeanor.**

(a) ~~A-Except as otherwise provided,~~ a person who violates a provision of this Chapter or the rules adopted by the Commission or a local board of health shall be guilty of a misdemeanor.

...
(d) A violation of Part 7 of Article 9 of this Chapter or G.S. 130A-309.10(m) shall be punishable as a Class 3 misdemeanor."

SECTION 15. The Environmental Review Commission may study the penalties applicable to violations of G.S. 130A-309.10 (Prohibited acts related to packaging; coded labeling of plastic containers required; disposal of certain solid wastes in landfills or by incineration prohibited), and report its findings, together with any recommended legislation, to the 2011 Regular Session of the 2011 General Assembly upon its convening.

SECTION 16. G.S. 143-355.4(a) reads as rewritten:

"(a) Local government water systems and large community water systems shall require separate meters for new in-ground irrigation systems on lots platted and recorded in the office of the register of deeds in the county or counties in which the real property is located after July 1, 2009, that are connected to their systems."

SECTION 17.(a) The General Assembly finds and declares that inorganic arsenic is a hazardous substance and is recognized by the United States Environmental Protection Agency and the United States Occupational Safety and Health Administration as a human carcinogen; that release of this substance into the environment may lead to contamination of soil and water; that the ingestion or inhalation of soil, water, plant material, or animal tissues contaminated with inorganic arsenic may lead to lung cancer, damage to the nervous system, or, in extreme cases, death from systemic poisoning; that reflective glass beads are used to reflect light when applied to roadway markers; that glass beads that contain more than 75 parts per million inorganic arsenic may represent a danger to workers who handle and apply them and a contamination potential to soil and water surrounding roadways. The General Assembly therefore determines that it is in the public interest to prohibit the use of glass beads containing more than 75 parts per million inorganic arsenic used to reflect light when applied to markings on roadways.

SECTION 17.(b) Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ **136-30.2. Prohibit the use of high content arsenic glass beads in paint used for pavement marking.**

No pavement markings shall be placed on or along any road in the State highway system, in any municipal street system, or on any public vehicular area, as defined in G.S. 20-4.01, that is made from paint that has been mixed, in whole or in part, with reflective glass beads containing more than 75 parts per million inorganic arsenic, as determined by the United States Environmental Protection Agency Method 6010B in conjunction with the United States Environmental Protection Agency Method 3052 modified."

SECTION 18. G.S. 130A-250 is amended by adding a new subdivision to read:

"(13) Traditional country stores that sell uncooked sandwiches or similar food items and that engage in minimal preparation such as slicing bananas, spreading peanut butter, mixing and spreading pimiento cheese, and assembling these items into sandwiches, when this minimal preparation is the only activity that would otherwise subject these establishments to

regulation under this Part. For the purposes of this subsection, traditional country stores means for-profit establishments that sell an assortment of goods, including prepackaged foods and beverages, and have been in continuous operation for at least 75 years."

SECTION 19. Section 5 of S.L. 2007-438, as amended by Section 3.(b) of S.L. 2009-438, reads as rewritten:

"**SECTION 5.** This act becomes effective 1 September 2007 and applies to all nutrient offset payments, including those set out in 15A NCAC 2B .0240, as adopted by the Environmental Management Commission on 12 January 2006. The fee schedule set out in Section 1 of this act expires ~~1 September 2010~~ 1 September 2011."

SECTION 20. If Senate Bill 887, 2009 Regular Session, becomes law, then G.S. 130A-309.131(11), as enacted by Section 2(a) of that act, reads as rewritten:

"(11) Notebook computer. – An electronic, magnetic, optical, electrochemical, or other high-speed data processing device that has all of the following features:

- a. Performs logical, arithmetic, or storage functions for general purpose needs that are met through interaction with a number of software programs contained in the computer.
- b. Is not designed to exclusively perform a specific type of limited or specialized application.
- c. Achieves human interface through a keyboard, video display greater than four inches in size, and mouse or other pointing device, all of which are contained within the construction of the unit that comprises the computer.
- d. Is able to be carried as one unit by an individual.
- e. Is able to use external power, internal power, or batteries for a power source.

Notebook computer includes those that have a supplemental stand-alone interface device attached to the notebook computer. Notebook computer does not include a portable handheld calculator, a PDA, or similar specialized device. A notebook computer may also be referred to as a laptop computer."

SECTION 21.(a) G.S. 77-131 reads as rewritten:

"§ 77-131. **Application of Article.**

The provisions of this Article apply only to the following:

- (1) A large vessel marina that is located on coastal waters designated by the Environmental Protection Agency as a no discharge zone or that is located in a county or municipality that has adopted a resolution to petition the Environmental Protection Agency for a no discharge zone designation.
- (2) A vessel in coastal waters that ~~are either is~~ designated as a no discharge zone ~~or are included in a petition to the Environmental Protection Agency to be designated as a no discharge zone unless the petition has been denied by the Environmental Protection Agency."~~

SECTION 21.(b) Section 3 of S.L. 2009-345 reads as rewritten:

"**SECTION 3.** Section 1 of this act becomes effective ~~July 1, 2010~~ April 1, 2011, and applies to offenses committed on or after that date. The remainder of this act is effective when it becomes law."

SECTION 21.1. Section 9.10.(a) of S.L. 2010-31 reads as rewritten:

"**SECTION 9.10.(a)** The General Assembly finds that strengthening research and development efforts on renewable energy sources is critical to North Carolina's environment and economy, and that recent events resulting from the British Petroleum oil spill amplify the need for North Carolina's innovators and scientists to enhance their efforts to develop sustainable energy sources and technologies that do not threaten the health and well-being of

the State's waters, sensitive lands, and residents. In order to provide opportunities for research into tidal, wave, and other ocean-based sources of alternative energy, the University of North Carolina Coastal Studies Institute shall form a consortium with the Colleges of Engineering at North Carolina State University, North Carolina Agricultural and Technical State University, and the University of North Carolina at Charlotte to study the capture of energy from ocean waves. The Coastal Studies Institute shall be designated the lead agency in coordinating these efforts. Funding appropriated by this act shall be used by university scientists to conceptualize, design, construct, operate, and market new and innovative technologies designed to harness and maximize the energy of the ocean in order to provide substantial power generation for the State. Funding may be used to leverage federal or private research funding for this purpose, but may not be used to purchase and utilize technology that has already been developed by others unless that technology is a critical component to North Carolina's research efforts. Wave energy technologies developed and used for this research may be attached to or staged from an existing State-owned structure located in the ocean waters of the State, and data generated by these technologies shall be available at this structure for public education and awareness. It is the intent of the General Assembly that North Carolina become the focal point for marine-based ocean research collaborations involving the nation's public and private universities. This effort to study wave and physical processes in the oceans and associated water bodies to develop alternative energy resources shall be interdisciplinary and shall consider the health of the ocean so that efforts to extract ecosystem services shall also consider ecosystem functions and health of the ocean including, but not limited to, carbon budget, acidification, mercury, and nutrient issues."

SECTION 21.2.(a) G.S. 143B-344.35, as enacted by Section 13.5.(a) of S.L. 2010-31, reads as rewritten:

"§ **143B-344.35. North Carolina Sustainable Communities Task Force – creation; purpose; duties.**

There is created within the Department of Environment and Natural Resources the North Carolina Sustainable Communities Task Force to lead and support the State's sustainable communities initiatives. The duties of the Task Force shall be as follows:

- ...
- (7) To develop a common local government sustainable practices scoring system incorporating the principles set forth in G.S. 143B-344.34(b). In developing the scoring system, the Task Force shall take into account the resources and infrastructure in smaller communities and rural areas, as compared to urban areas, in order to ensure that all communities and areas may compete for grants on an equal basis.
-"

SECTION 21.2.(b) G.S. 143B-344.38, as enacted by Section 13.5.(a) of S.L. 2010-31, reads as rewritten:

"§ **143B-344.38. North Carolina Sustainable Communities Task Force – reports.**

...

(b) Prior to awarding any funding under G.S. 143B-344.37 and no later than February 1, 2011, the Task Force shall report to the House Commerce, Small Business, and Entrepreneurship Committee and the Senate Commerce Committee regarding the sustainable practices scoring system developed in accordance with G.S. 143B-344.35(7).

~~(b)~~(c) For purposes of this section, "metro region of the State" includes the following Statistical Areas defined by the United States Census Bureau:

- (1) The Research Triangle region (made up of the Durham-Chapel Hill and the Raleigh-Cary Metropolitan Statistical Areas).
- (2) The North Carolina portion of the Charlotte-Gastonia-Concord Metropolitan Statistical Area.
- (3) The Greensboro-Winston-Salem-High Point Combined Statistical Area.
- (4) The Asheville Metropolitan Statistical Area.

- (5) The Hickory-Lenoir-Morganton Metropolitan Statistical Area.
- (6) The Fayetteville Metropolitan Statistical Area.
- (7) The Wilmington Metropolitan Statistical Area.
- (8) The Greenville Metropolitan Statistical Area.
- (9) The Jacksonville Metropolitan Statistical Area.
- (10) The Rocky Mount Metropolitan Statistical Area.
- (11) The Goldsboro Metropolitan Statistical Area.
- (12) Any other Metropolitan Statistical Area that includes counties of the State and that has a population of 100,000 or more within the State."

SECTION 21.2.(c) Section 13.5 of S.L. 2010-31 is amended by adding a new subsection to read:

"**SECTION 13.5.(d1)** Limitation. – This section shall in no way be construed to grant the Sustainable Communities Task Force created by Part 31 of Article 7 of Chapter 143B of the General Statutes, as enacted by subsection (a) of this section, any authority to regulate or supersede any action of any State agency or local government."

SECTION 22. Section 6 of this act becomes effective October 1, 2010, and applies to violations that occur on or after that date. Section 9 of this act becomes effective October 1, 2010, and applies to penalties assessed on or after that date. Sections 11(a), 11(b), 11(c), and 11(d) of this act become effective February 1, 2011. Sections 14(a), 14(b), 14(c), and 14(d) of this act become effective July 1, 2011. Sections 17(a) and 17(b) become effective October 1, 2010, and apply to any contracts for road projects entered into, or any pavement remarking that takes place, on or after that date. Section 20 of this act becomes effective August 1, 2010. All other sections of this act are effective when this act becomes law.

In the General Assembly read three times and ratified this the 10th day of July, 2010.

Became law upon approval of the Governor at 4:30 p.m. on the 2nd day of August, 2010.

Session Law 2010-181

H.B. 620

AN ACT TO MAKE CHANGES TO THE STATUTES CONCERNING BEQUESTS OR DEVICES IN A WILL TO THE ATTORNEY WHO DRAFTED THE WILL, AND TO MAKE REVISIONS TO THE UNIFORM PRINCIPAL AND INCOME ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 31-4.1 is repealed.

SECTION 2. G.S. 31-4.2 is repealed.

SECTION 3. G.S. 37A-4-409 reads as rewritten:

"§ 37A-4-409. **Deferred compensation, annuities, and similar payments.**

(a) In this section, ~~"payment"~~ section:

- (1) "Payment" means a payment that a trustee may receive over a fixed number of years or during the life of one or more individuals because of services rendered or property transferred to the payer in exchange for future payments. The term includes a payment made in money or property from the payer's general assets or from a separate fund created by the payer, including a private or commercial annuity, an individual retirement account, and a pension, profit sharing, stock bonus, or stock ownership plan. payer. For purposes of subsections (d), (d1), (d2), and (d3) of this section, the term also includes any payment from any separate fund, regardless of the reason for the payment.
- (2) "Separate fund" includes a private or commercial annuity, an individual retirement account, and a pension, profit sharing, stock-bonus, or stock-ownership plan.

(b) To the extent that a payment is characterized as ~~interest or a dividend~~ interest, a dividend, or a payment made in lieu of interest or a dividend, a trustee shall allocate ~~it~~ the payment to income. The trustee shall allocate to principal the balance of the payment and any other payment received in the same accounting period that is not characterized as interest, a dividend, or an equivalent payment.

(c) If no part of a payment is characterized as interest, a dividend, or an equivalent payment, and all or part of the payment is required to be made, a trustee shall allocate to income ten percent (10%) of the part that is required to be made during the accounting period and the balance to principal. If no part of a payment is required to be made or the payment received is the entire amount to which the trustee is entitled, the trustee shall allocate the entire payment to principal. For purposes of this subsection, a payment is not "required to be made" to the extent that it is made because the trustee exercises a right of withdrawal.

(d) ~~If, to obtain an estate tax marital deduction for a trust, a trustee shall allocate more of a payment to income than provided for by this section, the trustee shall allocate to income the additional amount necessary to obtain the marital deduction. Except as otherwise provided in subsection (d1) of this section, subsections (d2) and (d3) of this section apply, and subsections (b) and (c) of this section do not apply in determining the allocation of a payment from a separate fund to:~~

- (1) A trust to which an election to qualify for a marital deduction under section 2056(b)(7) of the Internal Revenue Code has been made, or
- (2) A trust that qualifies for the marital deduction under section 2056(b)(5) of the Internal Revenue Code.

(d1) Subsections (d), (d2), and (d3) of this section do not apply if and to the extent that the series of payments would, without the application of subsection (d) of this section, qualify for the marital deduction under section 2056(b)(7)(C) of the Internal Revenue Code.

(d2) A trustee shall determine the internal income of each separate fund for the accounting period as if the separate fund were a trust subject to this section. Upon request of the surviving spouse, the trustee shall demand that the person administering the separate fund distribute the internal income to the trust. The trustee shall allocate a payment from the separate fund to income to the extent of the internal income of the separate fund and distribute that amount to the surviving spouse. The trustee shall allocate the balance of the payment to principal. Upon request of the surviving spouse, the trustee shall allocate principal to income to the extent that the internal income of the separate fund exceeds payments made from the separate fund to the trust during the accounting period.

(d3) If a trustee cannot determine the internal income of a separate fund but can determine the value of the separate fund, the internal income of the separate fund is deemed to equal four percent (4%) of the fund's value, according to the most recent statement of value preceding the beginning of the accounting period. If the trustee can determine neither the internal income of the separate fund nor the fund's value, the internal income of the fund is deemed to equal the product of the interest rate and the present value of the expected future payments, as determined under section 7520 of the Internal Revenue Code for the month preceding the accounting period for which the computation is made.

(e) This section does not apply to payments to which G.S. 37A-4-410 applies."

SECTION 4. G.S. 37A-5-505 reads as rewritten:

"§ 37A-5-505. **Income taxes.**

(a) A tax required to be paid by a trustee based on receipts allocated to income shall be paid from income.

(b) A tax required to be paid by a trustee based on receipts allocated to principal shall be paid from principal, even if the tax is called an income tax by the taxing authority.

(c) A tax required to be paid by a trustee on the trust's share of an entity's taxable income shall be ~~paid proportionately~~ paid:

- (1) From income to the extent that receipts from the entity are only allocated to income; ~~and~~

- (2) From principal to the extent ~~that:~~
- a. ~~Receipts~~ receipts from the entity are only allocated to principal; and
 - b. ~~The trust's share of the entity's taxable income exceeds the total receipts described in subdivision (1) and sub-subdivision (2)a. of this subsection-principal;~~
- (3) Proportionately from principal and income to the extent that receipts from the entity are allocated to both income and principal; and
- (4) From principal to the extent that the tax exceeds the total receipts from the entity.

(d) ~~For purposes of this section, receipts allocated to principal or income shall be reduced by the amount distributed to a beneficiary from principal or income for which the trust receives a deduction in calculating the tax. After applying subsections (a) through (c) of this section, the trustee shall adjust income or principal receipts to the extent that the trust's taxes are reduced because the trust receives a deduction for payments made to a beneficiary."~~

SECTION 5. Sections 1, 2, and 5 of this act become effective July 1, 2010. The failure of an attorney to comply with either the affidavit requirement under G.S. 31-4.1 or the drafting disclosure requirement of G.S. 31-4.2 does not invalidate a will or a codicil. The remainder of this act becomes effective January 1, 2011.

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law upon approval of the Governor at 4:32 p.m. on the 2nd day of August, 2010.

Session Law 2010-182

S.B. 1201

AN ACT TO PROVIDE ADDITIONAL OPERATING FLEXIBILITY TO COOPERATIVE INNOVATIVE HIGH SCHOOLS, AS RECOMMENDED BY THE JOINT LEGISLATIVE JOINING OUR BUSINESSES AND SCHOOLS (JOBS) STUDY COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-238.53(f) reads as rewritten:

- "(f) Except as provided in this Part and under the terms of the ~~agreement~~, agreement:
- (1) A program shall have the same exemptions from statutes and rules as charter schools operating under Part 6A of this Article, other than those pertaining to personnel.
 - (2) A program may be exempted by the State Board of Education or by the applicable governing Board from laws and rules applicable to a local board of education, a local school administrative unit, a community college, a constituent institution, or a local board of trustees."

SECTION 2. This act is effective when it becomes law and applies beginning with the 2010-2011 school year.

In the General Assembly read three times and ratified this the 1st day of July, 2010.

Became law upon approval of the Governor at 1:10 p.m. on the 3rd day of August, 2010.

Session Law 2010-183

S.B. 1199

AN ACT TO CREATE THE AGRISCIENCE AND BIOTECHNOLOGY REGIONAL SCHOOL PLANNING COMMISSION TO DEVELOP AND PLAN A REGIONAL SCHOOL OF AGRISCIENCE AND BIOTECHNOLOGY.

The General Assembly of North Carolina enacts:

SECTION 1. There is established the Agriscience and Biotechnology Regional School Planning Commission. The purpose of the Commission shall be to develop and plan a regional school of agriscience and biotechnology. The Commission shall be located administratively in the Department of Public Instruction but shall exercise its powers and duties independently of the Department of Public Instruction. The Department of Public Instruction shall provide for the administrative costs of the Commission and shall provide staff to the Commission.

SECTION 2. The Commission shall consist of up to nine members appointed by the chair of the State Board of Education. Appointments shall be made no later than September 1, 2010.

SECTION 3. The Agriscience and Biotechnology Regional School Planning Commission shall develop a plan for a regional school of agriscience and biotechnology and shall ensure that the model is replicable, sustainable, and scaleable. In the development of its plan, the Commission shall:

- (1) Consider the regional school's governance, funding for operational and capital needs, personnel, admissions and assignment of students, transportation, school food services, and other issues the Commission deems relevant.
- (2) Solicit proposals from interested regions seeking to host the school and identify a location for the regional school.
- (3) Identify potential business partners for the regional school.
- (4) Consult with North Carolina State University and the NC Research Campus and establish connections between those institutions and the regional school.

SECTION 4. The Agriscience and Biotechnology Regional School Planning Commission shall report on its recommended plan to the State Board of Education, the Joint Legislative Joining Our Businesses and Schools (JOBS) Study Commission, and the Joint Legislative Education Oversight Committee by January 1, 2011.

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

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law upon approval of the Governor at 1:13 p.m. on the 3rd day of August, 2010.

Session Law 2010-184

S.B. 1244

AN ACT TO ADD STATE BOARD OF EDUCATION MEMBERS AS NONVOTING EX OFFICIO MEMBERS OF THE COMMISSION FOR EACH OF THE SEVEN ECONOMIC DEVELOPMENT REGIONS, AND TO ADD THE SECRETARY OF THE DEPARTMENT OF CULTURAL RESOURCES AS A NONVOTING EX OFFICIO MEMBER OF THE ECONOMIC DEVELOPMENT BOARD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 158-8.1 reads as rewritten:

"§ 158-8.1. **Creation of Western North Carolina Regional Economic Development Commission.**

(a) There is created the Western North Carolina Regional Economic Development Commission to serve Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Polk, Rutherford, Swain, Transylvania, and Yancey Counties, and any other county assigned to the Commission by the Department of Commerce as authorized by law. The Commission shall be located administratively in the Department of Commerce but shall exercise its statutory powers and duties independently of the Department of Commerce. Funds appropriated for the Commission by the General Assembly shall be disbursed directly to the Commission at the beginning of each fiscal year.

- (b) The Commission shall consist of 19 members appointed as follows:
- (1) Three members shall be appointed by the Governor;
 - (2) Two members shall be appointed by the Lieutenant Governor;
 - (3) Seven members shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121; and
 - (4) Seven members shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121.

(b1) The members of the State Board of Education appointed to represent the seventh and eighth education districts shall serve as nonvoting ex officio members of the Commission.

...."

SECTION 2. G.S. 158-8.2 reads as rewritten:

"§ 158-8.2. **Creation of North Carolina's Northeast Commission.**

(a) There is created the North Carolina's Northeast Commission to facilitate economic development in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Gates, Halifax, Hertford, Hyde, Martin, Northampton, Pasquotank, Perquimans, Tyrrell, and Washington Counties, and any other county assigned to the Commission by the Department of Commerce as authorized by law. The Commission shall be located administratively in the Department of Commerce but shall exercise its statutory powers and duties independently of the Department of Commerce. Funds appropriated for the Commission by the General Assembly shall be disbursed directly to the Commission at the beginning of each fiscal year.

(b) The Commission shall consist of 18 appointed members and one ex officio member, as provided below. Each appointed member shall be an experienced business person who resides for most of the year in one or more of the counties that are members of the Commission.

- (1) Six members shall be appointed by the Governor.
- (2) Six members shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121.
- (3) Six members shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121.
- (4) The Secretary of Commerce, or a designee.
- (5) Repealed by Session Laws 1999-237, s. 16.6(a).

Any person appointed to the Commission who is also a county commissioner may hold that office in addition to the offices permitted by G.S. 128-1.1. The appointing authorities are encouraged to discuss and coordinate their appointments in an effort to ensure as many counties served by the Commission are represented among the membership of the Commission.

(b1) The member of the State Board of Education appointed to represent the first education district shall serve as a nonvoting ex officio member of the Commission.

...."

SECTION 3. G.S. 158-8.3 reads as rewritten:

"§ 158-8.3. **Creation of Southeastern North Carolina Regional Economic Development Commission.**

(a) There is created the Southeastern North Carolina Regional Economic Development Commission to serve Bladen, Brunswick, Columbus, Cumberland, Hoke, New Hanover, Pender, Richmond, Robeson, Sampson, and Scotland Counties, and any other county assigned to the Commission by the Department of Commerce as authorized by law. The Commission shall be located administratively in the Department of Commerce but shall exercise its statutory powers and duties independently of the Department of Commerce. Funds appropriated for the Commission by the General Assembly shall be disbursed directly to the Commission at the beginning of each fiscal year.

- (b) The Commission shall consist of 15 members appointed as follows:
- (1) Three members shall be appointed by the Governor;
 - (2) Two members shall be appointed by the Lieutenant Governor;
 - (3) Five members shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121; and
 - (4) Five members shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121.

(b1) The member of the State Board of Education appointed to represent the fourth education district shall serve as a nonvoting ex officio member of the Commission.

...."

SECTION 4. Article 2 of Chapter 158 of the General Statutes is amended by adding a new section to read:

"§ 158-8.4A. State Board of Education members as ex officio commission members.

As a condition on the receipt of State funds, the member of the State Board of Education appointed to represent the designated education district shall serve as a member of the following Commissions:

- (1) Charlotte Regional Partnership, Inc. – The State Board of Education member appointed to represent the sixth education district shall serve as a nonvoting ex officio member of the Commission.
- (2) Piedmont Triad Regional Partnership. – The State Board of Education member appointed to represent the fifth education district shall serve as a nonvoting ex officio member of the Commission.
- (3) Research Triangle Regional Partnership. – The State Board of Education member appointed to represent the third education district shall serve as a nonvoting ex officio member of the Commission."

SECTION 5. G.S. 158-35 reads as rewritten:

"§ 158-35. Commission membership, officers, compensation.

(a) Commission Membership. – The governing body of the Region is the Commission. The members of the Commission must be residents of the Region and shall be appointed as follows:

- (1) The board of commissioners of each county participating in the Region shall, in consultation with the county's local business community, appoint one member.
- (2), (3) Repealed by Session Laws 2005-364, s. 1, effective October 1, 2005.
- (4) The General Assembly shall appoint two members to the Commission on the recommendation of the Speaker of the House of Representatives and two members on the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. The Governor shall appoint two members to the Commission. No two members appointed under this subdivision may be residents of the same county. The President Pro Tempore of the Senate, Speaker of the House of Representatives, and the Governor shall consult to assist in geographic diversity in those six appointments. In order to be eligible for appointment under this subdivision, a person must be a resident of the region. No person appointed under this subdivision is eligible to be chairperson or vice-chairperson.

(a1) Ex Officio Member. – The member of the State Board of Education appointed to represent the second education district shall serve as a nonvoting ex officio member of the Commission.

...."

SECTION 6. G.S. 143B-434(b) reads as rewritten:

"(b) Membership. – The Economic Development Board shall consist of ~~37~~38 members. The Secretary of Commerce shall serve ex officio as a member and as the secretary of the Economic Development Board. The Secretary of Revenue shall serve as an ex officio, nonvoting member. The Secretary of the Department of Cultural Resources shall serve as an ex officio, nonvoting member. Four members of the House of Representatives appointed by the Speaker of the House of Representatives, four members of the Senate appointed by the President Pro Tempore of the Senate, the President of The University of North Carolina, or designee, the President of the North Carolina Community College System, or designee, the Secretary of State, and the President of the Senate (or the designee of the President of the Senate), shall serve as members of the Board. The Governor shall appoint the remaining 23 members of the Board. Effective with the terms beginning July 1, 1997, one of the Governor's appointees shall be a representative of a nonprofit organization involved in economic development and two of the Governor's appointees shall be county economic development representatives. The Governor shall designate a chair and a vice-chair from among the members of the Board. Appointments to the Board made by the Governor for terms beginning July 1, 1997, and appointments to the Board made by the Speaker of the House of Representatives and the President Pro Tempore of the Senate for terms beginning July 9, 1993, should reflect the ethnic and gender diversity of the State as nearly as practical.

The initial appointments to the Board shall be for terms beginning on July 9, 1993. Of the initial appointments made by the Governor, the terms shall expire July 1, 1997. Of the initial appointments made by the Speaker of the House of Representatives and by the President Pro Tempore of the Senate two appointments of each shall be designated to expire on July 1, 1995; the remaining terms shall expire July 1, 1997. Thereafter, all appointments shall be for a term of four years.

The appointing officer shall make a replacement appointment to serve for the unexpired term in the case of a vacancy.

The members of the Economic Development Board shall receive per diem and necessary travel and subsistence expenses payable to members of State Boards and agencies generally pursuant to G.S. 138-5 and G.S. 138-6, as the case may be. The members of the Economic Development Board who are members of the General Assembly shall not receive per diem but shall receive necessary travel and subsistence expenses at rates prescribed by G.S. 120-3.1."

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

In the General Assembly read three times and ratified this the 6th day of July, 2010.

Became law upon approval of the Governor at 1:15 p.m. on the 3rd day of August, 2010.

Session Law 2010-185**S.B. 675**

AN ACT TO PROHIBIT GIVING OR RECEIVING REMUNERATION RELATED TO THE MAKING OF REFERRALS OR PURCHASE/LEASE ARRANGEMENTS THAT LEAD TO MEDICAID PAYMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 108A-63 is amended by adding the following new subsections to read:

"(g) It shall be unlawful for any person to knowingly and willfully solicit or receive any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in-kind:

- (1) In return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under this Part.

- (2) In return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under this Part.
- (h) It shall be unlawful for any person to knowingly and willfully offer or pay any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in-kind to any person to induce such person:
- (1) To refer an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under this Part.
- (2) To purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under this Part.
- (i) Subsections (g) and (h) of this section shall not apply to:
- (1) Contracts between the State and a public or private agency where part of the agency's responsibility is referral of a person to a provider.
- (2) Any conduct or activity that is specified in 42 U.S.C. § 1320a-7b(b)(3), as amended, or any federal regulations adopted pursuant thereto.
- (j) Nothing in subsections (g) and (h) of this section shall be interpreted or construed to conflict with 42 U.S.C. § 1320a-7b(b), as amended, or with federal common law or federal agency interpretations of the statute."

SECTION 2. This act becomes effective December 1, 2010, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Became law upon approval of the Governor at 1:22 p.m. on the 3rd day of August, 2010.

Session Law 2010-186

S.B. 778

AN ACT TO PROVIDE THAT AN ENVIRONMENTAL DOCUMENT UNDER THE STATE ENVIRONMENTAL POLICY ACT IS NOT REQUIRED IN CONNECTION WITH PROJECTS THAT RECEIVE PUBLIC MONIES IN THE FORM OF CERTAIN ECONOMIC INCENTIVES PAYMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113A-12 reads as rewritten:

"§ 113A-12. **Environmental document not required in certain cases.**

No environmental document shall be required in connection with:

- (1) The construction, maintenance, or removal of an electric power line, water line, sewage line, stormwater drainage line, telephone line, telegraph line, cable television line, data transmission line, or natural gas line within or across the right-of-way of any street or highway.
- (2) An action approved under a general permit issued under G.S. 113A-118.1, 143-215.1(b)(3), or 143-215.108(c)(8).
- (3) A lease or easement granted by a State agency for:
- The use of an existing building or facility.
 - Placement of a wastewater line on or under submerged lands pursuant to a permit granted under G.S. 143-215.1.
 - A shellfish cultivation lease granted under G.S. 113-202.
- (4) The construction of a driveway connection to a public roadway.
- (5) A project for which public monies are expended if the expenditure is solely for the payment of incentives pursuant to an agreement that makes the incentive payments contingent on prior completion of the project or activity.

or completion on a specified timetable, and a specified level of job creation or new capital investment."

SECTION 2. This act becomes effective June 1, 2010, but does not apply to any pending litigation or orders issued by a court of competent jurisdiction prior to that date.

In the General Assembly read three times and ratified this the 10th day of July, 2010.

Became law upon approval of the Governor at 1:24 p.m. on the 3rd day of August, 2010.

Session Law 2010-187

S.B. 308

AN ACT TO PROVIDE FOR THE FORMATION OF A LIMITED LIABILITY COMPANY AS A LOW-PROFIT LIMITED LIABILITY COMPANY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 57C-2-01 is amended by adding a new subsection to read:

"(d) L3C. – Formation and operation of a limited liability company as a low-profit limited liability company is a lawful purpose. A low-profit limited liability company is a limited liability company whose articles of organization state that the company is formed for both a business purpose and a charitable purpose that requires operation of the company in accordance with the requirements of this subsection. A company that operates in accordance with these requirements is considered a for-profit entity and not a charitable entity for all tax purposes. A company's failure to operate in accordance with these requirements does not affect its status as a limited liability company. The charitable purpose requirements are as follows:

- (1) To accomplish one or more charitable or educational purposes within the meaning of section 170(c)(2)(B) of the Code, as defined in G.S. 105-228.90.
- (2) To operate so that no significant purpose of the company is the production of income or the appreciation of property. The fact that a company produces significant income or capital appreciation is not, in the absence of other factors, conclusive evidence of a significant purpose to produce income or accumulate capital.
- (3) To operate so that no purpose of the company is to accomplish one or more political or legislative purposes within the meaning of section 170(c)(2)(D) of the Code, as defined in G.S. 105-228.90."

SECTION 2. G.S. 57C-2-21 reads as rewritten:

"§ 57C-2-21. **Articles of organization.**

- (a) The articles of organization must set ~~forth~~forth all of the following:
 - (1) A name for the limited liability company that satisfies the provisions of G.S. 55D-20 and ~~G.S. 55D-21~~G.S. 55D-21.
 - (2) If the limited liability company is to dissolve by a specific date, the latest date on which the limited liability company is to dissolve. If no date for dissolution is specified, there shall be no limit on the duration of the limited liability ~~company~~company.
 - (3) The name and address of each person executing the articles of organization and whether the person is executing the articles of organization in the capacity of a member or an ~~organizer~~organizer.
 - (4) The street address, and the mailing address if different from the street address, of the limited liability company's initial registered office, the county in which the initial registered office is located, and the name of the limited liability company's initial registered agent at that ~~address~~address.
 - (4a) The street address, and the mailing address if different from the street address, of the limited liability company's principal office, if any, and the county in which the principal office, if any, is ~~located~~and located.

(5) Unless all of the members by virtue of their status as members shall be managers of the limited liability company, a statement that, except as provided in G.S. 57C-3-20(a), the members shall not be managers by virtue of their status as members.

(6) If the limited liability company is formed as a low-profit limited liability company, a statement that operation of the company must meet the charitable purpose requirements of G.S. 57C-2-01(d).

(b) The articles of organization may set forth any other provision, not inconsistent with law, including any other matter that under this Chapter is permitted to be set forth in an operating agreement.

(c) The articles of organization need not set forth any of the powers enumerated in this Chapter."

SECTION 3. G.S. 55D-20(a) is amended by adding the following subdivision to read:

"(6) The name of a low-profit limited liability company must contain the words "low-profit limited liability company" or the abbreviation "L3C"."

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

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law upon approval of the Governor at 1:25 p.m. on the 3rd day of August, 2010.

Session Law 2010-188

H.B. 1099

AN ACT TO CLARIFY THE EFFECTIVE DATE OF A PROVISION LIMITING THE APPLICABILITY OF THE STATE ENVIRONMENTAL POLICY ACT TO PROJECTS RECEIVING ECONOMIC INCENTIVE PAYMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. If Senate Bill 778 becomes law, then Section 2 of the bill is rewritten to read:

"**SECTION 2.** This act becomes effective June 1, 2010, but does not apply to any project that was the subject of pending litigation or orders issued by a court of competent jurisdiction prior to that date concerning the application of the State Environmental Policy Act to projects receiving economic incentives."

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

In the General Assembly read three times and ratified this the 10th day of July, 2010.

Became law upon approval of the Governor at 1:31 p.m. on the 3rd day of August, 2010.

Session Law 2010-189

S.B. 866

AN ACT TO AUTHORIZE THE RESPECTFUL RETIREMENT BY FIRE OF STATE FLAGS THAT ARE NO LONGER FITTING FOR DISPLAY.

The General Assembly of North Carolina enacts:

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

"**§ 144-9. Retirement of State flag.**

An official flag of the State that is no longer a fitting emblem for display because it is worn, tattered, or otherwise damaged may be respectfully retired by fire."

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

In the General Assembly read three times and ratified this the 1st day of July, 2010.

Became law upon approval of the Governor at 2:00 p.m. on the 3rd day of August, 2010.

Session Law 2010-190

S.B. 1400

AN ACT TO PROHIBIT FORECLOSURES WHILE MORTGAGORS OR TRUSTORS ARE ON ACTIVE MILITARY DUTY.

The General Assembly of North Carolina enacts:

SECTION 1. Part 2 of Article 2A of Chapter 45 of the General Statutes is amended by adding a new section to read:

"§ 45-21.12A. Power of sale barred during periods of military service.

(a) Power of Sale Barred. – A mortgagee, trustee, or other creditor shall not exercise a power of sale contained in a mortgage or deed of trust, or provided by statute, during, or within 90 days after, a mortgagor's, trustor's, or debtor's period of military service. The clerk of court shall not conduct a hearing pursuant to G.S. 45-21.16(d) unless the mortgagee, trustee or other creditor seeking to exercise a power of sale under a mortgage or deed of trust, or provided by statute, files with the clerk a certification that the hearing will take place at a time that is not during, or within 90 days after, a period of military service for the mortgagor, trustor or debtor. This subsection applies only to mortgages and deeds of trust that originated before the mortgagor's or trustor's period of military service.

(b) Waiver. – This section shall not apply if the mortgagor, trustor, or debtor waives his or her rights under this section pursuant to a written agreement of the parties executed during or after the mortgagor's, trustor's, or debtor's period of military service, as an instrument separate from the obligation or liability to which the waiver applies. Any waiver in writing of a right or protection provided by this section must be in at least 12 point type and shall specify the legal instrument creating the obligation or liability to which the waiver applies.

(c) Purpose. – The purpose of this section is to supplement and complement the provisions of the Servicemembers Civil Relief Act, 50 U.S.C. App. § 501, et seq., and to afford greater peace and security for persons in federal active duty.

(d) Definitions. – The following definitions apply in this section:

(1) Military service. –

a. In the case of a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard:

1. Active duty, as defined in 10 U.S.C. § 101(d)(1), and

2. In the case of a member of the National Guard, includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under 32 U.S.C. § 502(f), for purposes of responding to a national emergency declared by the President and supported by federal funds.

b. In the case of a servicemember who is a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration, active service, and

c. Any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause.

(2) Period of military service. – The period beginning on the date on which a servicemember enters military service and ending on the date on which the servicemember is released from military service or dies while in military service.

- (3) Servicemember. – A member of the Army, Navy, Air Force, Marine Corps, Coast Guard, the commissioned corps of the National Oceanic and Atmospheric Administration, or the commissioned corps of the Public Health Service."

SECTION 2. G.S. 45-21.16(c) is amended by adding a new subdivision to read:

"(c) Notice shall be in writing and shall state in a manner reasonably calculated to make the party entitled to notice aware of the following:

...

- (12) That if the debtor is currently on military duty the foreclosure may be prohibited by G.S. 45-21.12A."

SECTION 3. G.S. 45-21.16(d) reads as rewritten:

"(d) **(Effective until October 31, 2010)** The hearing provided by this section shall be held before the clerk of court in the county where the land, or any portion thereof, is situated. In the event that the property to be sold consists of separate tracts situated in different counties or a single tract in more than one county, only one hearing shall be necessary. However, prior to that hearing, the mortgagee or trustee shall file the notice of hearing in any other county where any portion of the property to be sold is located. Upon such hearing, the clerk shall consider the evidence of the parties and may consider, in addition to other forms of evidence required or permitted by law, affidavits and certified copies of documents. If the clerk finds the existence of (i) valid debt of which the party seeking to foreclose is the holder, (ii) default, (iii) right to foreclose under the instrument, (iv) notice to those entitled to such under subsection (b), ~~and~~ (v) that the underlying mortgage debt is not a subprime loan as defined in G.S. 45-101(4), or if the loan is a subprime loan under G.S. 45-101(4), that the pre-foreclosure notice under G.S. 45-102 was provided in all material respects, and that the periods of time established by Article 11 of this Chapter have elapsed, and (vi) that the sale is not barred by G.S. 45-21.12A, then the clerk shall authorize the mortgagee or trustee to proceed under the instrument, and the mortgagee or trustee can give notice of and conduct a sale pursuant to the provisions of this Article. A certified copy of any authorization or order by the clerk shall be filed in any other county where any portion of the property to be sold is located before the mortgagee or trustee may proceed to advertise and sell any property located in that county. In the event that sales are to be held in more than one county, the provisions of G.S. 45-21.7 apply.

(d) **(Effective October 31, 2010)** The hearing provided by this section shall be held before the clerk of court in the county where the land, or any portion thereof, is situated. In the event that the property to be sold consists of separate tracts situated in different counties or a single tract in more than one county, only one hearing shall be necessary. However, prior to that hearing, the mortgagee or trustee shall file the notice of hearing in any other county where any portion of the property to be sold is located. Upon such hearing, the clerk shall consider the evidence of the parties and may consider, in addition to other forms of evidence required or permitted by law, affidavits and certified copies of documents. If the clerk finds the existence of (i) valid debt of which the party seeking to foreclose is the holder, (ii) default, (iii) right to foreclose under the instrument, and (iv) notice to those entitled to such under subsection (b), and (v) that the sale is not barred by G.S. 45-21.12A, then the clerk shall authorize the mortgagee or trustee to proceed under the instrument, and the mortgagee or trustee can give notice of and conduct a sale pursuant to the provisions of this Article. A certified copy of any authorization or order by the clerk shall be filed in any other county where any portion of the property to be sold is located before the mortgagee or trustee may proceed to advertise and sell any property located in that county. In the event that sales are to be held in more than one county, the provisions of G.S. 45-21.7 apply."

SECTION 4. This act becomes effective January 1, 2011 and applies to foreclosures initiated on or after that date.

In the General Assembly read three times and ratified this the 10th day of July, 2010.

Became law upon approval of the Governor at 10:37 a.m. on the 4th day of August, 2010.

Session Law 2010-191

H.B. 76

AN ACT TO ALLOW A MEMBER OF THE MILITARY TO DESIGNATE THE TYPE, PLACE, AND METHOD OF DISPOSITION OF THE INDIVIDUAL'S REMAINS BY COMPLETING THE UNITED STATES DEPARTMENT OF DEFENSE RECORD OF EMERGENCY DATA, DD FORM 93, OR ITS SUCCESSOR FORM, AND TO MAKE CONFORMING CHANGES AND TO ADOPT THE HONOR AND REMEMBER FLAG TO HONOR AND RECOGNIZE FALLEN MEMBERS OF THE ARMED FORCES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-420(a) reads as rewritten:

"(a) An individual at least 18 years of age may authorize the type, place, and method of disposition of the individual's own dead body by methods in the following order:

- (1) Pursuant to a preneed funeral contract executed pursuant to Article 13D of Chapter 90 of the General Statutes or pursuant to a cremation authorization form executed pursuant to Article 13C of Chapter 90 of the General Statutes.
- (2) Pursuant to a health care power of attorney to the extent provided in Article 3 of Chapter 32A of the General Statutes. ~~Pursuant to a written will.~~
- (3) Pursuant to a written will. ~~Pursuant to a written statement other than a will signed by the individual and witnessed by two persons who are at least 18 years old.~~
- (4) Pursuant to a written statement other than a will signed by the individual and witnessed by two persons who are at least 18 years old. ~~Pursuant to a health care power of attorney to the extent provided in Article 3 of Chapter 32A of the General Statutes.~~

(a1) An individual at least 18 years of age may ~~also~~ delegate his or her right to dispose of his or her own dead human body to any person by one of the following methods:

- (1) ~~any~~ Any means authorized in ~~subdivisions (1) through (3) of this subsection.~~ subsection (a) of this section.
- (2) By completing United States Department of Defense Record of Emergency Data, DD Form 93, or its successor form. A delegation made by filling out this form shall only be effective if the individual dies under the circumstances described in 10 U.S.C. § 1481(a)(1) through (8). A delegation under this subdivision takes precedence over any of the methods set forth in this section.

SECTION 2. G.S. 90-210.124(a) reads as rewritten:

"(a) The following person, in the priority list below, shall have the right to serve as an "authorizing agent":

- (1) An individual at least 18 years of age may authorize the type, place, and method of disposition of the individual's own dead body by methods ~~in the following order:~~ provided under G.S. 130A-420(a). An individual may delegate his or her right to dispose of his or her own body to any person by one of the methods provided under G.S. 130A-420(a1).
 - a. ~~Pursuant to a preneed funeral contract executed pursuant to Article 13D of Chapter 90 of the General Statutes or pursuant to a cremation authorization form executed pursuant to Article 13C of Chapter 90 of the General Statutes.~~
 - b. ~~Pursuant to a health care power of attorney to the extent provided in Article 3 of Chapter 32A of the General Statutes.~~
 - e. ~~Pursuant to a written will.~~
 - d. ~~Pursuant to a written statement other than a will signed by the individual and witnessed by two persons who are at least 18 years old.~~

..."

SECTION 3. G.S. 90-210.63(3a) reads as rewritten:

"(3a) ~~"Legal representation"~~"Legal representative" means the person authorized by G.S. 130A-420 who would be otherwise authorized to dispose of the remains of the preneed funeral contract beneficiary."

SECTION 4. Chapter 145 of the General Statutes is amended by adding a new section to read:

"§ 145-32. Honor and Remember Flag.

The Honor and Remember Flag created by Honor and Remember, Inc., is adopted as a symbol to honor and recognize members of the United States Armed Forces who have died in the line of duty."

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

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Became law upon approval of the Governor at 10:37 a.m. on the 4th day of August, 2010.

Session Law 2010-192

H.B. 614

AN ACT TO TREAT ONE APPLICATION BY A UNIFORMED VOTER FOR AN ABSENTEE BALLOT AS AN APPLICATION FOR ALL ABSENTEE BALLOTS FOR WHICH THE VOTER WOULD BE ELIGIBLE DURING THE SAME CALENDAR YEAR.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-247(3) reads as rewritten:

"(3) If a single application from an absentee uniformed voter is received by an election official, it shall be considered a valid absentee ballot request with respect to all general, primary, and runoff elections for federal, State, county, or those municipal offices in which absentee ballots are allowed under the provisions of G.S. 163-302, ~~held through the next two regularly scheduled general elections for federal office during the calendar year in which the application was received.~~ This subdivision does not apply to a special election not involving the election of candidates, unless that special election is being held on the same day as a general or primary election."

SECTION 2. This act is effective when it becomes law and applies to any applications for absentee ballots received after the November 2010 general election.

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Became law upon approval of the Governor at 10:37 a.m. on the 4th day of August, 2010.

Session Law 2010-193

H.B. 1412

AN ACT TO MAKE VARIOUS CHANGES TO THE STATUTES RELATING TO NATIONAL GUARD COURTS-MARTIAL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 127A-47 reads as rewritten:

"§ 127A-47. Courts-martial for ~~national guard~~National Guard.

Courts-martial for organizations of the ~~national guard~~National Guard not in the service of the United States shall be of three kinds, namely, general courts-martial, special courts-martial, and summary courts-martial. They shall be constituted, have cognizance of the same subjects, and possess like ~~powers, except as to punishments,~~powers as similar courts provided for by the ~~law and regulations governing the armed forces of the United States, and the~~Uniform Code of Military Justice and Manual for Courts-Martial, United States. ~~The proceedings of~~

courts-martial of the ~~national guard~~ National Guard shall follow the forms and modes of procedure prescribed for such similar courts."

SECTION 2. G.S. 127A-48 reads as rewritten:

"§ 127A-48. General courts-martial.

General courts-martial of the ~~national guard~~ National Guard not in the service of the United States may be convened by orders of the Governor of the State or of the Adjutant General, and such courts shall have the power to impose ~~finer not exceeding two hundred dollars (\$200.00); sentence to forfeiture of pay and allowances; to a reprimand; to dismissal or dishonorable discharge from the service; to reduction of enlisted personnel to the ranks; or any two or more of such punishments may be combined in the sentences imposed by such courts.~~ punishments in like manner and to the extent prescribed by the Uniform Code of Military Justice and Manual for Courts-Martial, United States, as shall be in use by the armed forces of the United States at the time of the offense, except that (i) no court shall have the authority to impose confinement as part of the sentence unless the court consisted of a military judge and not less than five members, except that a defendant who requests a military judge alone may be sentenced to confinement, and (ii) no court shall have the authority to impose confinement in excess of one year and one day as part of a sentence."

SECTION 3. G.S. 127A-49 reads as rewritten:

"§ 127A-49. Special courts-martial; appointments, power and authority.

In the ~~national guard~~, National Guard, not in the service of the United States, special courts-martial may be appointed by any of the following:

- (1) The commander of a brigade, regiment, comparable or higher command of the North Carolina ~~army national guard~~; Army National Guard, provided that such commander is a general officer.
- (2) The commander of a wing, group, separate squadron, comparable or higher command of the North Carolina ~~air national guard~~; Air National Guard, provided that such commander is a general officer.
- (3) The commander or officer in charge of any North Carolina ~~national guard~~ National Guard command when empowered by the Governor or the Adjutant General of North ~~Carolina~~ Carolina, provided that such commander or officer is a general officer.

Except as to commissioned officers, such courts-martial shall have the power and authority to try any person subject to military law for any crimes or offenses within the jurisdiction of a general military court. Such courts-martial shall have the ~~same powers of punishment as general courts martial except that fines imposed by such courts martial shall not exceed one hundred dollars (\$100.00), and such courts martial shall not have the power of dismissal from the national guard.~~ power to impose punishments in like manner and to the extent prescribed by the Uniform Code of Military Justice and Manual for Courts-Martial, United States, as shall be in use by the armed forces of the United States at the time of the offense, except that (i) no court shall have the authority to impose confinement as part of the sentence unless the court consisted of a military judge and not less than three members except that a defendant who requests a military judge alone may be sentenced to confinement, and (ii) no court shall have the authority to impose confinement in excess of six months as part of a sentence."

SECTION 4. G.S. 127A-50 reads as rewritten:

"§ 127A-50. Summary courts-martial.

In the ~~national guard~~, not in the service of the United States, ~~summary courts martial may be appointed by the commander of any company, battery, detachment, squadron, or any other federally recognized unit, either army or air. Such court shall consist of one officer, who shall have the power to administer oaths and try enlisted personnel of each respective command for breaches of discipline and violations of laws governing such organizations. Such courts shall also have the power to impose fines not exceeding twenty five dollars (\$25.00) for any single offense, may sentence to forfeiture of pay and allowances, or may sentence enlisted personnel to reduction in rank; but in the case of noncommissioned officers above the fourth enlisted~~

~~grade, may not adjudge reduction except to the next inferior grade. There shall be no right to demand trial by special court-martial.~~

In the National Guard, not in the service of the United States, summary courts-martial may be appointed by any of the following:

- (1) Any person who may convene a general or special court-martial.
- (2) The commander of a battalion, comparable or higher command of the North Carolina Army National Guard, provided that such commander is an officer of the grade of major or above.
- (3) The commander of a detached squadron, comparable or higher command of the North Carolina Air National Guard, provided that such commander is an officer of the grade of major or above.

Such court shall consist of one officer who shall have the power to administer oaths and try enlisted personnel of each respective command for breaches of discipline and violations of laws governing such organizations. Such courts shall also have the power to impose punishments in like manner and to the extent prescribed by the Uniform Code of Military Justice and Manual for Courts-Martial, United States, as shall be in use by the armed forces of the United States at the time of the offense, except that no court shall have the authority to impose confinement as part of a sentence. There shall be no right to demand trial by court-martial."

SECTION 5. G.S. 127A-50.1 reads as rewritten:

"§ 127A-50.1. Military judges.

The Adjutant General shall appoint military judges to preside over courts-martial of the National Guard not in federal service. Minimum requirements for appointment as a military judge ~~shall be:~~ are:

- (1) ~~Licensed to practice law in this State or certified~~Certification as a military judge by the Judge Advocate General of the Army, Air Force, ~~Navy, or Marines;~~Navy, Marines, or Coast Guard.
- (2) Designation as a judge advocate by ~~The~~ Judge Advocate General of the Army, Navy, ~~Air Force, or Marines;~~ and Air Force, Marines, or Coast Guard.
- (3) Membership in the North Carolina National Guard, the National Guard of another state, or the active or reserve components of any of the military services."

SECTION 6. G.S. 127A-51 reads as rewritten:

"§ 127A-51. Nonjudicial punishment.

Any commander of the ~~national guard,~~ National Guard, not in the service of the United States, may, in addition to or in lieu of admonition or reprimand, impose nonjudicial punishment in like manner and to the extent prescribed by Article 15 of the Uniform Code of Military ~~Justice,~~Justice and Manual for Courts-Martial, United States, as shall be currently in use by the armed forces of the United States except that there shall be no right to demand trial by ~~special court-martial."~~

SECTION 7. G.S. 127A-52 reads as rewritten:

"§ 127A-52. Jurisdiction of courts-martial.

The jurisdiction of courts-martial of the ~~national guard,~~ National Guard, not in the service of the United States, ~~except as to punishments,~~ shall be as prescribed by the Manual for Courts-Martial, United States, as shall be currently in use by the armed forces of the United States. Such courts-martial shall have jurisdiction to try accused persons for offenses committed while serving without the State and while going to and returning from such service without the State in like manner and to the same extent as while serving within the State."

SECTION 8. G.S. 127A-53 reads as rewritten:

"§ 127A-53. Manual for Courts-Martial.

Trials and proceedings by all courts and boards shall be in accordance with the ~~plans and procedures laid down in the~~ Manual for Courts-Martial, United States, as shall be currently in use by the armed forces of the United States, except as modified by this Chapter."

SECTION 9. G.S. 127A-54 reads as rewritten:

"§ 127A-54. Pretrial confinement; Sentences; sentences; where executed.

(a) A defendant may be arrested and placed under pretrial confinement in a local government confinement facility, but a determination shall be made under subsection (b) of this section whether he or she shall remain confined pending the court-martial. If the defendant is not released from confinement, he or she shall be transferred into the custody of the Sheriff of Wake County and confined in the Wake County confinement facility pending trial. All costs of transportation and confinement are to be paid from funds appropriated to the Department of Crime Control and Public Safety as reimbursements to the local government or agency providing the transportation and confinement.

(b) The provisions of Article 26 of Chapter 15A of the General Statutes shall apply to any defendant who has been placed into pretrial confinement, in the same manner as if the defendant had been placed into confinement for an alleged violation of the criminal laws of this State. Nothing in this section is intended to abridge the right of habeas corpus.

(c) Any defendant whose sentence by a military court includes confinement shall be placed into the custody of the Department of Correction. The Department of Correction is authorized to transfer physical custody of the defendant to a local confinement facility.

~~All sentences to confinement imposed by any military court of this State shall be executed in such prisons as the court may designate."~~

SECTION 10. G.S. 127A-55 reads as rewritten:

"§ 127A-55. Forms for courts-martial procedure.

~~In the national guard, National Guard, not in the service of the United States, forms for courts-martial procedure shall be substantially as those set forth in the Appendices, Manual for Courts-Martial, United States, as shall be currently in use by the armed forces of the United States.~~ States, with any modifications required by this Chapter."

SECTION 11. G.S. 127A-56 reads as rewritten:

"§ 127A-56. Powers of courts-martial.

~~In the national guard, National Guard, not in the service of the United States, presidents of courts-martial and summary court officers shall have power to issue warrants to arrest an accused ~~persons~~ person and to bring ~~them~~ the person before ~~the~~ a court for trial whenever such ~~persons shall have~~ person has disobeyed an order in writing from the convening authority to appear before such court, a copy of the charge or charges having been delivered to the accused with such order, ~~and to issue commitments in carrying out sentences of confinement,~~ and to issue subpoenas and subpoenas duces tecum, and to enforce by attachment attendance of witnesses and the production of books, papers, records and other articles subject to a subpoena duces tecum, and to sentence for a refusal to be sworn or to answer as provided in actions before civil courts. ~~He~~ The presiding officer shall also have power to punish for contempt occurring in the presence of the court.~~

~~In addition to the power to issue warrants set forth in the first paragraph of this section, the arrest and confinement of persons subject to this Chapter may be accomplished by the means and under the procedures set forth in Articles 9 and 10 of the Uniform Code of Military Justice, Manual for Courts-Martial, United States, as shall be currently in use by the armed forces of the United States."~~

SECTION 12. G.S. 127A-57 reads as rewritten:

"§ 127A-57. Execution of processes and sentences.

All warrants and other processes authorized by this Chapter and sentences of any of the military courts of this State shall be executed by any sheriff, deputy sheriff, or ~~police officer~~ State or local law enforcement officer into whose hands the same may be placed for service or execution, and such officer shall make return thereof to the officer issuing or imposing the same. Such service or execution of process or sentence shall be made by such officer without tender or advancement of fee therefor; but all costs in such cases shall be paid from funds appropriated for military purposes to the Department of Crime Control and Public Safety. ~~The actual necessary expenses of conveying a prisoner from one county in the State to~~

another, when the same is authorized and directed by the Adjutant General of the State, shall be paid from the military funds of the State upon a warrant approved by the Adjutant General."

SECTION 13. G.S. 127A-58 is repealed.

SECTION 14. G.S. 127A-59 reads as rewritten:

"§ **127A-59. ~~Commitments.~~Sentences.**

When any sentence to fine or imprisonment shall be imposed by any military court of this State, it shall be the duty of the military judge, president of said court, or summary court officer, upon the approval of the findings and sentence of such court, to make out and sign a certificate entitling the case, giving the name of the accused, the date and place of trial, the date of approval of sentence, ~~the amount of fine or manner, place, and duration of confinement, and~~ and the terms of the sentence. The trial counsel shall deliver such certificate to the sheriff, or deputy sheriff, or police officer of the county wherein the sentence is to be executed; Clerk of the Superior Court of Wake County, and it shall thereupon be the duty of such officer~~the clerk~~ to take such actions as are necessary to carry said sentence into execution in the same manner as prescribed by law for the collection of fines~~fines~~, or commitment to service of terms of ~~imprisonment~~imprisonment, in criminal cases determined in the courts of this State. The Administrative Office of the Courts shall ensure that the State's criminal history records include pertinent information relating to a court-martial under this Chapter in a like manner as a comparable offense under the State's criminal laws would be recorded."

SECTION 15. G.S. 127A-60 reads as rewritten:

"§ **127A-60. ~~Sentence of dismissal.~~Approval of sentence.**

No sentence of ~~dismissal from the service or dishonorable discharge~~, imposed by a special or general~~national guard~~ court-martial of the National Guard, not in the service of the United States, shall be executed until approved by the Governor. Any officer convicted by a general court-martial and dismissed from the service shall be forever disqualified from holding a commission in the militia."

SECTION 16. Article 3 of Chapter 127A of the General Statutes is amended by adding a new section to read:

"§ **127A-62. Appeals; discretionary review.**

(a) Jurisdiction. – Court-martial judgments which include a sentence to confinement shall have a right of appeal to the Wake County Superior Court. The provisions of G.S. 15A-1451 shall apply to appeals under this section.

(b) Filing and Service. – An appeal under this section must be made in writing and filed with the Clerk of Superior Court of Wake County within 10 days after the approval of the sentence by the Governor. A copy of the petition shall be filed with the military court and the military trial counsel of record. For the purposes of a filing fee, the appeal shall be treated as an administrative appeal to the Superior Court.

(c) Assertion of Errors. – All errors, including, but not limited to, the following, must be asserted or shall be deemed waived:

(1) Any error of law, including the following:

a. The court erroneously failed to dismiss the charge prior to the court-martial.

b. The court's ruling was contrary to law with regard to motions made before or during the trial or with regard to the admission or exclusion of evidence.

c. The evidence, at the close of all the evidence, was insufficient to justify submission of the case to the court-martial panel, whether or not a motion so asserting was made before verdict.

d. The court erroneously instructed the court-martial panel.

(2) The verdict is contrary to the weight of the evidence.

(3) For any other cause, the defendant did not receive a fair and impartial trial.

(d) Appointment of Superior Court Judge. – The appeal shall be heard by a judge assigned by the Chief Justice of the North Carolina Supreme Court, to be heard at such session of the Wake County Superior Court as the Chief Justice shall direct.

(e) Applicable Law. – The presiding judge, in determining whether there were errors, shall apply the law as provided for trial by courts-martial under this Article.

(f) Setting Aside of Findings or Sentence. – The findings or sentence, or both, may be modified or set aside, in whole or in part, by the court on the ground of newly discovered evidence, fraud on the court, lack of jurisdiction over the accused or the offense, or error prejudicial to the substantial rights of the accused.

(g) Hearings and Rehearings. – The court may remand the matter to the court-martial for such evidentiary hearings or other proceedings, to be conducted by a military judge alone, as it deems necessary prior to the court's final disposition of the case. If the court sets aside the findings or sentence, the court may, except when the setting aside is based on lack of sufficient evidence in the record to support the findings, order a rehearing. If the court sets aside the findings and sentence and does not order a rehearing, the court shall dismiss the charges. If the court orders a rehearing, but the convening authority finds a rehearing impractical, the convening authority shall dismiss the charges.

(h) Counsel. –

(1) The Staff Judge Advocate of the North Carolina National Guard shall:

a. Designate a judge advocate who is qualified and certified under Article 27(b) of the Uniform Code of Military Justice, and who is a member of the North Carolina Bar, to represent the defendant.

b. Designate a judge advocate who is qualified and certified under Article 27(b) of the Uniform Code of Military Justice, and who is a member of the North Carolina Bar, to represent the State.

(2) The counsel designated to represent the defendant under sub-subdivision a. of subdivision (1) of this subsection shall not be the counsel who represented the defendant at the court-martial.

(3) Where a defendant alleges ineffective assistance of prior counsel as a ground for relief, the defendant shall be deemed to waive the attorney-client privilege with respect to both oral and written communications between such counsel and the defendant to the extent the defendant's prior counsel reasonably believes such communications are necessary to defend against the allegations of ineffectiveness. This waiver of the attorney-client privilege shall be automatic upon the filing of the pleadings alleging ineffective assistance of prior counsel, and the Wake County Superior Court need not enter an order waiving the privilege.

(4) The Adjutant General, upon the recommendation of the Staff Judge Advocate, shall place the designated judge advocates described in this subsection onto State active duty for such periods of time as necessary for either counsel to provide adequate representation to the respective parties, if regularly scheduled unit training periods are insufficient. The Staff Judge Advocate shall verify to the Adjutant General whether any such additional periods of time are necessary.

(i) Discretionary Review. – Review of decisions by the Wake County Superior Court shall be pursuant to G.S. 7A-31.1.

(j) The rules for practice and procedure for review of courts-martial by the Wake County Superior Court shall be consistent with those prescribed for review of administrative appeals by the Superior Court, except as modified by this section."

SECTION 17. G.S. 7A-27(b) reads as rewritten:

"(b) From any final judgment of a superior court, other than the one described in subsection (a) of this section, or one based on a plea of guilty or nolo contendere, including any final judgment entered upon review of a decision of an administrative ~~agency~~, agency, except

for a final judgment entered upon review of a court-martial under G.S. 127A-62, appeal lies of right to the Court of Appeals."

SECTION 18. G.S. 7A-28 reads as rewritten:

"§ 7A-28. Decisions of Court of Appeals on post-trial motions for appropriate relief final or relief, valuation of exempt property-property, or courts-martial are final.

(a) Decisions of the Court of Appeals upon review of motions for appropriate relief listed in G.S. 15A-1415(b) are final and not subject to further review in the Supreme Court by appeal, motion, certification, writ, or otherwise.

(b) Decisions of the Court of Appeals upon review of valuation of exempt property under G.S. 1C are final and not subject to further review in the Supreme Court by appeal, motion, certification, writ, or otherwise.

(c) Decisions of the Court of Appeals upon review of courts-martial under G.S. 127A-62 are final and not subject to further review in the Supreme Court by appeal, motion, certification, writ, or otherwise."

SECTION 19. G.S. 7A-31 reads as rewritten:

"§ 7A-31. Discretionary review by the Supreme Court.

(a) In any cause in which appeal is taken to the Court of Appeals, except a cause appealed from the North Carolina Industrial Commission, the North Carolina State Bar pursuant to G.S. 84-28, the Property Tax Commission pursuant to G.S. 105-345, the Board of State Contract Appeals pursuant to G.S. 143-135.9, ~~or~~ the Commissioner of Insurance pursuant to G.S. 58-2-80, ~~or~~ a court-martial pursuant to G.S. 127A-62, a motion for appropriate relief relief, or valuation of exempt property pursuant to G.S. 7A-28, the Supreme Court may, in its discretion, on motion of any party to the cause or on its own motion, certify the cause for review by the Supreme Court, either before or after it has been determined by the Court of Appeals. A cause appealed to the Court of Appeals from any of the administrative bodies listed in the preceding sentence may be certified in similar fashion, but only after determination of the cause in the Court of Appeals. The effect of such certification is to transfer the cause from the Court of Appeals to the Supreme Court for review by the Supreme Court. If the cause is certified for transfer to the Supreme Court before its determination in the Court of Appeals, review is not had in the Court of Appeals but the cause is forthwith transferred for review in the first instance by the Supreme Court. If the cause is certified for transfer to the Supreme Court after its determination by the Court of Appeals, the Supreme Court reviews the decision of the Court of Appeals.

Except in courts-martial and motions within the purview of G.S. 7A-28, the State may move for certification for review of any criminal cause, but only after determination of the cause by the Court of Appeals."

SECTION 20. Article 5 of Chapter 7A of the General Statutes is amended by adding a new section to read:

"§ 7A-31.1. Discretionary Review by the Court of Appeals.

(a) In the case of a court-martial in which appeal is taken to the Wake County Superior Court under G.S. 127A-62, the Court of Appeals may, in its discretion, on motion of any party to the cause or on its own motion, certify the cause for review by the Court of Appeals after it has been reviewed by the Wake County Superior Court. The effect of such certification is to transfer the cause from the Wake County Superior Court to the Court of Appeals, and the Court of Appeals reviews the decision by the Wake County Superior Court.

(b) In causes subject to certification under subsection (a) of this section, certification may be made by the Court of Appeals after determination of the cause by the Wake County Superior Court when in the opinion of the Court of Appeals:

- (1) The subject matter of the appeal has significant public interest, or
- (2) The cause involves legal principles of major significance to the jurisprudence of the State, or

- (3) The decision of the Wake County Superior Court appears likely to be in conflict with a decision of the United States Court of Appeals for the Armed Forces.

Interlocutory determinations by the Wake County Superior Court, including orders remanding the cause for a new trial or for other proceedings, shall be certified for review by the Court of Appeals only upon a determination by the Court of Appeals that failure to certify would cause a delay in final adjudication which would probably result in substantial harm.

(c) Any rules for practice and procedure for review of courts-martial that may be required shall be prescribed pursuant to G.S. 7A-33."

SECTION 21. G.S. 127A-147 reads as rewritten:

"§ 127A-147. Orders, rules, regulations and Uniform Code of Military Justice applicable to militia when not in service of United States.

The ~~national guard,~~ National Guard, State defense militia and naval militia, when not in the service of the United States, shall ~~except as to punishments,~~ be governed by State law, the orders, rules and regulations of the Adjutant General, regulations promulgated by the secretary of the appropriate service of the armed forces of the United States, and the Uniform Code of Military Justice, as amended from time to time."

SECTION 22. G.S. 127A-153 reads as rewritten:

"§ 127A-153. Protection of uniform.

(a) The wearing of any military uniform of the United States government by members of the militia shall be pursuant to applicable regulations promulgated by the respective armed services of the United States and regulations of the Adjutant General of North Carolina not inconsistent with federal uniform regulations.

(b) The wearing of any military uniform of the North Carolina State government by members of the militia shall be pursuant to applicable regulations promulgated by the Adjutant General of North Carolina.

(c) Members of the militia who violate the regulations referred to in (a) and (b) above shall, upon conviction by a court-martial, be punished ~~by a fine not exceeding fifty dollars (\$50.00) or by imprisonment not exceeding 30 days, or by both fine and imprisonment, for each offense in like manner and to the extent prescribed by Article 134 of the Uniform Code of Military Justice and Manual for Courts-Martial, United States, as shall be in use by the armed forces of the United States at the time of the offense.~~

(d) Persons not subject to courts-martial who violate the regulations referred to in (a) and (b) above may be charged and tried in the State courts and upon conviction shall be punished as provided in (c) above."

SECTION 23. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

SECTION 24. This act becomes effective December 1, 2010, and applies to offenses committed on or after that date. The requirement contained in Section 14 of this act, that the Administrative Office of the Courts electronically record certain data, shall become effective after the next rewrite of the superior court clerks system by the Administrative Office of the Courts; until such time paper copies of the required criminal history records shall be kept on file in the Wake County Courthouse.

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Became law upon approval of the Governor at 10:37 a.m. on the 4th day of August, 2010.

Session Law 2010-194

S.B. 1213

AN ACT INCREASING THE AUTHORITY OF THE SECRETARY OF ADMINISTRATION TO PROVIDE OVERSIGHT OF THE REVIEW AND AWARD OF CONTRACTS AND TO ENHANCE THE EFFICIENCY AND EFFECTIVENESS OF THE CONTRACTS PROCESS, REQUIRING ALL STATE AGENCIES AND INSTITUTIONS EXEMPT FROM ARTICLE 3 OF CHAPTER 143 OF THE GENERAL STATUTES TO COMPLY WITH CERTAIN REQUIREMENTS REGARDING THE REVIEW AND AWARD OF CONTRACTS, REQUIRING THE ATTORNEY GENERAL TO REVIEW CERTAIN CONTRACTS, AND PROHIBITING THE USE OF COST PLUS PERCENTAGE OF COST CONTRACTS, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18C-150 reads as rewritten:

"§ 18C-150. Procurements.

The Commission shall be exempt from Article 3 of Chapter 143 of the General Statutes but may use the services of the Department of Administration in procuring goods and services for the Commission. However, the Commission shall include in all contracts to be awarded by the Commission under this section a standard clause which provides that the State Auditor and internal auditors of the Commission may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Commission shall not award a cost plus percentage of cost contract for any purpose. For purposes of this provision, "cost plus percentage of cost contract" is defined as a contract under which the contractor receives payment for indeterminate costs plus a stated percentage or amount of profit based upon such costs. This provision shall not apply to Commission contracts that require costs to be predetermined and approved by the Commission and a total not to exceed the amount specified in each contract to be paid to the contractor."

SECTION 2. G.S. 53-320(d) reads as rewritten:

"§ 53-320. Examinations; periodic reports; cooperative agreements; assessment of fees.

...

(d) The Commissioner may enter into agreements with any bank supervisory agency supervising (i) a State trust institution engaging in trust business outside this State or (ii) an out-of-state trust institution maintaining a trust office or representative trust office in this State to engage the services of the agency's examiners at a reasonable rate of compensation or to provide the services of the Commissioner's examiners to the agency at a reasonable rate of compensation. Article 3 of Chapter 143 of the General Statutes does not apply to agreements authorized by this subsection. However, the Commissioner shall: (i) submit all proposed statewide and agency term agreements or contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all agreements or contracts to be awarded by the Commissioner under this subsection a standard clause which provides that the State Auditor and internal auditors of the Commissioner may audit the records of the contractor during the term of the agreement or contract to verify accounts and data affecting fees and performance. The Commissioner shall not award a cost plus percentage of cost agreement or contract for any purpose.

...."

SECTION 3. G.S. 53-326(d) reads as rewritten:

"§ 53-326. Examinations; periodic reports; cooperative agreements; assessment of fees.

...

(d) The Commissioner may enter into agreements with bank supervisory agencies supervising (i) a State trust institution engaging in trust business in a foreign country or (ii) a

foreign trust institution maintaining a trust office or representative trust office in this State to engage the services of the bank supervisory agency's examiners at a reasonable rate of compensation or to provide the services of the Commissioner's examiners to the bank supervisory agency at a reasonable rate of compensation. Article 3 of Chapter 143 of the General Statutes does not apply to agreements authorized by this section. However, the Commissioner shall: (i) submit all proposed statewide and agency term agreements or contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all agreements or contracts to be awarded by the Commissioner under this subsection a standard clause which provides that the State Auditor and internal auditors of the Commissioner may audit the records of the contractor during the term of the agreement or contract to verify accounts and data affecting fees and performance. The Commissioner shall not award a cost plus percentage of cost agreement or contract for any purpose.

...."

SECTION 4. G.S. 53-391 reads as rewritten:

"§ 53-391. Employment of counsel, accountants, and other experts; compensation.

The Commissioner, for the purpose of exercising any power under the provisions of this Subpart, may (i) employ any liquidating agents, attorneys, accountants, consultants, and clerks necessary to properly conduct the business of or liquidate and distribute the assets of a State trust company; (ii) fix the compensation for the agents, attorneys, accountants, consultants, and clerks; and (iii) pay the compensation of those persons out of the assets of the State trust company. Provided, that all expenditures described in this section shall be approved by the resident or presiding judge in the county in which the action is pending. Payments made by the Commissioner pursuant to this section shall not be subject to the requirements of Article 3 of Chapter 143 of the General Statutes. As used in this Subpart, the term "Commissioner" includes the Commissioner's duly appointed agents. The Commissioner shall: (i) submit all proposed statewide and agency term agreements or contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) authorized by this section to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all agreements or contracts to be awarded by the Commissioner under this section a standard clause which provides that the State Auditor and internal auditors of the Commissioner may audit the records of the contractor during the term of the agreement or contract to verify accounts and data affecting fees and performance. The Commissioner shall not award a cost plus percentage of cost agreement or contract for any purpose."

SECTION 5. G.S. 53-401 reads as rewritten:

"§ 53-401. Provisions for conservator; duties and powers.

Whenever the Commissioner deems it necessary in order to conserve the assets of a State trust company for the benefit of clients or creditors, the Commissioner may appoint a conservator for the State trust company and require of the conservator a bond with any surety the Commissioner deems necessary and proper in an amount deemed sufficient by the Commissioner. The conservator, under the direction of the Commissioner, shall take possession of the fiduciary records and other books, records, and assets of every description of the State trust company placed under conservatorship and take actions necessary to conserve those assets pending further disposition of its business as provided by law. Except as provided in G.S. 53-405, the conservator shall have all rights, powers, and privileges, subject to the approval of the Commissioner, now possessed by or given to the Commissioner under the provisions of Subpart B and Subpart D of this Part. All expenses of the conservator shall be paid out of the assets of the State trust company under conservatorship and shall be a lien thereon which shall be prior to any other lien provided by law. The compensation of the conservator shall be determined by the Commissioner and shall be based on the time and experience of the conservator and the complexity of the conservatorship. Compensation of the

conservator shall not be subject to the requirements of Article 3 of Chapter 143 of the General Statutes. However, the Commissioner shall: (i) submit all proposed statewide and agency term agreements or contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) authorized by this section to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all agreements or contracts to be awarded by the Commissioner under this section a standard clause which provides that the State Auditor and internal auditors of the Commissioner may audit the records of the conservator during the term of the agreement or contract to verify accounts and data affecting fees and performance. The Commissioner shall not award a cost plus percentage of cost agreement or contract for any purpose."

SECTION 6. G.S. 58-2-69(g) reads as rewritten:

"§ 58-2-69. Notification of criminal convictions and changes of address; service of notice; contracts for online services, administrative services, or regulatory data systems.

...

(g) The Commissioner may contract with the NAIC or other persons for the provision of online services to licensees, for the provision of administrative services to licensees, or for the provision of regulatory data systems to the Commissioner. The NAIC or other person with whom the Commissioner contracts may charge licensees a reasonable fee for the costs associated with the licensees' use of online services and administrative services. The fee shall be agreed to by the Commissioner and the other contracting party and shall be stated in the contract. Contracts for the provision of online services, contracts for the provision of administrative services, and contracts for the provision of regulatory data systems shall not be subject to Article 3, 3C, or 8 of Chapter 143 of the General Statutes or to Article 3D of Chapter 147 of the General Statutes. However, the Commissioner shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Commissioner under this subsection a standard clause which provides that the State Auditor and internal auditors of the Commissioner may audit the records of the contractor during the term of the agreement or contract to verify accounts and data affecting fees and performance. The Commissioner shall not award a cost plus percentage of cost agreement or contract for any purpose."

SECTION 7. G.S. 58-33-30(e) reads as rewritten:

"§ 58-33-30. License requirements.

The Commissioner shall not issue or continue any license of an agent, broker, limited representative, adjuster, or motor vehicle damage appraiser except as follows:

...

(e) Examination.

...

(4) The answers of the applicant to the examination shall be provided by the applicant under the Commissioner's supervision. The Commissioner shall give examinations at such times and places within this State as the Commissioner considers necessary reasonably to serve the convenience of both the Commissioner and applicants: Provided that the Commissioner may contract directly with persons for the processing of examination application forms and for the administration and grading of the examinations required by this section; the Commissioner may charge a reasonable fee in addition to the registration fee charged under G.S. 58-33-125, to offset the cost of the examination contract authorized by this subsection; and such contracts shall not be subject to Article 3 of Chapter 143 of the General Statutes. However, the Commissioner shall: (i) submit all proposed statewide and agency term agreements or contracts for supplies, materials, printing, equipment, and

contractual services that exceed one million dollars (\$1,000,000) authorized by this subdivision to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Commissioner under this subdivision a standard clause which provides that the State Auditor and internal auditors of the Commissioner may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Commissioner shall not award a cost plus percentage of cost contract for any purpose.

- (5) The Commissioner shall collect in advance the examination and registration fees provided in G.S. 58-33-125 and in subsection (4) of this section. The Commissioner shall make or cause to be made available to all applicants, for a reasonable fee to offset the costs of production, materials that he considers necessary for the applicants' proper preparation for examinations. The Commissioner may contract directly with publishers and other suppliers for the production of the preparatory materials, and contracts so let by the Commissioner shall not be subject to Article 3 of Chapter 143 of the General Statutes. However, the Commissioner shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) authorized by this subdivision to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Commissioner under this subdivision a standard clause which provides that the State Auditor and internal auditors of the Commissioner may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Commissioner shall not award a cost plus percentage of cost contract for any purpose.

...."

SECTION 8. G.S. 58-33-125(e) reads as rewritten:

"§ 58-33-125. Fees.

...
 (e) A resident licensee may obtain a duplicate photo-bearing license at times and places within this State that the Commissioner considers necessary and reasonable to serve the convenience of both the Commissioner and the licensee. The Commissioner may contract directly with persons for processing of duplicate photo-bearing licenses, and the contract shall not be subject to Article 3 of Chapter 143 of the General Statutes. The Commissioner may charge a reasonable fee for duplicating a photo-bearing license in an amount that offsets the costs to the Department of duplicating the license, including costs associated with any contract entered into pursuant to this subsection. However, the Commissioner shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Commissioner under this subsection a standard clause which provides that the State Auditor and internal auditors of the Commissioner may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Commissioner shall not award a cost plus percentage of cost agreement or contract for any purpose.

...."

SECTION 9. G.S. 58-33-130(a) reads as rewritten:

"§ 58-33-130. Continuing education program for licensees.

(a) The Commissioner may adopt rules to provide for a program of continuing education requirements for the purpose of enhancing the professional competence and

professional responsibility of adjusters and motor vehicle damage appraisers. The rules may include criteria for:

- (1) The content of continuing education courses;
- (2) Accreditation of continuing education sponsors and programs;
- (3) Accreditation of videotape or other audiovisual programs;
- (4) Computation of credit;
- (5) Special cases and exemptions;
- (6) General compliance procedures; and
- (7) Sanctions for noncompliance.

The Commissioner may contract directly with persons for the administration of the program provided for by this section, and those contracts shall not be subject to Article 3 of Chapter 143 of the General Statutes. However, the Commissioner shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Commissioner under this subsection a standard clause which provides that the State Auditor and internal auditors of the Commissioner may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Commissioner shall not award a cost plus percentage of cost agreement or contract for any purpose. The Commissioner may charge a reasonable fee to course providers to offset the cost of the program, including costs associated with contracts authorized by this subsection. The fee authorized by this subsection shall be in addition to the fees specified in G.S. 58-33-133. As used in this section and in G.S. 58-33-132, "administrator" means any person with whom the Commissioner has contracted under this subsection.

...."

SECTION 10. G.S. 58-71-40(d) reads as rewritten:

"§ 58-71-40. Bail bondsmen and runners to be qualified and licensed; license applications generally.

...

(d) When a license is issued under this section, the Commissioner shall issue a picture identification card, of design, size, and content approved by the Commissioner, to the licensee. Each licensee must carry this card at all times when working in the scope of the licensee's employment. A licensee whose license terminates or is terminated shall surrender the identification card to the Commissioner within 10 working days after the termination. The Commissioner may contract directly with persons for the processing and issuance of picture identification cards required by this section and may charge a reasonable fee in addition to the license fee charged under G.S. 58-71-55 in an amount that offsets the cost of the service, including the costs associated with the contract authorized by this subsection. Contracts entered into pursuant to this subsection shall not be subject to Article 3 of Chapter 143 of the General Statutes. However, the Commissioner shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Commissioner under this subsection a standard clause which provides that the State Auditor and internal auditors of the Commissioner may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Commissioner shall not award a cost plus percentage of cost agreement or contract for any purpose.

...."

SECTION 11. G.S. 63A-24((1) reads as rewritten:

"§ 63A-24. General laws apply to Authority; exceptions.

Except as provided in this section, the general laws that apply to State agencies apply to the Authority. The following general laws, to the extent provided below, do not apply to the Authority:

- (1) Article 3 of Chapter 143 of the General Statutes does not apply to contracts for services listed in 49 U.S.C. § 2210(a)(16) or contracts for special user projects. That Article also does not apply to other contracts for projects, but, with respect to these other contracts, the powers and duties established in that Article shall be exercised by the Authority and the Secretary of Administration, and other State officers, employees, or agencies shall have no duties or responsibilities concerning the contracts. However, the Authority shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) authorized by this subdivision to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Authority under this subdivision a standard clause which provides that the State Auditor and internal auditors of the Authority may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Authority shall not award a cost plus percentage of cost agreement or contract for any purpose.

...."

SECTION 12. G.S. 84-23(d) reads as rewritten:

"§ 84-23. Powers of Council.

...

(d) The Council may acquire, hold, rent, encumber, alienate, lease, and otherwise deal with real or personal property in the same manner as any private person or corporation, subject only to the approval of the Governor and the Council of State as to the acquisition, rental, encumbering, leasing and sale of real property. The Council may borrow money upon its bonds, notes, debentures, or other evidences of indebtedness sold through public or private sale pursuant to a loan agreement or a trust agreement or indenture with a trustee, with such borrowing either unsecured or secured by a mortgage on the Council's interest in real or personal property, and engage and contract with attorneys, underwriters, financial advisors, and other parties as necessary for such borrowing, with such borrowing and security subject to the approval of the Governor and the Council of State. The Council may utilize the services of the Purchase and Contract Division of the Department of Administration to procure personal property, in accordance with the provisions of Article 3 of Chapter 143 of the General Statutes. However, the Council shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Council under this subsection a standard clause which provides that the State Auditor and internal auditors of the Council may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Council shall not award a cost plus percentage of cost agreement or contract for any purpose."

SECTION 13. G.S. 89E-5(e) reads as rewritten:

"§ 89E-5. Functions and duties of the Licensing Board.

...

(e) The Board may authorize expenditures deemed necessary to carry out the provisions of this Chapter and all expenses shall be paid upon the warrant of the Board treasurer. The Board treasurer shall deposit funds received by the Board in one or more funds in banks or other financial institutions carrying deposit insurance and authorized to do business in North Carolina. Interest earned on such funds may remain in the funds account and may be expended

as authorized by the Board to carry out the provisions of this Chapter. In no event may expenditures exceed the revenues of the Board during any fiscal year. The Board is authorized and empowered to utilize the services of the Purchase and Contract Division of the Department of Administration for the procurement of personal property, in accordance with Article 3 of Chapter 143 of the General Statutes. The Board shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Board under this subsection a standard clause which provides that the State Auditor and internal auditors of the Board may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Board shall not award a cost plus percentage of cost agreement or contract for any purpose.

...."

SECTION 14. G.S. 89F-5(d) reads as rewritten:

"§ 89F-5. Powers and duties of the Board.

...

(d) The Board may employ the necessary personnel for the performance of its functions and shall fix their compensation within the limits of funds available to the Board. The Board may procure personal property in accordance with the provisions of Article 3 of Chapter 143 of the General Statutes. The Board shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Board under this subsection a standard clause which provides that the State Auditor and internal auditors of the Board may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Board shall not award a cost plus percentage of cost agreement or contract for any purpose.

...."

SECTION 15. G.S. 108A-55(b) reads as rewritten:

"§ 108A-55. Payments.

...

(b) Payments shall be made only to intermediate care facilities, hospitals and nursing homes licensed and approved under the laws of the State of North Carolina or under the laws of another state, or to pharmacies, physicians, dentists, optometrists or other providers of health-related services authorized by the Department. Payments may also be made to such fiscal intermediaries and to the capitation or prepaid health service contractors as may be authorized by the Department. Arrangements under which payments are made to capitation or prepaid health services contracts are not subject to the provisions of Chapter 58 of the General Statutes or of Article 3 of Chapter 143 of the General Statutes. However, the Department shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all agreements or contracts to be awarded by the Department under this subsection a standard clause which provides that the State Auditor and internal auditors of the Department may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Department shall not award a cost plus percentage of cost agreement or contract for any purpose.

...."

SECTION 16. Article 1 of Chapter 114 of the General Statutes is amended by adding the following new section to read as follows:

"§ 114-8.3. Attorney General to review certain contracts.

(a) Except as provided in subsection (b) of this section, the Attorney General or the Attorney General's designee shall review all proposed statewide and agency term contracts for

supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) to ensure that the proposed contracts are in proper legal form, contain all clauses required by law, are legally enforceable, and accomplish the intended purposes of the proposed contract. The term "review" as used in this section shall not constitute approval or disapproval of the policy merit or lack thereof of the proposed contract. For purposes of this subsection, the term "Attorney General's designee" shall include any attorney approved by the Attorney General to review contracts as provided in this subsection. The Attorney General shall require that any attorney designated under this subsection comply with any rules established by the Attorney General or the Department of Administration regarding the review of contracts.

(b) For the constituent institutions of The University of North Carolina, the General Counsel of each institution or the General Counsel's designee shall review all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) to ensure that the proposed contracts are in proper legal form, contain all clauses required by law, are legally enforceable, and accomplish the intended purposes of the proposed contract. The term "review" as used in this section shall not constitute approval or disapproval of the policy merit or lack thereof of the proposed contract. For purposes of this subsection, the term "General Counsel's designee" shall include any attorney approved by the General Counsel to review contracts as provided in this subsection. The General Counsel shall require that any attorney designated under this subsection comply with any rules established by the Attorney General or the Department of Administration regarding the review of contracts."

SECTION 17. G.S. 115D-67.4 reads as rewritten:

"§ 115D-67.4. Fees collected by the Center; purchases using Center funds.

Notwithstanding any other provision of law, all fees collected by the Applied Textile Technology Center for services to the textile industry, except for regular curriculum and continuing education tuition receipts, shall be retained by the Center and used for the operations of the Center. Purchases made by the Center using these funds are not subject to the provisions of Article 3 of Chapter 143 of the General Statutes. However, the Center shall: (i) submit all proposed statewide and agency term agreements or contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) authorized by this section to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all agreements or contracts to be awarded by the Center under this section a standard clause which provides that the State Auditor and internal auditors of the Center may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Center shall not award a cost plus percentage of cost agreement or contract for any purpose."

SECTION 18.(a) G.S. 135-43(b) reads as rewritten:

"§ 135-43. Confidentiality of information and medical records; provider contracts.

...

(b) Notwithstanding the provisions of this Article, the Executive Administrator and Board of Trustees of the State Health Plan for Teachers and State Employees may contract with providers of institutional and professional medical care and services to establish preferred provider networks.

The terms of a contract between the Plan and its third party administrator or between the Plan and its pharmacy benefit manager are a public record except that the terms in those contracts that contain trade secrets or proprietary or competitive information are not a public record under Chapter 132 of the General Statutes, and any such proprietary or competitive information and trade secrets contained in the contract shall be redacted by the Plan prior to making it available to the public. This subsection shall not be construed to prevent or restrict the release of any information made not a public record under this subsection to the State Auditor, the Attorney General, the Director of the State Budget, the Plan's Executive Administrator, and the Committee on Employee Hospital and Medical Benefits solely and exclusively for their use in the furtherance of their duties and responsibilities, and to the

Department of Health and Human Services solely for the purpose of implementing the transition of NC Health Choice from the Plan to the Department of Health and Human Services. The design, adoption, and implementation of the preferred provider contracts, networks, and optional alternative comprehensive health benefit plans, and programs available under the optional alternative plans, as authorized under G.S. 135-45 are not subject to the requirements of Article 3 of Chapter 143 of the General Statutes. However, the Executive Administrator and Board of Trustees shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all proposed contracts to be awarded by the Executive Administrator and Board of Trustees under this section a standard clause which provides that the State Auditor and internal auditors of the Plan may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Executive Administrator and Board of Trustees shall not award a cost plus percentage of cost agreement or contract for any purpose. The Executive Administrator and Board of Trustees shall make reports as requested to the President of the Senate, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Committee on Employee Hospital and Medical Benefits.

...."

SECTION 18.(b) G.S. 135-45 is amended by adding a new subsection to read:

"(d1) The Executive Administrator and Board of Trustees shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) authorized by subsection (d) of this section to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all proposed contracts to be awarded by the Executive Administrator and Board of Trustees under this section a standard clause which provides that the State Auditor and internal auditors of the Plan may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Executive Administrator and Board of Trustees shall not award a cost plus percentage of cost agreement or contract for any purpose."

SECTION 19. G.S. 136-28.1(h) reads as rewritten:

"§ 136-28.1. Letting of contracts to bidders after advertisement; exceptions.

...

(h) The Department of Transportation may enter into contracts for applied research and experimental work without soliciting bids or proposals; provided, however, that if the research or work is for the purpose of testing equipment, materials, or supplies, the provisions of Article 3 of Chapter 143 of the General Statutes shall apply. However, the Department of Transportation shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all proposed contracts to be awarded by the Department of Transportation under this subsection a standard clause which provides that the State Auditor and internal auditors of the Department of Transportation may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Department of Transportation shall not award a cost plus percentage of cost agreement or contract for any purpose. The Department of Transportation is encouraged to solicit proposals when contracts are entered into with private firms when it is in the public interest to do so.

...."

SECTION 20.1. G.S. 136-89.194(g) reads as rewritten:

"§ 136-89.194. **Laws applicable to the Authority; exceptions.**

...
 (g) Contract Exemptions. – The following provisions concerning the purchase of goods and services by a State agency do not apply to the Turnpike Authority:

- (1) Article 3 of Chapter 143 of the General Statutes. The Authority may use the services of the Department of Administration in procuring goods and services that are not specific to establishing and operating a toll revenue system. However, the Authority shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) authorized by this subdivision to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and, (ii) include in all proposed contracts to be awarded by the Authority under this subdivision a standard clause which provides that the State Auditor and internal auditors of the Authority may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Authority shall not award a cost plus percentage of cost agreement or contract for any purpose.

...."

SECTION 20.2. G.S. 143-48.1 is amended by adding a new subsection to read:

"§ 143-48.1. **Medicaid program exemption.**

(a) This Article shall not apply to any capitation arrangement or prepaid health service arrangement implemented or administered by the North Carolina Department of Health and Human Services or its delegates pursuant to the Medicaid waiver provisions of 42 U.S.C. § 1396n, or to the Medicaid program authorizations under Chapter 108A of the General Statutes.

(b) As used in this section, the following definitions apply:

- (1) "Capitation arrangement" means an agreement whereby the Department of Health and Human Services pays a periodic per enrollee fee to a contract entity that provides medical services to Medicaid recipients during their enrollment period.
- (2) "Prepaid health services" means services provided to Medicaid recipients that are paid on the basis of a prepaid capitation fee, pursuant to an agreement between the Department of Health and Human Services and a contract entity.

(c) The Department of Health and Human Services shall: (i) submit all proposed statewide and agency term contracts for a capitation arrangement or prepaid health services, as defined by this section, that exceed one million dollars (\$1,000,000) to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all agreements or contracts to be awarded by the Department under this section a standard clause which provides that the State Auditor and internal auditors of the Department may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Department shall not award a cost plus percentage of cost agreement or contract for any purpose."

SECTION 21. G.S. 143-49 is amended by adding the following new subdivision to read:

"§ 143-49. **Powers and duties of Secretary.**

- ...
- (9) To include a standard clause in all contracts awarded by the State and departments, agencies, and institutions of the State, providing that the State Auditor and internal auditors of the affected department, agency, or institution may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees or performance.

- (10) To monitor and enforce the terms and conditions of statewide term contracts. The Secretary of Administration shall not delegate the power and authority granted under this subdivision to any other department, agency, or institution of the State.
- (11) To develop rules, regulations, and procedures specifying the manner in which departments, agencies, and institutions of the State shall monitor and enforce agency term and non-term contracts.
- (12) To consult with the Attorney General or the Attorney General's designee in developing rules, regulations, and procedures providing for the orderly and efficient submission of proposed statewide term, agency term, and non-term contracts to the Attorney General for review as provided in G.S. 114-8.3 and G.S. 143-52.2.
- (13) To implement a quality management system equivalent to the International Organization for Standardization (ISO) 9001:2008 to ensure that citizen and agency customer requirements are met. By September 1, 2012, and more frequently as requested, the Secretary shall report to the Joint Legislative Commission on Governmental Operations, the Program Evaluation Division, and the Fiscal Research Division concerning the progress of the Department's effort to comply with the provisions of this subdivision.
- (14) To work in conjunction with the Office of State Personnel to create a Contracting Specialist career path to provide for the designation of one or more employees within each department, agency, or institution of the State to serve as the Contracting Specialist for the department, agency, or institution. Employees on the Contracting Specialist career path shall receive training and guidance as to the provisions of this Article.
- (15) To work in conjunction with the Office of State Personnel, the Division of Purchase and Contract, and the University of North Carolina School of Government to develop a rigorous contract management training and certification program for State employees. The program shall be administered by the Office of State Personnel.
- (16) To work in conjunction with the University of North Carolina School of Government to study and recommend improvements to State procurement laws, including the feasibility of adopting the provisions of the American Bar Association Model Procurement Code."

SECTION 22. G.S. 143-52 reads as rewritten:

"§ 143-52. Competitive bidding procedure; consolidation of estimates by Secretary; bids; awarding of ~~contracts~~contracts; cost plus percentage of cost contracts strictly prohibited.

...
 (c) Neither the Department of Administration nor any department, agency, or institution of the State may award a cost plus percentage of cost contract for any purpose, except as provided in G.S. 18C-150."

SECTION 23. Article 3 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-52.2. Certain contracts subject to review by Attorney General.

The Secretary of Administration and every department, agency, and institution of the State shall submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3(a). This section shall not apply to the constituent institutions of The University of North Carolina."

SECTION 24. G.S. 143-134 reads as rewritten:

"§ 143-134. Applicable to Department of Transportation and Department of Correction; ~~exceptions.~~ exceptions; all contracts subject to review by Attorney General and State Auditor.

(a) This Article shall apply to the Department of Transportation and the Department of Correction except in the construction of roads, bridges and their approaches; provided however, that whenever the Director of the Budget determines that the repair or construction of a building by the Department of Transportation or by the Department of Correction can be done more economically through use of employees of the Department of Transportation and/or prison inmates than by letting such repair or building construction to contract, the provisions of this Article shall not apply to such repair or construction.

(b) Notwithstanding the provisions of subsection (a) of this section, the Department of Transportation and the Department of Correction shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Department of Transportation or the Department of Correction a standard clause which provides that the State Auditor and internal auditors of the Department of Transportation or the Department of Correction may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. Neither the Department of Transportation nor the Department of Correction shall award a cost plus percentage of cost agreement or contract for any purpose."

SECTION 25. G.S. 143-151.16(d) reads as rewritten:

"§ 143-151.16. Certification fees; renewal of certificates; examination fees.

...

(d) The Board may contract with persons for the development and administration of the examinations required by G.S. 143-151.13(a), for course development related to the examinations, for review of a particular applicant's examination, and for other related services. The person with whom the Board contracts may charge applicants a reasonable fee for the costs associated with the development and administration of the examinations, for course development related to the examinations, for review of the applicant's examinations, and for other related services. The fee shall be agreed to by the Board and the other contracting party. The amount of the fee under this subsection shall not exceed one hundred seventy-five dollars (\$175.00). Contracts for the development and administration of the examinations, for course development related to the examinations, and for review of examinations shall not be subject to Article 3, 3C, or 8 of Chapter 143 of the General Statutes or to Article 3D of Chapter 147 of the General Statutes. However, the Board shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all proposed contracts to be awarded by the Board under this subsection a standard clause which provides that the State Auditor and internal auditors of the Board may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Board shall not award a cost plus percentage of cost agreement or contract for any purpose."

SECTION 26. G.S. 143B-131.2(b)(15) reads as rewritten:

"§ 143B-131.2. Roanoke Island Commission – Purpose, powers, and duties.

...

(b) The Commission shall have the following powers and duties:

...

(15) To procure supplies, services, and property as appropriate and to enter into contracts, leases, or other legal agreements to carry out the purposes of this Part and duties of the Commission. The provisions of G.S. 143-129 and Article 3 of Chapter 143 of the General Statutes do not apply to purchases by

the Roanoke Island Commission of equipment, supplies, and services. However, the Commission shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) authorized by this subdivision to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all proposed contracts to be awarded by the Commission under this subdivision a standard clause which provides that the State Auditor and internal auditors of the Commission may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Commission shall not award a cost plus percentage of cost agreement or contract for any purpose."

SECTION 27. G.S. 147-64.6(c)(18) reads as rewritten:

"§ 147-64.6. Duties and responsibilities.

...
(c) The Auditor shall be responsible for the following acts and activities:

...
(18) The Auditor shall, after consultation and in coordination with the State Chief Information Officer, assess, confirm, and report on the security practices of information technology systems. If an agency has adopted standards pursuant to G.S. 147-33.111(a), the audit shall be in accordance with those standards. The Auditor's assessment of information security practices shall include an assessment of network vulnerability. The Auditor may conduct network penetration or any similar procedure as the Auditor may deem necessary. The Auditor may enter into a contract with a State agency under G.S. 147-33.111(c) for an assessment of network vulnerability, including network penetration or any similar procedure. Any contract with the Auditor for the assessment and testing shall be on a cost-reimbursement basis. The Auditor may investigate reported information technology security breaches, cyber attacks, and cyber fraud in State government. The Auditor shall issue public reports on the general results of the reviews undertaken pursuant to this subdivision but may provide agencies with detailed reports of the security issues identified pursuant to this subdivision which shall not be disclosed as provided in G.S. 132-6.1(c). The Auditor shall provide the State Chief Information Officer with detailed reports of the security issues identified pursuant to this subdivision. For the purposes of this subdivision only, the Auditor is exempt from the provisions of Article 3 of Chapter 143 of the General Statutes in retaining contractors. However, the Auditor shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) authorized by this subdivision to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all proposed contracts to be awarded by the Auditor under this subdivision a standard clause which provides that the Auditor may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Auditor shall not award a cost plus percentage of cost agreement or contract for any purpose.

...."

SECTION 28. This act becomes effective October 1, 2010, and applies to all contracts proposed or awarded on or after that date.

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law upon approval of the Governor at 10:05 a.m. on the 5th day of August, 2010.

Session Law 2010-195

S.B. 886

AN ACT TO AUTHORIZE THE ESTABLISHMENT OF CLEANFIELDS RENEWABLE ENERGY DEMONSTRATION PARKS IN THE STATE.

The General Assembly of North Carolina enacts:

SECTION 1. Legislative findings. – The General Assembly makes the following findings regarding the need for cleanfields renewable energy demonstration parks:

- (1) Economic development in the State will be served by providing an opportunity to convert former manufacturing sites into cleanfields renewable energy demonstration parks, thereby providing employment opportunities for the residents of North Carolina.
- (2) The health and safety of the citizens of North Carolina will be served through the assessment and remediation of environmental conditions at former manufacturing facilities.
- (3) The public interest of the State will be served by diversifying the resources used to reliably meet the energy needs of consumers in the State, providing greater energy security through the use of indigenous energy resources available within the State, and encouraging private investment in renewable energy and energy efficiency.
- (4) The public interest of the State will be served by encouraging former operators of manufacturing facilities to transfer ownership in property, making it possible for new operators to restart production at such facilities.
- (5) The State and the public will directly benefit from the innovative approach utilized in a cleanfields renewable energy demonstration park to resolving pressing societal and environmental issues facing the State and its citizens.
- (6) The public interest of the State will be served by the innovative nature of a cleanfields renewable energy demonstration park as a model for future projects and for its ability to provide information on the risks and complexity associated with the development of renewable energy projects.

SECTION 2. Criteria for designation. – A parcel or tract of land, or any combination of contiguous parcels or tracts of land, that meet all of the following criteria may be designated as a cleanfields renewable energy demonstration park:

- (1) The park consists of at least 250 acres of contiguous property.
- (2) All of the real property comprising the park is contiguous to a body of water.
- (3) The property within the park is or may be subject to remediation under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. § 9601, et seq.), except for a site listed on the National Priorities List pursuant to 42 U.S.C. § 9605.
- (4) The park contains a manufacturing facility that is idle, underutilized, or curtailed and that at one time employed at least 250 people.
- (5) The owners of the park plan to attract at least 250 new jobs to the site.
- (6) The owners of the park have entered into a brownfields agreement with the Department of Environment and Natural Resources pursuant to G.S. 130A-310.32 and have provided satisfactory financial assurance for the brownfields agreement.

- (7) The creation of the park is for the purpose of featuring clean-energy facilities, laboratories, and companies, thereby spurring economic growth by attracting renewable energy and alternative fuel industries.
- (8) The development plan for the park must include at least three renewable energy or alternative fuel facilities.
- (9) The development plan for the park must include a biomass renewable energy facility that utilizes refuse derived fuel, including yard waste, wood waste, and waste generated from construction and demolition, but not including wood directly derived from whole trees, as the primary source for generating energy. The refuse derived fuel shall undergo an enhanced recycling process before being utilized by the biomass renewable energy facility.
- (10) The initial biomass renewable energy facility will not be a major source, as that term is defined in 40 C.F.R. § 70.2 (July 1, 2009 edition), for air quality purposes. The biomass renewable energy facility will remain in compliance with all applicable State and federal emissions requirements throughout its operating life.

SECTION 3. Certification. – The owner of a parcel or tract of land that seeks to establish a cleanfields renewable energy demonstration park shall submit to the Secretary of State an application for designation. The Secretary shall examine the application and may request any additional information from the owner of the parcel or tract of land or the Department of Environment and Natural Resources needed to verify that the project meets all of the criteria for designation. The Secretary may rely on certifications provided by the owner or the Department of Environment and Natural Resources that the criteria are met. If the Secretary determines that the project meets all of the criteria, the Secretary shall make and issue a certificate designating the parcel or tract of land as a cleanfields renewable energy demonstration park to the owner and shall file and record the application and certificate in an appropriate book of record. The parcel or tract of land shall be designated as a cleanfields renewable energy demonstration park on the date the certificate is filed and recorded.

SECTION 4. Renewable energy generation. – The definitions in G.S. 62-133.8 apply to this act. If the Utilities Commission determines that a biomass renewable energy facility located in the cleanfields renewable energy demonstration park is a new renewable energy facility, the Commission shall assign triple credit to any electric power or renewable energy certificates generated from renewable energy resources at the biomass renewable energy facility that are purchased by an electric power supplier for the purposes of compliance with G.S. 62-133.8. The additional credits shall be eligible for use to meet the requirements of G.S. 62-133.8(f). The additional credits shall first be used to satisfy the requirements of G.S. 62-133.8(f). Only when the requirements of G.S. 62-133.8(f) are met, shall the additional credits be utilized to comply with G.S. 62-133.8(b) and (c). The triple credit shall apply only to the first 20 megawatts of biomass renewable energy facility generation capacity located in all cleanfields renewable energy demonstration parks in the State.

SECTION 5. Effective date. – This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Became law upon approval of the Governor at 4:15 p.m. on the 5th day of August,

2010.

Session Law 2010-196

H.B. 1292

AN ACT TO PROVIDE THAT ANY ENERGY SAVINGS REALIZED BY CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA SHALL REMAIN AVAILABLE TO THE INSTITUTION AND A PORTION OF THOSE ENERGY SAVINGS SHALL BE USED FOR OTHER ENERGY CONSERVATION MEASURES; AND TO EXPAND THE USE OF OPERATIONAL LEASES BY LOCAL BOARDS OF EDUCATION.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 116 of the General Statutes is amended by adding a new section to read:

"§ 116-30.3B. Energy conservation savings.

(a) In addition to the funds carried forward under G.S. 116-30.3, the General Fund current operations appropriations credit balance remaining at the end of each fiscal year for utilities of a constituent institution that is energy savings realized from implementing an energy conservation measure shall be carried forward by the institution to the next fiscal year. Sixty percent (60%) of the energy savings realized shall be utilized for energy conservation measures by that institution. The use of funds under this section shall be limited to onetime capital and operating expenditures that will not impose additional financial obligations on the State. The Director of the Budget, under the authority set forth in G.S. 143C-6-2, shall establish the General Fund current operations credit balance remaining in each budget code of each institution.

(b) The Director of the Budget shall not decrease the recommended continuation budget requirements for utilities for constituent institutions by the amount of energy savings realized from implementing energy conservation measures, including savings achieved through a guaranteed energy savings contract.

(c) Constituent institutions shall submit annual reports on the use of funds authorized pursuant to this section as required under G.S. 143-64.12.

(d) As used in this section, 'energy savings,' 'guaranteed energy savings contract,' and 'energy conservation measure' have the same meaning as in G.S. 143-64.17."

SECTION 2. G.S. 143-64.12(a) reads as rewritten:

"(a) The Department of Commerce through the State Energy Office shall develop a comprehensive program to manage energy, water, and other utility use for State agencies and State institutions of higher learning and shall update this program annually. Each State agency and State institution of higher learning shall develop and implement a management plan that is consistent with the State's comprehensive program under this subsection to manage energy, water, and other utility use. The energy consumption per gross square foot for all State buildings in total shall be reduced by twenty percent (20%) by 2010 and thirty percent (30%) by 2015 based on energy consumption for the 2002-2003 fiscal year. Each State agency and State institution of higher learning shall update its management plan annually and include strategies for supporting the energy consumption reduction requirements under this subsection. Each community college shall submit to the State Energy Office an annual written report of utility consumption and costs. Management plans submitted annually by State institutions of higher learning shall include all of the following:

- (1) Estimates of all costs associated with implementing energy conservation measures, including pre-installation and post-installation costs.
- (2) The cost of analyzing the projected energy savings.
- (3) Design costs, engineering costs, pre-installation costs, post-installation costs, debt service, and any costs for converting to an alternative energy source.
- (4) An analysis that identifies projected annual energy savings and estimated payback periods."

SECTION 3. G.S. 115C-530 reads as rewritten:

"§ 115C-530. **Operational leases of school buildings and school facilities.**

(a) Local boards of education may enter into operational leases of real or personal property for use as school buildings or school facilities. Operational leases for terms of less than three years shall not be subject to the approval of the board of county commissioners. Operational leases for terms of three years or longer, including periods that may be added to the original term through the exercise of options to renew or extend, are permitted if all of the following conditions are met:

- (1) The budget resolution includes an appropriation authorizing the current fiscal year's portion of the obligation.
- (2) An unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the lease for the current fiscal year.
- (3) The leases are approved by a resolution adopted by the board of county commissioners. If an operational lease is approved by the board of county commissioners, in each year the county commissioners shall appropriate sufficient funds to meet the amounts to be paid during the fiscal year under the lease.
- (4) Any construction, repair, or renovation of the property is in compliance with the requirements of G.S. 115C-521(c) relating to energy guidelines.

For purposes of this section, an operational lease is defined according to generally accepted accounting ~~principles~~ principles and may be for new or existing buildings.

(b) Local boards of education may enter into contracts for the ~~repair~~ construction, repair, or renovation of leased property if (i) the budget resolution includes an appropriation authorizing the obligation, (ii) an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year, and (iii) the ~~repair~~ construction, repair, or renovation is in compliance with the requirements of G.S. 115C-521(c) relating to energy guidelines. Construction, repair, or renovation work undertaken or contracted by a private developer is subject to the requirements of Article 8 of Chapter 143 of the General Statutes. Contracts for new construction and renovation that are subject to the bidding requirements of G.S. 143-129(a) and which do not constitute continuing contracts for capital outlay must be approved by the board of county commissioners.

(c) Operational leases and contracts entered into under this section are subject to approval by the Local Government Commission under Article 8 of Chapter 159 of the General Statutes if they meet the standards set out in G.S. 159-148(a)(1), 159-148(a)(2), and 159-148(a)(3). For purposes of determining whether the standards set out in G.S. 159-148(a)(3) have been met, only the five hundred thousand dollar (\$500,000) threshold shall apply."

SECTION 4. This act becomes effective July 1, 2010, and applies to contracts entered into on or after that date.

In the General Assembly read three times and ratified this the 9th day of July, 2010.

This bill having been presented to the Governor for signature on the 9th day of July, 2010 and the Governor having failed to approve it within the time prescribed by law, the same is hereby declared to have become a law.

This 10th day of August, 2010.

RESOLUTIONS
OF THE
STATE OF NORTH CAROLINA

REGULAR SESSION 2010

Resolution 2010-1

S.J.R. 1110

A JOINT RESOLUTION MAKING TECHNICAL CORRECTIONS TO THE ADJOURNMENT RESOLUTION.

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. Section 2(1), (3), and (8) of Resolution 2009-33 read as rewritten:

"SECTION 2. During the regular session that reconvenes on Wednesday, May 12, 2010, only the following matters may be considered:

(1) Bills directly and primarily affecting the State budget, including the budget of an occupational licensing board, for fiscal year ~~2009-2010~~, 2010-2011, provided that the bill must be submitted to the Bill Drafting Division of the Legislative Services Office no later than 4:00 P.M. Friday, May 14, 2010, and must be introduced in the House of Representatives or filed for introduction in the Senate no later than 4:00 P.M. Tuesday, May 25, 2010.

...
(3) Bills and resolutions introduced in 2009 and having passed third reading in 2009 in the house in which introduced, received in the other house in accordance with Senate Rule 41 or House Rule ~~31.1(d)~~ 31.1(e) as appropriate, and not disposed of in the other house by tabling, unfavorable committee report, indefinite postponement, or failure to pass any reading, and which do not violate the rules of the receiving house.

...
(8) A joint resolution authorizing the introduction of a bill pursuant to subdivision ~~(6)~~ (7) of this section.

...."

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 12th day of May, 2010.

Resolution 2010-2

H.J.R. 1675

A JOINT RESOLUTION HONORING FOUR-TIME NASCAR SPRINT CUP CHAMPION JIMMIE JOHNSON.

Whereas, at the age of 34, Jimmie Johnson has had an outstanding career as a race car driver; and

Whereas, Jimmie Johnson began racing on 50cc motorcycles at the age of five and within a few years had moved to the 60cc motorcycle class, winning his first championship at the age of eight; and

Whereas, Jimmie Johnson began competing in the Mickey Thompson Entertainment Group Stadium Racing Series and later advanced to off-road racing; and

Whereas, in 1998, Jimmie Johnson began driving in the American Speed Association Series, earning the title of ASA Pat Schauer Rookie of the Year; and

Whereas, Jimmie Johnson raced in the NASCAR Busch Series beginning in 1998 and posted his first Busch Series win in 2001 at the inaugural race at Chicagoland Speedway; and

Whereas, Jimmie Johnson began his career as a driver in the NASCAR Sprint Cup Series in 2002 driving the Lowe's #48 Chevrolet for Hendrick Motorsports and has been sponsored by North Carolina-based Lowe's Home Improvement Warehouse; and

Whereas, in 2002, Jimmie Johnson became the first rookie in NASCAR Sprint Cup racing to lead in the point standings, claiming three victories in his rookie campaign by winning twice at Dover International Speedway and once at California Speedway, and the first rookie in series history to sweep both races at a track; and

Whereas, in 2003, Jimmie Johnson finished second in the Sprint Cup point standings with three wins, 14 top-five finishes, 20 top-ten finishes, and two poles. He swept the May races at Lowe's Motor Speedway, capturing victories in the All-Star Race and the Coca-Cola 600, and won two races at New Hampshire International Raceway; and

Whereas, in 2004, Jimmie Johnson was able to complete the season with a second-place finish in the inaugural Chase for the NASCAR Sprint Cup Championship, had the most number of wins of any driver with eight victories, claimed 20 top-five and 23 top-10 finishes, and led 24 races for a total of 1,312 points; and

Whereas, during the 2005 season, Jimmie Johnson's accomplishments included a fifth-place finish in the Chase for the NASCAR Sprint Cup Championship, the lead in point standings for 17 weeks, first-place finishes at Las Vegas Motor Speedway and Dover International Speedway, winning both points events at Lowe's Motor Speedway, and becoming the only driver ranked in the top 10 in point standings after every race during the season; and

Whereas, in 2006, Jimmie Johnson captured his first NASCAR Sprint Cup Championship at Homestead-Miami Speedway and became the only driver in the modern era to win at least three races in each of his first five full-time seasons; and

Whereas, at that time, Jimmie Johnson's success placed him among four other drivers in NASCAR's history to have won the Daytona 500 and the NASCAR Sprint Cup Championship in the same season and the title of Driver of the Year; and

Whereas, in 2007, Jimmie Johnson won his second consecutive Sprint Cup Series Championship and finished the season with 10 wins, 20 top-five finishes, 24 top-10 finishes, and four poles; and

Whereas, in November 2008, Jimmie Johnson's fifteenth-place finish in the Ford 400 at Homestead-Miami Speedway earned him his third consecutive Sprint Cup Championship; and

Whereas, with this victory, Jimmie Johnson became the first person to win three back-to-back championships in 30 years since Cale Yarborough repeated three times from 1976 to 1978; and

Whereas, Jimmie Johnson's third Sprint Cup Championship enabled him to become part of an elite class of three-time champions, which includes Richard Petty, Dale Earnhardt, Jeff Gordon, Darrell Waltrip, David Pearson, Lee Petty, and Cale Yarborough; and

Whereas, in 2009, Jimmie Johnson became the first driver in NASCAR history to win four consecutive Sprint Cup Series Championships; and

Whereas, Jimmie Johnson also won four races during the 10-race Chase for the Championship in 2009, tying his record of four wins in 2004 and 2007; and

Whereas, Jimmie Johnson was named the 2009 Male Athlete of the Year by the Associated Press, becoming the first race car driver to earn the award in its 78-year history; and

Whereas, during the off-season, Jimmie Johnson is a frequent guest on late night television shows and other media outlets; and

Whereas, Jimmie Johnson founded the Jimmie Johnson Foundation with his wife Chandra Johnson in February 2006 to assist children, families, and communities in need across the United States; and

Whereas, in March of 2006, the Jimmie Johnson Foundation established Victory Lanes, a bowling alley for campers with chronic and life-threatening illnesses at Kyle and Pattie Petty's Victory Junction Camp in Randleman, North Carolina; and

Whereas, Jimmie Johnson's achievements as a member of the Hendrick Motorsports team are a fitting memorial to the memory of William C. "Bill" France, known to the racing world as Bill France, Jr., who succeeded his father, William Henry Getty "Big Bill" France, as President of NASCAR, serving the company from 1972 to 2000; and

Whereas, Bill France, Jr., died on June 4, 2007, and is survived by his wife, Betty Jane, and children, Brian France and Lesa France Kennedy; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly congratulates Jimmie Johnson on earning his fourth consecutive NASCAR Sprint Cup Championship.

SECTION 2. The General Assembly honors the memory of William C. "Bill" France, Jr., and expresses its appreciation for his contributions to stock car racing.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to Jimmie Johnson and the family of William C. "Bill" France, Jr.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 25th day of May, 2010.

Resolution 2010-3

S.J.R. 1390

A JOINT RESOLUTION EXPRESSING GRATITUDE TO THE MEMBERS OF THE MILITARY FOR THEIR SERVICE AND HONORING THE MEMORY OF THOSE KILLED IN THE LINE OF DUTY.

Whereas, Memorial Day was first observed as Decoration Day on May 30, 1868, as an occasion to decorate the graves of Civil War soldiers; and

Whereas, after World War I, Decoration Day was expanded to honor service members killed in all of our nation's wars and, after World War II, Decoration Day became known as Memorial Day; and

Whereas, in 1971, Congress established Memorial Day as a federal holiday to be observed on the last Monday of May; and

Whereas, as we observe Memorial Day in 2010, it is important to reflect upon the contributions and sacrifices the men and women of our armed forces have made in upholding the principles of democracy and liberty while in service to our nation; and

Whereas, it is fitting to honor and commend the North Carolinians, as well as the men and women that served with military units based in North Carolina, who were killed in the line of duty; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly expresses its profound gratitude and appreciation to all the men and women of the United States Armed Forces for their selfless service.

SECTION 2. The General Assembly wishes to honor the memory of Marine Corps Captain Seth Mitchell and all of the soldiers, sailors, airmen, and marines who were from North Carolina or had ties to the State and lost their lives during Operations Iraqi Freedom and Enduring Freedom in Iraq and Afghanistan since May 25, 2009.

SECTION 3. The General Assembly wishes to honor the memory of United States Navy Lieutenant Paul B. Stam, who served during World War II, and all the veterans of past wars who have died since the last Memorial Day.

SECTION 4. The General Assembly wishes to honor the memory of all of our North Carolina National Guard members who lost their lives while serving on active duty since May 21, 2009, as follows:

Major Jason George
Sergeant Paul F. Brooks
1st Lieutenant Leevi K. Barnard
Sergeant Roger L. Adams
Specialist Robert L. Bittiker
Sergeant Juan C. Baldeosingh
Staff Sergeant Edward C. Kramer
Specialist Felicia Hill.

SECTION 5. The General Assembly extends its deepest sympathy to the families of the above named service members who made the ultimate sacrifice to help secure the freedom of the United States of America. The people of the State of North Carolina owe a debt to these brave service members and solemnly pledge that they shall never be forgotten.

SECTION 6. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 27th day of May, 2010.

Resolution 2010-4

H.J.R. 1940

A JOINT RESOLUTION EXPRESSING GRATITUDE TO THE MEMBERS OF THE MILITARY FOR THEIR SERVICE AND HONORING THE MEMORY OF THOSE KILLED IN THE LINE OF DUTY.

Whereas, Memorial Day was first observed as Decoration Day on May 30, 1868, as an occasion to decorate the graves of Civil War soldiers; and

Whereas, after World War I, Decoration Day was expanded to honor service members killed in all of our nation's wars and, after World War II, Decoration Day became known as Memorial Day; and

Whereas, in 1971, Congress established Memorial Day as a federal holiday to be observed on the last Monday of May; and

Whereas, as we observe Memorial Day in 2010, it is important to reflect upon the contributions and sacrifices the men and women of our armed forces have made in upholding the principles of democracy and liberty while in service to our nation; and

Whereas, it is fitting to honor and commend the North Carolinians, as well as the men and women that served with military units based in North Carolina, who were killed in the line of duty; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly expresses its profound gratitude and appreciation to all the men and women of the United States Armed Forces for their selfless service.

SECTION 2. The General Assembly wishes to honor the memory of Marine Corps Captain Seth Mitchell and all of the soldiers, sailors, airmen, and marines who were from North

Carolina or had ties to the State and lost their lives during Operations Iraqi Freedom and Enduring Freedom in Iraq and Afghanistan since May 25, 2009.

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Sergeant Juan C. Baldeosingh
Staff Sergeant Edward C. Kramer
Specialist Felicia Hill.

SECTION 5. The General Assembly extends its deepest sympathy to the families of the above named service members who made the ultimate sacrifice to help secure the freedom of the United States of America. The people of the State of North Carolina owe a debt to these brave service members and solemnly pledge that they shall never be forgotten.

SECTION 6. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 3rd day of June, 2010.

Resolution 2010-5

H.J.R. 1678

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ROBERT J. "BOB" HENSLEY, JR., FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Robert J. "Bob" Hensley, Jr. was born on June 23, 1947, in McDowell County to Robert J. Hensley, Sr. and Lelia Wise Hensley; and

Whereas, Bob Hensley grew up in Gaston County and graduated from Cherryville High School in 1965; and

Whereas, Bob Hensley earned a BA degree from the University of North Carolina at Charlotte in 1969 and a JD from the North Carolina Central University School of Law in 1976; and

Whereas, Bob Hensley furthered his education by taking graduate classes in Public Administration at North Carolina State University; and

Whereas, Bob Hensley had a successful career as an attorney for more than 30 years; and

Whereas, Bob Hensley proudly served his profession as a member of the North Carolina Bar Association, North Carolina Academy of Trial Lawyers, and Wake County Academy of Criminal Trial Lawyers; and

Whereas, Bob Hensley represented the people of central Wake County with honor and distinction as a member of the House of Representatives in the North Carolina General Assembly for six terms between 1991 and 2002; and

Whereas, during his tenure in the legislature, Bob Hensley provided outstanding leadership as Chair of Judiciary and State Personnel Committees and Vice-Chair of Alcoholic Beverage Control Committee, and made significant contributions as a member of several other committees, including Appropriations Subcommittee on Education; Human Resources Subcommittee on Children, Youth and Families; Science and Technology; Insurance; Financial Institutions; State Government Performance Audit; Legislative and Local Redistricting; Rules; and Wildlife Resources; and

Whereas, Bob Hensley rendered invaluable service to his community, serving as a member of the Board of Directors of Yates Mill Associates, Inc., Rex Home Health Care, and White Plains Children's Center, as a member of Habitat for Humanity, Back-a-Child Committee for the Garner Road YMCA, and as Legal Counsel for Garner Citizens Against Drug Abuse; and

Whereas, Bob Hensley was a member of Pi Sigma Alpha National Political Science Honors Fraternity, American Society for Public Administration, and Wake County Democratic Men's Club, and served as President of Wake County Young Democrats in 1981 and State Vice-President of North Carolina Young Democrats in 1981; and

Whereas, Bob Hensley was a member of the First United Methodist Church in Wake County; and

Whereas, Bob Hensley was awarded the J. Albert House/Gordon Gray Award for North Carolina's Most Outstanding Democrat in 1983; and

Whereas, Bob Hensley will be fondly remembered for his great sense of humor, his devotion to his family, and his unwavering spirit in defending his beliefs; and

Whereas, Bob Hensley died on August 18, 2009, at the age of 62; and

Whereas, Bob Hensley is survived by his wife, Patricia F. Grainger Hensley; three sons, Robert Hensley III, Preston Hensley, and Chris Hensley; three sisters, Shirley H. Walker, Debra Hensley, and Sarah H. Conner; and one brother, Jerry Hensley; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the life and memory of Robert J. "Bob" Hensley, Jr. and expresses its appreciation for his accomplishments and for the great service he gave to the State of North Carolina and the citizens of central Wake County.

SECTION 2. The General Assembly extends its deepest sympathy to the family of Robert J. "Bob" Hensley, Jr. for the loss of a beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Robert J. "Bob" Hensley, Jr.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 8th day of June, 2010.

Resolution 2010-6

H.J.R. 1722

A JOINT RESOLUTION HONORING THE TWO HUNDRED FIFTIETH ANNIVERSARY OF PITT COUNTY.

Whereas, on November 17, 1760, the Colonial Assembly passed an act effective January 1, 1761, dividing Beaufort County into Beaufort and Pitt Counties; and

Whereas, the new county would be named for William Pitt, Earl of Chatham, who was, at that time, the Prime Minister of England; and

Whereas, the citizens of Pitt County have made significant contributions to the social, cultural, political, and economic prosperity of the State of North Carolina; and

Whereas, Pitt County has continued to grow and prosper through the continued dedication, insight, and planning of the county's elected leaders and concerned citizens; and

Whereas, this occasion is worthy of celebration, and therefore, plans have been made to celebrate the county's historic 250th anniversary with activities throughout the 2010 calendar year; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the founders of Pitt County and congratulates the county on its 250th anniversary.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the Honorable Kenneth R. Ross, Chairman of the Pitt County Board of Commissioners.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 8th day of June, 2010.

Resolution 2010-7

H.J.R. 1869

A JOINT RESOLUTION HONORING THE RANDOLPH COUNTY VETERANS HONOR GUARD.

Whereas, as a result of the United States' decision to abandon its practice of providing military funeral rites for deceased veterans, a group of veterans in Randolph County formed an organization known as the "Randolph County Honor Guard" in 1990; and

Whereas, the Randolph County Honor Guard set out to provide military honors free of charge at the funeral of any honorably discharged veteran buried in Randolph County; and

Whereas, the organization began with 18 members: Robert Cheatham, Frank Davis, Frank Rose, Wayland Ingold, Gary Edwards, Leonard Auman, G. Tom Moore, H.H. Bolton, Arthur Coble, Leroy Diggs, Charles Morton, William Grant, Terry Stutts, Carl Odham, Doug White, George E. Brown, Odell Hayes, and Martin Shaw; and

Whereas, the initial uniforms for the Randolph County Honor Guard consisted of blue coveralls, white gloves, a white web belt, a helmet liner painted white, and 1903 Springfield rifles; and

Whereas, during its first year, the Randolph County Honor Guard performed at less than 10 funerals but were soon sought after to perform throughout the county and surrounding areas; and

Whereas, by 1998, the organization had provided military honors at 100 funerals and had grown in membership to 30 people; and

Whereas, in 2002, the honor guard grew in membership to 40 people and performed at 200 funerals; and

Whereas, today the Randolph County Honor Guard has 83 members and provides military honors to more than 400 veterans annually within a 50-mile radius of Randolph County; and

Whereas, the Randolph County Honor Guard also provides patriotic programs for schools and churches and performs at parades and other community events; and

Whereas, membership in the Randolph County Honor Guard is open to any honorably discharged veteran who is willing to volunteer at least nine hours each month; and

Whereas, the organization recently lost one of its founding members, Frank T. Rose, who was laid to rest on January 26, 2010, with full military honors performed by the Randolph County Honor Guard; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly expresses its appreciation to the members of the Randolph County Honor Guard for the invaluable service they perform for the State's veterans in Randolph County and the surrounding areas.

SECTION 2. The General Assembly honors the life and memory of Frank T. Rose for helping to establish and participating in the Randolph County Honor Guard. He was also very instrumental in getting the Veteran Memorial in Asheboro for Randolph County Veterans and served as the past State Commander of the American Legion.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the Randolph County Honor Guard and the family of Frank T. Rose.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 10th day of June, 2010.

Resolution 2010-8

S.J.R. 1096

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF CHRISTOPHER DUFFY COLLINS.

Whereas, Christopher Duffy Collins was born in New Hanover County to Bruce Eugene Collins and Mary Jo Ashby Collins; and

Whereas, Duffy Collins was a 1995 graduate of Walter M. Williams High School in Burlington, where he was a member of the tennis and golf teams, served as vice president of the student body, and participated in several clubs, including Latin, Environmental, and Philosophy; and

Whereas, Duffy Collins attended the University of North Carolina at Greensboro (UNC-G), where he studied anthropology and religion before finding an interest in nursing; and

Whereas, Duffy Collins was an active and energetic person all of his life; as a young child, he earned the 1989 Sugar Babies Bambino Sportsman Award for the City of Burlington and earned the distinction of becoming the City's first baseball player to receive the winning game ball, after striking out 11 players, and as an adult, he earned a second-place finish for Amateur Men in Disc Golf during the Alamance County PRO-AM Cross State Contest and a first place finish in the Amateur Division for Disc Golf during the Cross State Double Contest between North Carolina and Tennessee; and

Whereas, before graduating from college, Duffy Collins was diagnosed with an autoimmune disease that affected his kidneys, requiring him to endure more than two and one-half years of dialysis treatments while waiting for a kidney donation; and

Whereas, despite the difficulties with his health, Duffy Collins was able to keep a positive attitude as well as maintain his grades while at UNC-G; and

Whereas, Duffy Collins died on September 16, 2005, at the age of 28, after a courageous battle with renal failure; and

Whereas, Duffy Collins's community was greatly affected by his death and showed a tremendous amount of support to his family; and

Whereas, to honor Duffy Collins's memory, his high school alma mater established the Duffy Collins Memorial Scholarship for students accepted to an accredited four-year college or university with an interest in nursing or other health-related fields of study; and

Whereas, Duffy Collins's parents established the Duffy Collins Organ Transplant Foundation, a nonprofit tax deductible foundation, to bring about awareness of organ donation and to raise money to defray costs for transplant patients, especially in North Carolina, where there are more than 3,000 North Carolinians currently on the waiting list for transplants; and

Whereas, less than half of those on the waiting list survive long enough to receive a transplant, which can take an average of seven to eight years; and

Whereas, each organ donor can save up to eight lives; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the life and memory of Christopher Duffy Collins and expresses its appreciation for the impact he had on his community.

SECTION 2. The General Assembly encourages the citizens of this State to become organ donors to help people like Christopher Duffy Collins live a longer life.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Christopher Duffy Collins.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 15th day of June, 2010.

Resolution 2010-9

S.J.R. 1300

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ARTHUR W. WILLIAMSON, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Arthur W. Williamson was born on November 6, 1911, in Cerro Gordo, North Carolina, to Marshall E. Williamson and Annie Belle Green Williamson; and

Whereas, Arthur W. Williamson attended Cerro Gordo High School and Wake Forest College; and

Whereas, Arthur W. Williamson was a farmer and fertilizer dealer in Columbus County; and

Whereas, Arthur W. Williamson served as a member of the Columbus County Board of Health from 1944 to 1947 and the Columbus County Board of Welfare from 1940 to 1950, and served as chair of the Columbus County Board of Education from 1953 to 1954; and

Whereas, Arthur W. Williamson donated land to many organizations in the Cerro Gordo area, including the Cerro Gordo Fire Department, Legionnaires Building, Cerro Gordo Baptist Church, Cerro Gordo Methodist Church and the Church's parsonage, and the Southeastern Community College, which received a generous donation of over 100 acres; and

Whereas, Arthur W. Williamson served as District Supervisor of the United States Census, 7th Congressional District in 1950; and

Whereas, Arthur W. Williamson served with honor and distinction in the General Assembly, serving as a Senator in 1955, 1959, and 1973, and as a Representative in 1961, 1963, 1965, and 1969; and

Whereas, during his tenure in the General Assembly, Arthur W. Williamson played a vital role in the development of North Carolina's Community College System; and

Whereas, Arthur W. Williamson served on the North Carolina Board of Transportation from 1977 to 1981; and

Whereas, Arthur W. Williamson was admired and respected by those who knew him, as well as those whom he served; and

Whereas, Arthur W. Williamson died on July 31, 1999; and

Whereas, Arthur W. Williamson is survived by his wife, Catherine Price Williamson; a son, A. W. "Buddy" Williamson Jr.; four daughters, Betty W. Welch, Margaret W. Godwin, Jean Arthur Hammond, and Sarah W. Purvis; two stepsons, Tom Rothrock and Ken Rothrock; two stepdaughters, Catherine R. Nichols and Carey Redmond; 19 grandchildren, 22 great-grandchildren, and 10 great-great-grandchildren; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the life and memory of Arthur W. Williamson and expresses the appreciation of this State and its citizens for the service he rendered.

SECTION 2. The General Assembly expresses its sympathy to the family of Arthur W. Williamson for the loss of a beloved family member.

SECTION 3. The Secretary of State shall send a certified copy of this resolution to the family of Arthur W. Williamson.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 17th day of June, 2010.

Resolution 2010-10

H.J.R. 1789

A JOINT RESOLUTION HONORING THE FOUNDERS OF THE TOWN OF TRYON ON THE TOWN'S ONE HUNDREDTH TWENTY-FIFTH ANNIVERSARY.

Whereas, in 1767, William Tryon, Royal Colonial Governor of North Carolina, negotiated a treaty line separating lands claimed by settlers from the Cherokee hunting grounds to the west, at which time one of the landmark peaks was named Tryon Mountain; and

Whereas, in 1839, a frontier post office named Tryon was established on Howard Gap Road; and

Whereas, in 1877, the Asheville-Spartanburg Railroad established a line to connect the markets and seaports of the South Carolina Low Country to the people and resources of Western North Carolina, Tennessee, and the Ohio Valley, which had a dramatic impact upon the course of this area's economic and social development; and

Whereas, Tryon City was chartered as an incorporated municipality on March 11, 1885, by the North Carolina General Assembly with the appointment of T.T. Ballenger as Mayor; C.L. Jordan, George A. Smith, and Edwin Anderson as Commissioners; and John M. Dalton as Marshall; and

Whereas, the Town was formally laid out in a half-mile radius circle around the intersection of Pacolet Street and the railroad, a location presently marked by the Town's mascot, the Tryon Horse; and

Whereas, one of Tryon's most distinguished early residents, William Gillette, a noted actor who, in collaboration with Arthur Conan Doyle, created the stage version of Sherlock Holmes in 1889; and

Whereas, on January 9, 1889, the Le Duc sisters established the Lanier Library, as a private subscription library, named in honor of Sidney Lanier, Poet Laureate of the Confederacy, to stimulate the development of the community's civic and cultural character; and

Whereas, in the 1890s, General Ulysses Doubleday, brother of American baseball founder General Abner Doubleday, established his Tryon grape industry on the slopes of Tryon's Laurel Avenue and the slopes of Little Piney Mountain growing white Niagara and red Delaware grapes and initiating an era of highly successful viticulture on Tryon area slopes; and

Whereas, in 1915, Eleanor Vance and Charlotte Yale, late from Biltmore Industries, moved to Tryon and established the Tryon Toymakers and Wood Carvers, which trained local craftsmen for production of artisan furniture and toys which were sold worldwide; and

Whereas, in 1918, Carter P. Brown, noted Michigan hotelier, hearing of the Town's natural beauty and friendly citizens, converted a lodge, formerly used as a tuberculosis sanatorium, into the historical Pine Crest Inn, founded, shortly thereafter, the Tryon Riding and Hunt Club and laid the foundation for Tryon's thriving equestrian cultural tradition; and

Whereas, in 1920, the State Legislature granted Tryon a second charter changing the name from Tryon City to the Town of Tryon; and

Whereas, in 1928, the Tryon Daily Bulletin, the world's smallest daily newspaper, was launched by Seth Vining; and

Whereas, also in 1928, Tryon physicians, Dr. Allen J. Jervey and Dr. Marion C. Palmer, founded the 25-bed St. Luke's Hospital, with funds from an initial bequest by Miss Lucy Embury, a grant from Duke Foundation and \$57,000 contributed by local citizens; and

Whereas, Tryon has contributed to the leadership and historic preservation of the State of North Carolina, sending T.T. Ballenger to serve as State Senator in 1903, Francis T. Bacon to serve as State Representative in 1925 and 1937, Carroll P. Rogers to serve as State Representative in 1929, 1939, and 1941, and as a State Senator in 1945, during which time Rogers cosponsored the bill enabling the State to purchase the site of Tryon Palace in New Bern; and

Whereas, numerous individuals of social, cultural, literary, and cinematic fame have deeply invested themselves in the Town of Tryon, including Lou Hoover, Grace Coolidge,

Eleanor Roosevelt, Margaret Culkin Banning, Lady Astor, F. Scott Fitzgerald, Ernest Hemmingway, General George Marshall, and David Niven, among others; and

Whereas, in 1933, internationally renowned singer and human rights activist Nina Simone, née Eunice Waymon, was born in Tryon; and

Whereas, in 1964, a bequest from Violet Parish-Watson requiring matching funds from the public to build a "civic auditorium and arts center" led to the organization and opening in 1969 of the Tryon Fine Arts Center through the vision and hard work of many individuals and arts organizations including Tryon Little Theater, Tryon Concert Association, Tryon Arts & Crafts, and Tryon Painters & Sculptors; and

Whereas, in 1985, Foothills Equestrian Nature Center (F.E.N.C.E.) came into being as a non-profit nature education and outdoor recreation center, built around an original contribution of 112 acres from the Mahler family who had come to Tryon in the 1920s; and

Whereas, in 1992, the Tryon Business Beautification Association, now the Tryon Downtown Development Association, was created by concerned citizens to foster improvements in downtown Tryon; and

Whereas, March 11, 2010, marked the 125th anniversary of the original Town Charter; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of the founders of the Town of Tryon and expresses its appreciation for the contributions that these citizens made to the State of North Carolina.

SECTION 2. The General Assembly joins the citizens of the Town of Tryon in celebrating the Town's 125th anniversary and encourages the people of this State to participate in activities planned through March 10, 2011, to celebrate the Town's historic anniversary.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the Mayor of the Town of Tryon.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 17th day of June, 2010.

Resolution 2010-11

H.J.R. 2051

A JOINT RESOLUTION HONORING THE CENTENNIAL OBSERVANCE OF LITTLE SWITZERLAND.

Whereas, the community known as Little Switzerland was settled by Scotch-Irish and German families in the late 1700s and originally called Phenoy; and

Whereas, in June of 1909, Heriot Clarkson, a lawyer from Charlotte who had served as a State representative and later served as a State Supreme Court justice, travelled with a small group of people to Grassy Mountain in search of land for a summer retreat; and

Whereas, Heriot Clarkson settled upon an area atop Chestnut Ridge that provided stunning views of the mountains in the area; and

Whereas, on September 4, 1909, Heriot Clarkson organized the Switzerland Company with John B. Alexander, Charles H. Duls, J.A. Durham, K.S. Finch, C.E. Mason, Frank M. Shannonhouse, A.C. Summerville, W.H. Sumner, and D.A. Tompkins; and

Whereas, the Switzerland Company purchased 1,100 acres between McDowell and Mitchell Counties and named the area "Little Switzerland" because the mountains in the area resembled the Jura Mountains in Switzerland; and

Whereas, on February 10, 1910, the Switzerland Company began selling lots to future residents; and

Whereas, Little Switzerland served as the site for boys' and girls' camps, including Camp As-You-Like-It, one of the first girls' camps to open in Western North Carolina; and

Whereas, one of Little Switzerland's residents included Harriet Morehead Berry, known as the "Mother of Good Roads in North Carolina," who helped to promote the Good Roads Movement, which resulted in the creation of the State's modern highway system; and

Whereas, the success of Little Switzerland was due in part to better roads which aided in attracting businesses and tourists to the area; and

Whereas, after 100 years as a resort community, Little Switzerland continues to thrive; and

Whereas, the citizens of Little Switzerland have been actively preparing for the community's centennial celebration through a number of community events; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the founders of Little Switzerland and joins the community's citizens in celebrating the community's centennial observance.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the Little Switzerland Centennial Celebration Committee.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 17th day of June, 2010.

Resolution 2010-12

S.J.R. 1455

A JOINT RESOLUTION PROVIDING THAT THE GENERAL ASSEMBLY SHALL MEET IN JOINT SESSION TO HONOR THE DUKE UNIVERSITY MEN'S BASKETBALL TEAM FOR WINNING THE 2010 NCAA CHAMPIONSHIP.

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. On Thursday, June 24, 2010, at 10:00 A.M., the Senate and the House of Representatives shall meet in joint session in the Hall of the Senate to honor the Duke University men's basketball team for winning the 2010 National Collegiate Athletic Association Division I Men's Basketball Championship.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 22nd day of June, 2010.

Resolution 2010-13

H.J.R. 2074

A JOINT RESOLUTION HONORING THE PUBLIC SERVICE OF HOYT PATRICK TAYLOR, SR. AND HOYT PATRICK TAYLOR, JR.

Whereas, many of North Carolina's able and dedicated public servants have come from the same families, and Hoyt Patrick Taylor, Sr. and his son, Hoyt Patrick Taylor, Jr. were both elected Lieutenant Governor and served during the administrations of W. Kerr Scott and his son, Robert W. Scott; and

Whereas, Hoyt Patrick Taylor, Sr. and Hoyt Patrick Taylor, Jr. are the only father-son pair to be elected Lieutenant Governor in the State's history; and

Whereas, Hoyt Patrick Taylor, Sr. was born on June 11, 1890, in Winton, North Carolina, to Simeon P. Taylor and Kate Ward Taylor; and

Whereas, Hoyt Patrick Taylor, Sr. attended Winton High School and Academy and Horner Military Academy and graduated from Wake Forest College; and

Whereas, Hoyt Patrick Taylor, Sr. became a lawyer and went on to serve as Vice-President and Director of Anson Sanatorium and Carolina Concrete Pipe Company and as Director of the Anson Telephone and Telegraph Company, Anson Building and Loan

Association, Anson Real Estate and Insurance Company, Hornwood Warp Knitting Company, and the Wadesboro Electric Service Company; and

Whereas, Hoyt Patrick Taylor, Sr. made numerous contributions to his community and his State, including service as Mayor of Wadesboro, Chair of the Board of Trustees of Meredith College, and as a member of the Board of Trustees of The University of North Carolina; and

Whereas, Hoyt Patrick Taylor, Sr. was elected to the General Assembly in 1936 and served in the North Carolina Senate for terms in 1937, 1939, and 1943; and

Whereas, as a distinguished member of the North Carolina Senate, Hoyt Patrick Taylor, Sr. was appointed Chair of the Committees on Finance and Appropriations and was a member of several other committees including, Banks and Currency, Constitutional Amendments, Judiciary, Mental Institutions, Railroads, Unemployment Compensation, Courts and Judicial Districts, Election Laws, Insurance, and Military Affairs; and

Whereas, Hoyt Patrick Taylor, Sr. served as the Legislative Assistant to Governor Robert Cherry from 1945 to 1946 and served as Lieutenant Governor from 1949 to 1953; and

Whereas, Hoyt Patrick Taylor, Sr. also served as a member of the State Board of Education from 1949 to 1953, during which time he served as Chair; and

Whereas, Hoyt Patrick Taylor, Sr. served as a delegate to the 1952 Democratic National Convention; and

Whereas, Hoyt Patrick Taylor, Sr. was active in many charitable and fraternal organizations, including the Anson County Post No. 31 of the American Legion, Wadesboro Rotary and Executives Clubs, Woodmen of the World, Carolina Consistory, Oasis Temple of the Shrine, and the Masons; and

Whereas, Hoyt Patrick Taylor, Sr., served his country as a member of the 371st Infantry during World War I and was awarded the Silver Star and Purple Heart; and

Whereas, Hoyt Patrick Taylor, Sr. was a member of the First Baptist Church in Wadesboro; and

Whereas, Hoyt Patrick Taylor, Sr. married Inez Wooten Taylor on June 28, 1923, and to their union had three children, Hoyt Patrick Taylor, Jr., Caroline Corbett Taylor, and Frank Wooten Taylor; and

Whereas Hoyt Patrick Taylor, Sr. died on April 12, 1964, at the age of 74; and

Whereas, Hoyt Patrick "Pat" Taylor, Jr. was born on April 1, 1924, in Wadesboro, North Carolina; and

Whereas, Pat Taylor, Jr. attended the McCallie School in Chattanooga, Tennessee from 1940 to 1942 and received a bachelor's degree in 1945 and a law degree in 1948 from the University of North Carolina at Chapel Hill; and

Whereas, Pat Taylor, Jr. served in the United States Marine Corps from 1945 to 1946 during World War II and from 1951 to 1952 during the Korean War; and

Whereas, Pat Taylor, Jr. practiced law for many years in Wadesboro; and

Whereas, Pat Taylor, Jr. served with honor and distinction in the North Carolina House of Representatives for six consecutive terms between 1955 and 1966; and

Whereas, during his tenure in the General Assembly, Pat Taylor, Jr. was appointed Chair of the Judiciary Committee and Vice-chair of the Committees on Courts and Judicial Districts and Employment Security and served as a member of several other committees, including Finance, Mental Institutions, Insurance, Highway Safety, and Public Utilities; and

Whereas, Pat Taylor, Jr. was elected as Speaker of the House of Representatives during his last term in the General Assembly; and

Whereas, in 1961, Pat Taylor, Jr. became the recipient of the Judge John J. Parker Award, the highest award given by the North Carolina Bar Association, "for conspicuous contributions to the cause of jurisprudence in North Carolina," and in recognition of his efforts in persuading the General Assembly to pass legislation creating a constitutional amendment on court reform; and

Whereas, Pat Taylor, Jr. was the recipient of the University of North Carolina at Chapel Hill School of Law Distinguished Alumni Award for "Distinction Beyond Professional Excellence"; and

Whereas, Pat Taylor, Jr. served as Lieutenant Governor of North Carolina and as a member of the State Board of Education from 1969 to 1973; and

Whereas, during the 1972 Democratic National Convention, Pat Taylor, Jr. was among those who received votes for the Democratic Vice-Presidential nomination; and

Whereas, in 2005, Pat Taylor, Jr. wrote "Fourth Down and Goal to Go," an anthology based on his personal and political experiences in North Carolina; and

Whereas, in 2008, Pat Taylor, Jr. and his wife, Elizabeth Lockhart Taylor, and their families were honored by Southern Piedmont Community College, when the college named the newly renovated facility that houses the college's continuing education operations the Lockhart-Taylor Center and later bestowed an honorary degree; and

Whereas, Pat Taylor, Jr. has served on various boards and committees, including the Board of Trustees of the University of North Carolina at Chapel Hill, the General Alumni Board of the University of North Carolina at Chapel Hill, the Board of Governors of The University of North Carolina, a member of the Board of Trustees of the University of North Carolina at Greensboro, Chair of the Board of Trustees of Blue Cross Blue Shield of North Carolina, and a Director of Anson Bank and Trust Company, and was a Rotarian and 32nd Degree Mason; and

Whereas, Pat Taylor, Jr. is a member of Calvary Episcopal Church in Wadesboro; and

Whereas, Pat Taylor, Jr. and his wife, Elizabeth, have been married for almost 60 years and are the parents of three children, Elizabeth Ann Taylor, Hoyt Patrick Taylor, III, and Adam Lockhart Taylor; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of Hoyt Patrick Taylor, Sr. and expresses the gratitude and appreciation of this State and its citizens for his life and service to North Carolina.

SECTION 2. The General Assembly expresses high esteem and regard for the accomplishments of Hoyt Patrick "Pat" Taylor, Jr. and acknowledges with gratitude the distinguished service he provided to his community, State, and nation.

SECTION 3. The General Assembly also acknowledges and appreciates the generous action of the Taylor family to donate the personal and political papers and records of Hoyt Patrick Taylor, Sr. and Hoyt Patrick Taylor, Jr. to the people of North Carolina.

SECTION 4. The General Assembly, in honor of the contributions made by Hoyt Patrick Taylor, Sr. and Hoyt Patrick Taylor, Jr. to the honorable bodies, further directs the Legislative Services Division of the General Assembly to display a certified copy of this resolution together with pictures of Hoyt Patrick Taylor, Sr. and Hoyt Patrick Taylor, Jr. in a prominent location within the Legislative Building.

SECTION 5. The Secretary of State shall transmit a certified copy of this resolution to the family of Hoyt Patrick Taylor, Sr. and to Hoyt Patrick Taylor, Jr.

SECTION 6. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 22nd day of June, 2010.

Resolution 2010-14

H.J.R. 2071

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF MYRNA MILLER WELLONS, AN ADVOCATE FOR SOCIAL WELFARE AND WOMEN'S RIGHTS.

Whereas, Myrna Miller Wellons graduated from the University of North Carolina at Chapel Hill, where she earned a bachelor's degree and law degree; and

Whereas, Myrna Miller Wellons served as Director of Governmental Affairs for Lilly USA, where she spent much of her time working on issues relating to mental health and diabetes for a territory that included North Carolina, Virginia, West Virginia, Kentucky, Tennessee, and Arkansas; and

Whereas, prior to working for Lilly USA, Myrna Miller Wellons served as Director of government relations for the National Association of Social Workers (NASW) North Carolina Chapter and was president-elect of the board for that organization at the time of her death; and

Whereas, Myrna Miller Wellons served as vice-chair of the North Carolina Diabetes Advisory Council and as a member of the Mental Health Association of North Carolina; and

Whereas, Myrna Miller Wellons served as a guest lecturer at Meredith College, North Carolina State University, and the University of North Carolina at Chapel Hill; and

Whereas, Myrna Miller Wellons earned the respect and admiration of her fellow colleagues and was sought after to mentor and train social workers across the State; and

Whereas, Myrna Miller Wellons died on March 1, 2010, at the age of 40; and

Whereas, Myrna Miller Wellons is survived by her husband, Robert Shawn Wellons; her son, Christopher Wellons; her father, Jack D. Miller; and her brother, Troy Miller; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of Myrna Miller Wellons and extends its appreciation for her dedication to improve the lives of the citizens of this State.

SECTION 2. The General Assembly extends its sympathy to the family of Myrna Miller Wellons for the loss of a beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Myrna Miller Wellons.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 23rd day of June, 2010.

Resolution 2010-15

H.J.R. 1907

A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF THE APPOINTMENT OF LUCY T. ALLEN TO THE UTILITIES COMMISSION.

Whereas, under the provisions of G.S. 62-10, appointments made by the Governor to membership on the North Carolina Utilities Commission are subject to confirmation by the General Assembly by joint resolution; and

Whereas, a vacancy has occurred on the North Carolina Utilities Commission due to the resignation of Robert V. Owens, Jr.; and

Whereas, the Governor has submitted to the presiding officers of the House of Representatives and the Senate the name of Lucy T. Allen to serve the remainder of the term expiring June 30, 2013, caused by the resignation of Robert V. Owens, Jr.; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The appointment of Lucy T. Allen to the North Carolina Utilities Commission for the remainder of the term of Robert V. Owens, Jr., expiring June 30, 2013, is confirmed.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of June, 2010.

Resolution 2010-16

S.J.R. 1456

A JOINT RESOLUTION HONORING THE DUKE BLUE DEVILS ON WINNING THE 2010 NATIONAL BASKETBALL CHAMPIONSHIP.

Whereas, on April 5, 2010, the Duke University men's basketball team won the 2010 National Collegiate Athletic Association (NCAA) Division I Championship by defeating Butler University by a score of 61-59; and

Whereas, this championship gives Duke University its fourth Division I NCAA title for the men's basketball program, adding to the championships won in 1991, 1992, and 2001; and

Whereas, the Blue Devils have achieved an outstanding record during their NCAA tournament history, which includes being selected 11 times as a No. 1 seed and appearing in 34 tournaments with 10 championship game appearances, 15 Final Four appearances, 18 Elite Eight appearances, and 25 Sweet 16 appearances; and

Whereas, the Blue Devils won the 2010 Atlantic Coast Conference (ACC) tournament championship, increasing the program's record to 18 ACC tournament titles, the most titles of any ACC member; and

Whereas, the Blue Devils were the ACC regular season cochampions, achieving a conference record of 13-3; and

Whereas, the Blue Devils triumphed on their home court this season by going undefeated; and

Whereas, the Blue Devils finished the 2009-2010 season with a record of 35-5 and were ranked No. 1 by the USA Today/ESPN Top 25 men's basketball coaches' poll; and

Whereas, much of the Blue Devils' success can be attributed to the leadership of head coach, Mike Krzyzewski, a Hall of Fame coach, who during his 30 seasons at Duke has led his teams to a record of 795-220; and

Whereas, Coach Krzyzewski maintains the record for the most number of NCAA tournament wins, capturing his 77th NCAA win during the 2010 tournament, and with four championship titles, ties Adolph Rupp for the second most championships in NCAA history; and

Whereas, many individual team members were recognized for their efforts during the year and throughout their college careers, including Kyle Singler, who was named the Final Four Most Outstanding Player and who was selected to the All-Tournament team along with teammates Nolan Smith and Jon Scheyer; and

Whereas, each year Duke University is recognized as one the nation's best academic institutions and its basketball program continues to have one of the highest graduation rates for its athletes; and

Whereas, these accomplishments reflect favorably on the basketball tradition that began in 1906 when Duke alumnus Wilbur Wade "Cap" Card established the sport of basketball at Duke University (then Trinity College); and

Whereas, these extraordinary accomplishments bring great honor and distinction to the State of North Carolina and deserve recognition by the State; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly expresses the appreciation and admiration of the people of North Carolina to Duke University's men's basketball team for winning the 2010 National Collegiate Athletic Association Division I Championship.

SECTION 2. The General Assembly especially recognizes the achievements of team members Seth Curry, Jordan Davidson, Andre Dawkins, Steve Johnson, Ryan Kelly, Casey Peters, Mason Plumlee, Miles Plumlee, Jon Scheyer, Kyle Singler, Nolan Smith, Lance Thomas, Todd Zafirovski, and Brian Zoubek; Head Coach Mike Krzyzewski; Associate Head Coaches Chris Collins and Steve Wojciechowski; Assistant Coach Nate James; Director of Basketball Operations Chris Spatola; and Athletic Trainer Chris Carrawell.

SECTION 3. The General Assembly honors the memory of Wilbur Wade "Cap" Card for his contributions to the basketball program at Duke University.

SECTION 4. The Secretary of State shall transmit a certified copy of this resolution to Duke University President Richard H. Brodhead, Vice President and Director of Athletics Kevin White, and all of the individuals honored in this resolution.

SECTION 5. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of June, 2010.

Resolution 2010-17

S.J.R. 1301

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF W. HORACE CARTER, PULITZER PRIZE WINNING PUBLISHER.

Whereas, W. Horace Carter was born on January 20, 1921, in Stanly County, to Walter Raleigh Carter and Waulena Florence Lowder Carter; and

Whereas, after high school, W. Horace Carter enrolled at the University of North Carolina at Chapel Hill where he majored in journalism and served as editor of the university's newspaper during his senior year; and

Whereas, W. Horace Carter's college education was briefly interrupted during World War II when he served in the United States Navy as a member of the Scouts and Raiders and amphibious forces achieving the rank of Pharmacist Mate 2nd Class; and

Whereas, upon graduation from college, W. Horace Carter moved to Tabor City, North Carolina, and worked for the newly established Tabor City Merchants Association; and

Whereas, W. Horace Carter soon after established The Tabor City Tribune newspaper publishing its first edition on July 6, 1946; and

Whereas, in 1953, W. Horace Carter was awarded a Pulitzer Prize for Meritorious Public Service, an honor shared with The News Reporter of Whiteville for a four-year investigation of the Ku Klux Klan that resulted in several members of the Ku Klux Klan being sent to prison and owing fines; and

Whereas, W. Horace Carter also played a role in establishing several other newspapers which he later sold including the Myrtle Beach Sun, The Conway Herald, and The Loris Sentinel; and

Whereas, W. Horace Carter founded Atlantic Corp., the parent company of the Tabor-Loris Tribune (formerly known as The Tabor City Tribune); and

Whereas, W. Horace Carter retired from his company in 1974 and handed over the leadership to his son, Rusty Carter; and

Whereas, during his retirement, W. Horace Carter found time to write several books and magazine articles; and

Whereas, W. Horace Carter received numerous honors and recognitions for his many good deeds, including the North Carolina Distinguished Service Award from the North Carolina Junior Chamber of Commerce, Tabor City Man of the Year Award, Distinguished Service Award from the National Editorial Association, and the North Carolina Press

Association Certificate of Merit as well as honorary doctorate degrees from the University of North Carolina at Chapel Hill, Campbell University, and Coastal Carolina University; and

Whereas, W. Horace Carter was named "one of the 100 persons who made the greatest impact on the lives of the people of North Carolina in the 20th century" by the Raleigh News and Observer and "one of the 2,000 most outstanding writers of the 20th century" from an international organization; and

Whereas, W. Horace Carter was also honored by the University of North Carolina at Chapel Hill when an endowed professorship was established in his honor in 2007 at the School of Journalism and Mass Communications; and

Whereas, W. Horace Carter was married to Lucille Miller for 37 years, who was his partner in the founding of the Tabor City Tribune and the many crusades that followed and was the mother of their three children; and

Whereas, W. Horace Carter died on September 16, 2009, at the age of 88; and

Whereas, W. Horace Carter is survived by his wife, Linda Duncan Carter; a son, Rusty Carter; two daughters, Linda Carter Metzger and Velda Carter Hughes; 10 grandchildren; and six great-grandchildren; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the memory of W. Horace Carter and expresses the appreciation of this State and its citizens for his many accomplishments and contributions to journalism.

SECTION 2. The General Assembly extends its sympathy to the family of W. Horace Carter for the loss of a beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of W. Horace Carter.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 29th day of June, 2010.

Resolution 2010-18

H.J.R. 1900

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF SERGEANT MICKEY HUTCHENS, FALLEN WINSTON-SALEM POLICE OFFICER.

Whereas, Mickey Hutchens was born November 6, 1958, to Shirley and Donald Hutchens; and

Whereas, Mickey graduated from Forbush High School in 1976 and earned an Associate's Degree from Surry Community College in 1979 and a Bachelor of Arts from Gardner-Webb University in 1981; and

Whereas, Mickey Hutchens was a faithful member of Forbush Baptist Church, where he served as a deacon and volunteered for local mission work; and

Whereas, Mickey Hutchens was a member of the Winston-Salem Police Department for 27 years, during which time he served as a juvenile detective and worked in the Department's Office of Professional Standards among his many assignments; and

Whereas, Mickey Hutchens died on October 12, 2009, due to the injuries he received from a gunshot wound while responding to a call on October 7, 2009; and

Whereas, Mickey Hutchens was respected, admired, and loved by those who knew him and those who had the privilege of working with him; and

Whereas, Mickey Hutchens is survived by his wife Beth Hutchens; daughters Jill and Leah; mother Shirley and stepfather Donald Bowen; and sisters Sherri and Wendy; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of Sergeant Mickey Hutchens and expresses the appreciation of this State and its citizens for the outstanding dedication and service as a law enforcement officer.

SECTION 2. The General Assembly extends its sympathy to the family of Sergeant Mickey Hutchens for the loss of a beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Sergeant Mickey Hutchens.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 29th day of June, 2010.

Resolution 2010-19

H.J.R. 2077

A JOINT RESOLUTION HONORING THE FOUNDERS OF THE CITY OF NEW BERN ON THE OCCASION OF THE CITY'S THREE HUNDREDTH ANNIVERSARY.

Whereas, New Bern was founded in 1710 by Swiss and German settlers at the confluence of the Neuse and Trent Rivers on the site of a former Native American community called Chattawka; and

Whereas, Christopher de Graffenried, a member of a prominent family from the area around Bern, Switzerland, founded and laid out the center of the City, which he named New Bern in honor of his native home; and

Whereas, despite early difficulties, including disagreements with the native population, New Bern prospered during the mid-eighteenth century as a major port and trading center; and

Whereas, Royal Governor William Tryon selected New Bern as the site of the first permanent capital of colonial North Carolina and had a palace built to serve as the seat of government and the home of the Governor; and

Whereas, New Bern served as the location of a number of noteworthy events, including the first Provincial Congress in defiance of British orders in 1774; the first meeting of the General Assembly in 1777; visits by George Washington and sitting Presidents James Monroe and Harry Truman; during Civil War occupation developed important black leaders who contributed to the Union Army and helped begin the Freedmen's Bank and Bureau; and the invention of "Brad's Drink" by pharmacy owner, Caleb Bradham, in 1898, which was later known as Pepsi; and

Whereas, many of New Bern's citizens have rendered distinguished service to the State and the nation, including Richard Dobbs Spaight, a member of the Continental Congress and signer of the United States Constitution; John Wright Stanly, a business owner whose merchant ships raided British vessels to aid the American cause during the Revolutionary War; William Gaston, a State legislator, State Supreme Court Justice, author of the State's song, a member of the United States Congress, founder of Saint Paul's Church, the oldest Catholic congregation in the State, and a champion of tolerance; Joseph Leach, North Carolina's first State treasurer and head of the Council of State during the Revolutionary War period; and George Henry White, a former slave, attorney, State legislator, and the last African-American to serve in the United States Congress prior to the passage of the Voting Rights Act of 1965; and

Whereas, New Bern has contributed to the cultural prosperity of the State, serving as the home of many artistic people including James Davis, the first printer in North Carolina; Mary Bayard Clarke, a well-known 19th century poet; Bayard Wootten, a nationally known early 20th century photographer; and Ervin Rouse, fiddler and composer of the Orange Blossom Special; and

Whereas, many place names in North Carolina honor individuals whose lives were important in New Bern and in North Carolina, including Wake County named for Margaret Wake Tryon, Tryon named for Governor William Tryon, Gaston County and Gastonia named for William Gaston, and Nash County named for Governor Abner Nash; and

Whereas, New Bern is home to more than 150 sites listed on the National Register of Historic Properties; and

Whereas, New Bern has seen a revival in civic pride and an interest in preserving the City's history and restoring the City's historic structures, including a new North Carolina History Center at Tryon Palace, a restored federal building and courthouse, a new and expanded Firemen's Museum, and a new visitor center at the site of the Battle of New Bern; and

Whereas, New Bern is observing its 300th anniversary in 2010 and plans to highlight this historic occasion through a series of year-long events and activities; and

Whereas, a major exhibit of New Bern and North Carolina history opened on December 3, 2009, in Bern, Switzerland, at the largest Swiss history museum; and

Whereas, as the State's second oldest city, New Bern has made significant contributions to the history of North Carolina and of the nation for the last three hundred years; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of the early residents of the City of New Bern for their contributions to their community, the State of North Carolina, and the nation.

SECTION 2. The General Assembly extends sincere good wishes to the residents of the City of New Bern on the occasion of the City's 300th anniversary in 2010 and encourages the citizens of this State to join New Bern in demonstrating respect for and pride in our history and heritage.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the Mayor of the City of New Bern.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 29th day of June, 2010.

Resolution 2010-20

S.J.R. 1454

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF BETTY HUTCHINSON WISER, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Betty Hutchinson Wiser was born May 12, 1931, in Shelby, Ohio, to Roscoe David Hutchinson and Mary Louise Stine Hutchinson; and

Whereas, Betty Hutchinson Wiser earned a BS degree from Ohio State University in 1954; an MS degree in Home Economics from Ohio State University in 1958; an MS degree in Sociology from North Carolina State University in 1961; and a doctorate degree in Adult Education from North Carolina State University in 1982; and

Whereas, Betty Hutchinson Wiser's professional background included working as a teacher and home economist and serving as President of the Retirement Planning Associates, Inc.; Executive Director of the Wake County Council on Aging, Inc.; Director and Founder of the Retired Senior Volunteer Program of Raleigh-Wake County; and Director of Volunteer Training and Volunteer Services projects; and

Whereas, Betty Hutchinson Wiser was active in the political affairs of her community, serving as a precinct chair for Wake County and as a member of the Wake County Unity Campaign Committee and the Democratic Women of Wake County; and

Whereas, Betty Hutchinson Wiser served with honor and distinction as a member of the General Assembly, serving three terms in the North Carolina House of Representatives from 1985 to 1990; and

Whereas, during her tenure in the General Assembly, Betty Hutchinson Wiser made significant contributions as chair of the Committee on Human Resources and as a member of several committees, including Appropriations; Pensions and Retirement; Rules, Appointments and the Calendar; and Joint Legislative Commission on Governmental Operations; and

Whereas, Betty Hutchinson Wiser served as President of the League of Women Voters of North Carolina and cochair of the Osteoporosis Prevention Task Force of North Carolina, and as a member of the National Association of Women Business Owners, American Business Women Association, American Association of University Women, Older Women's Leagues, North Carolina Adult Education Association, North Carolina Association of Aging, and North Carolina Senior Citizens Association; and

Whereas, Betty Hutchinson Wiser also served in many capacities on numerous boards and commissions, including as Director of the North Carolina Center for Public Policy Research, Director of the North Carolina Conference for Social Services, and President of the North Carolina Council of Women's Organizations, and as a member of the North Carolina Council on the Status of Women, North Carolina Family Life Council, and the Capitol Planning Commission; and

Whereas, while a resident of Wake County, Betty Hutchinson Wiser was a faithful member of the Unitarian Church in Raleigh; and

Whereas, Betty Hutchinson Wiser died on February 18, 2010, at the age of 78; and

Whereas, Betty Hutchinson Wiser was married for over 52 years to her husband, Edward Wiser, who passed away on March 4, 2010; and

Whereas, Betty Hutchinson Wiser is survived by her daughter, Carla Lounsbury; son, Conrad Wiser; six grandchildren; one great-grandchild; and two brothers, Samuel and David Hutchinson; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the memory of Betty Hutchinson Wiser and expresses the appreciation of this State and its citizens for the remarkable service she rendered.

SECTION 2. The General Assembly extends its deepest sympathy to the family of Betty Hutchinson Wiser for the loss of a beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Betty Hutchinson Wiser.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 29th day of June, 2010.

Resolution 2010-21

S.J.R. 1302

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF MARGARET TAYLOR HARPER, FORMER CANDIDATE FOR LIEUTENANT GOVERNOR.

Whereas, Margaret Taylor was born on February 17, 1917, in Southport, North Carolina, to Charles Edward Taylor and Jessie Stevens Taylor; and

Whereas, Margaret Taylor earned a bachelor's degree from Greensboro College in 1937; and

Whereas, after college, Margaret Taylor married James M. Harper, Jr., editor of the State Port Pilot, a local newspaper in Southport; and

Whereas, Margaret Taylor Harper successfully ran an insurance company founded by her grandfather for a number of years and edited the State Port Pilot while her husband served in the United States Navy during World War II; and

Whereas, Margaret Taylor Harper went on to serve as executive secretary of the North Carolina Press Association from 1969 to 1978 and was inducted into the North Carolina Journalism Hall of Fame in 1987; and

Whereas, Margaret Taylor Harper rendered distinguished service to her community, serving on many boards in various leadership capacities, including the Southport Woman's Club, Brunswick County Library Board, and North Carolinians for Better Libraries; and

Whereas, Margaret Taylor Harper served on the Boards of Trustees for the University of North Carolina at Chapel Hill, Blue Cross/Blue Shield of North Carolina, and North Carolina Wesleyan College, the Board of Governors for Research Triangle Institute, and Board of Directors of Carolina Power and Light Company; and

Whereas, Margaret Taylor Harper served as president of the North Carolina Democratic Women and chair of the North Carolina Council of Women's Organizations; and

Whereas, Margaret Taylor Harper sought the Democratic nomination for lieutenant governor during the 1968 and 1972 elections; and

Whereas, Margaret Taylor Harper was devoted to the Trinity United Methodist Church in Southport, serving as a Sunday school teacher and the organist for more than 50 years; and

Whereas, Margaret Taylor Harper served as chair of the Methodist Retirement Home in the City of Durham and played a vital role in establishing Croasdaile Village, a retirement community in that city; and

Whereas, Margaret Taylor Harper was recognized for her many contributions, receiving honorary degrees from the University of North Carolina at Chapel Hill and Greensboro College and recognition from the Council of Women's Organizations as a Woman of Distinction in 1987; and

Whereas, Margaret Taylor Harper died on October 11, 2009, at the age of 92; and

Whereas, Margaret Taylor Harper leaves to cherish her memories two sons, James M. Harper III and Edward T. Harper; four grandchildren, James M. Harper IV, Margaret Tuttle, Julianne Hollingsworth, and Morgan Harper of Southport; and seven great-grandchildren, Kathleen Tuttle, Clay Tuttle, Sierra Shell, Anna Holcomb, Jonah Gouger, Joshua Mote, and Marisa Mote; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the life of Margaret Taylor Harper and expresses the appreciation of this State and its citizens for her life and service to her community and State.

SECTION 2. The General Assembly extends its sympathy to the family of Margaret Taylor Harper for the loss of a beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Margaret Taylor Harper.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 1st day of July, 2010.

Resolution 2010-22

S.J.R. 1391

A JOINT RESOLUTION HONORING THE TWO HUNDRED THIRTY-THIRD ANNIVERSARY OF CASWELL COUNTY.

Whereas, on April 18, 1777, Richard Caswell was elected by the General Assembly to serve as the first governor of the State of North Carolina; and

Whereas, Richard Caswell had served as the Clerk of Court of Orange County from 1752 to 1754, a member of the Colonial House of Delegates, Commander of the right wing of Governor Tryon's army at the Battle of Alamance in 1771, a member of the Continental Congress from 1774 to 1775, Commander of the Patriots at the Battle of Moore's Creek Bridge in 1776, and as a delegate and president of the State Constitutional Convention in 1776, during which time he helped to write North Carolina's constitution; and

Whereas, legislators attending the First Session of the Assembly in 1777 began the monumental task of creating a free and independent State, unprecedented in the history of the world; and

Whereas, their actions created the legal framework within which our great State operates today; and

Whereas, on May 9, 1777, the General Assembly enacted legislation creating a new county known as Caswell County and named it for Governor Richard Caswell; and

Whereas, Caswell County was formed from the northern portion of Orange County with its current boundaries extending to Alamance, Orange, Person, and Rockingham Counties and the State of Virginia; and

Whereas, Caswell County has two incorporated towns, Milton and Yanceyville, and several townships, including Anderson, Blanch, Dan River, Leasburg, Locust Hill, Pelham, Prospect Hill, and Stoney Creek; and

Whereas, the history of this north central Piedmont county is rich with an illustrious heritage and lore; and

Whereas, the citizens of Caswell County have made significant contributions to the social, cultural, political, and economic prosperity of the State of North Carolina; and

Whereas, it is incumbent upon the residents and native sons and daughters of Caswell County to find and bind together, to become familiar with, grow in understanding of, and acquire a sincere appreciation and respect for the history, heritage, and present existence of Caswell County; and

Whereas, the citizens of Caswell County have made plans to celebrate the County's 233rd anniversary during 2010; and

Whereas, special events planned for the year include a Heritage Month Celebration to be held throughout the County and the county seat of Yanceyville during June 2010; and

Whereas, Caswell County Heritage Month will include proclamations, presentations, and entertainment appropriate to the occasion; and

Whereas, several Caswell County organizations have extended invitations to the people of adjoining counties and the elected leaders of the State of North Carolina to join in this celebration; and

Whereas, Caswell County's anniversary is an event worthy of celebration and should be enjoyed and supported by all of North Carolina's citizens; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the memory of Governor Richard Caswell for whom Caswell County is named.

SECTION 2. The General Assembly recognizes June as Caswell County Heritage Month, extends sincere greetings to the people of Caswell County on the occasion of the County's celebration during June 2010, and encourages the citizens of Caswell County to join in demonstrating respect for their history and heritage and for those leaders and contributors to the history of the past 233 years who have bequeathed them the community they enjoy today.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the Caswell County Board of Commissioners, Yanceyville Town Council, Caswell County Historical Association, Dillard Educational and Economic Development Services, Inc., and the Thomas Day Society. Additional copies shall be made available to other County associations and agencies that have helped in the planning of this historic occasion.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 1st day of July, 2010.

Resolution 2010-23

H.J.R. 2076

A JOINT RESOLUTION HONORING NORTH CAROLINIANS WITH DISABILITIES AND THEIR ADVOCATES AND HONORING THE TWENTIETH ANNIVERSARY OF THE PASSAGE OF THE AMERICANS WITH DISABILITIES ACT.

Whereas, 2010 marks the 20th anniversary of the Americans with Disabilities Act, landmark legislation to protect the civil rights of individuals with disabilities and ensure that more than 54 million Americans receive the same basic freedoms – independence, equal access, freedom of choice and inclusion – afforded to every citizen in our country; and

Whereas, the purpose of the Americans with Disabilities Act was to:

- (1) Provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.
- (2) Provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities.
- (3) Ensure that the federal government plays a central role in enforcing the standards established in the act on behalf of individuals with disabilities.
- (4) Invoke the sweep of congressional authority, including the power to enforce the 14th amendment to the Constitution and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities; and

Whereas, Congress passed the Americans with Disabilities Act with overwhelming bipartisan majorities, and President George H. W. Bush signed the bill into law on July 26, 1990; and

Whereas, the Americans with Disabilities Act established the world's first comprehensive prohibition of discrimination on the basis of disability in the areas of employment, public accommodations, public services, transportation, and telecommunications; and

Whereas, more than 1.822 million people with disabilities live in North Carolina, contributing to the State's economy and to the civic life in their communities; and

Whereas, many of the State's citizens have been recognized as advocates for individuals with disabilities, including Lockhart Follin-Mace, who served as the first director of the North Carolina Governor's Advocacy Council for Persons with Disabilities; Ron Mace, who served as founder and program director of The Center for Universal Design; and Deborah Greenblatt, who served as Executive Director of Carolina Legal Assistance, a legal services program devoted to enforcing the rights of children and adults with mental disabilities; and

Whereas, Kenneth D. Franklin served as Director of the North Carolina Office on the Americans with Disabilities Act; Manuel Houston Crockett served as the principal of the former Garner Road School for the Blind and the Deaf; and Grady Galloway chaired the Architectural Barriers Committee of the National Vocational Rehabilitation Association; and

Whereas, Thomas McCue "Mac" Brownlee, Ph.D., served on the Advocacy Council for Persons with Disabilities (now Disability Rights North Carolina); Dr. Gary Shaffer served as a professor of Social Work at the University of North Carolina at Chapel Hill and was nationally known as an expert on children's issues; and Victor Hall was a pioneer of the self-advocacy movement; and

Whereas, the ADA has expanded opportunities for Americans with disabilities by reducing barriers and changing perceptions, increasing full participation in community life, although the full promise of the ADA will only be reached if public entities remain committed in their efforts to fully implement the ADA; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly celebrates the 20th anniversary of the Americans with Disabilities Act and reaffirms its commitment to work toward full ADA compliance in the State of North Carolina.

SECTION 2. The General Assembly honors the memory of Lockhart Follin-Mace, Ron Mace, Deborah Greenblatt, Kenneth D. Franklin, Manuel Huston Crockett, Grady Galloway, Thomas McCue "Mac" Brownlee, Dr. Gary Shaffer, and Victor Hall for their many contributions in expanding the rights, abilities, and opportunities of individuals with disabilities.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the families of the individuals mentioned in this resolution.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 6th day of July, 2010.

Resolution 2010-24

H.J.R. 2078

A JOINT RESOLUTION HONORING THE ONE HUNDREDTH ANNIVERSARY OF THE BOY SCOUTS OF AMERICA.

Whereas, Boy Scouts of America was incorporated on February 8, 1910, by William Boyce, a Chicago publisher who modeled the organization on the Boy Scouts Association that was established in England in 1908; and

Whereas, the Boy Scouts of America was established to provide an educational program for boys and young adults to build character, to train in the responsibilities of participating citizenship, and to develop personal fitness; and

Whereas, on June 21, 1910, a group of 34 national representatives met to develop organization plans for the Boy Scouts of America and opened a temporary national headquarters in New York; and

Whereas, in 1911, the Scout Oath, Scout Law, badges, and fundamental policies were adopted and the first Boy Scout Handbook was published; and

Whereas, by 1912, boy scouts were enrolled in every state in the nation; and

Whereas, Congress granted the Boy Scouts of America a federal charter on June 15, 1916; and

Whereas, in 1925, membership in the Boy Scouts of America reached more than one million; and

Whereas, in 1930, the Cub Scout program began and by the end of that year had registered 5,102 members; and

Whereas, local Boy Scout Councils commit each boy scout to perform at least 12 hours of community service each year, which equals about 30 million community service hours annually; and

Whereas, in 2009, over 2.8 million Boy Scouts participated in more than 36 million service hours, totaling almost \$7.6 million of service to communities across the nation; and

Whereas, some of the scouting service projects reported in 2009 included food collection and distribution, litter cleanup and community beautification, conservation projects, serving food at shelters, and military support and appreciation; and

Whereas, more than 1.1 million adult volunteers provided leadership for scouting programs in 2009, resulting in more than \$5.6 million of volunteer time; and

Whereas, since 1910, more than 111 million young men have been members of the Boy Scouts of America; and

Whereas, as of 2009, alumni of the Boy Scouts of America who participated as a youth or adult leader included over 180 astronauts, a large percentage of the United States military cadets, and more than 200 members of the 111th Congress; and

Whereas, from 1910 to 2009 boy scouts earned more than 17,649,303 merit badges, including over 6.5 million for first aid, over 5.9 million for swimming, over 4.3 million for camping, and 3.1 million for citizenship in the community; and

Whereas, between 1912 and 2009 more than two million Boy Scouts earned the rank of Eagle Scout; and

Whereas, the Boy Scouts of America is observing its 100th anniversary in 2010 and plans to highlight this historic occasion through a series of yearlong events and activities; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of William Boyce for his role in helping to establish the Boy Scouts of America and joins the Boy Scouts of America in celebrating its 100th anniversary.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the National Office of the Boy Scouts of America and the office of each Boy Scout Council in North Carolina.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 7th day of July, 2010.

Resolution 2010-25

S.J.R. 1460

**A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JAMES R. TURNER,
FORMER MEMBER OF THE GENERAL ASSEMBLY.**

Whereas, James R. Turner was born in Wilmington, North Carolina, to Reginald Turner and Marie Terrell Turner; and

Whereas, James R. Turner grew up in the cities of Asheboro and Winston-Salem; and

Whereas, James R. Turner received an undergraduate degree from the University of North Carolina at Chapel Hill graduating Phi Beta Kappa in 1956; and

Whereas, James R. Turner served in the Naval Reserves for three years retiring with the rank of Captain; and

Whereas, James R. Turner earned a law degree from Yale University in 1962 and had a successful law career working for a number of firms in Greensboro; and

Whereas, James R. Turner also represented the Greensboro Housing Authority for a number of years; and

Whereas, James R. Turner was appointed to fill a vacant seat in the State Senate in 1979 and served the General Assembly with honor and distinction for the remainder of the term; and

Whereas, James R. Turner was active in his community serving as a member and president of the Civitan Club and as a volunteer with the Greensboro Urban Ministry; and

Whereas, James R. Turner was active in the Holy Trinity Episcopal Church in Greensboro; and

Whereas, James R. Turner died on October 8, 2009, at the age of 75; and

Whereas, James R. Turner is survived by his wife of 42 years, Dr. Carolyn Simpkins Turner; a daughter, Susannah Turner Harvell; a son, William Joel Turner; and grandchildren, Blythe Turner, Will Turner, and Jack Turner; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the memory of James R. Turner and expresses the appreciation of this State and its citizens for the service he rendered his community, State, and nation.

SECTION 2. The General Assembly expresses its sympathy to the family and friends of James R. Turner for the loss of a beloved family member and friend.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of James R. Turner.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Resolution 2010-26

H.J.R. 2080

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JIMMY REESE LOWRY, PUBLIC SERVANT.

Whereas, Jimmy Reese Lowry was born on December 16, 1944, in Robeson County to Harvey and Myrtle Lowry; and

Whereas, Jimmy Reese Lowry graduated from North Carolina State University, earning a Bachelor of Science degree with honors in Aeronautical Engineering; and

Whereas, from 1966 to 1969, Jimmy Reese Lowry worked as an aircraft research engineer for Lockheed Aircraft Corporation in Marietta, Georgia, before joining General Electric, where he became the company's District Sales Manager for both North Carolina and South Carolina; and

Whereas, in 1977, Jimmy Reese Lowry began what would become a successful career in the automobile industry, serving as dealer and owner of Lowry Chevrolet, Inc., in Tryon, North Carolina, from 1977 to 1987; Vice-President and General Manager of Lyles Companies in High Point, North Carolina, from 1987 to 1992; owner and President of Lowry Buick-Oldsmobile-Pontiac-Chevrolet-Geo, Inc., in Thomasville, North Carolina, from 1992 to 1998; and as President of High Point Chevrolet Jeep, LLC from 1998 to 2002; and

Whereas, Jimmy Reese Lowry also spent a number of years as an automobile consultant and served as a member of General Motors Minority Dealer Advisory Council; and

Whereas, Jimmy Reese Lowry was a proud member of the Lumbee Tribe, and his dedicated service as chair of the Lumbee Self-Determination Commission helped to enrich the lives of the members of the Tribe; and

Whereas, Jimmy Reese Lowry rendered distinguished service to the State of North Carolina, serving as the chair of the North Carolina Commission of Indian Affairs from 1977 to 1984 and as the State Purchasing Officer during the administration of Governor James B. Hunt from 1982 to 1983; and

Whereas, in 2001, Jimmy Reese Lowry was appointed to the Board of Directors of the Charlotte Branch of the Federal Reserve Bank of Richmond and was elected as chair of the Board in 2006; and

Whereas, Jimmy Reese Lowry also served as a member of the North Carolina State University Board of Visitors and the Wachovia Bank and Trust Advisory Board; and

Whereas, Jimmy Reese Lowry received numerous recognitions for his good deeds, including the Lifetime Achievement Award from the North Carolina Automobile Dealers Association, Distinguished Service Award from the Lumbee Regional Development Association, The Order of the Long Leaf Pine from Governor James B. Hunt in 1981, and The Order of the Old North State from Governor Beverly Eaves Perdue in 2010; and

Whereas, Jimmy Reese Lowry was a man of great faith and regularly attended the Covenant United Methodist Church and the Tryon United Methodist Church; and

Whereas, Jimmy Reese Lowry died on June 13, 2010, at the age of 65; and

Whereas, Jimmy Reese Lowry is survived by his wife of over 45 years, Phyllis Ann Locklear Lowry; a daughter, Jayme Lowry Burmeister; a son, Chad Lowry; a granddaughter, Reece MaryAnn Burmeister; and two brothers, Robby Lowry and Harvey Lowry, Jr.; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of Jimmy Reese Lowry and expresses the appreciation of this State and its citizens for the service he rendered his community, State, and nation.

SECTION 2. The General Assembly extends its deepest sympathy to the family of Jimmy Reese Lowry for the loss of a beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Jimmy Reese Lowry.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Resolution 2010-27

H.J.R. 2081

A JOINT RESOLUTION HONORING THE ONE HUNDREDTH ANNIVERSARY OF THE ALBEMARLE ELECTRIC SYSTEM.

Whereas, on July 27, 1909, the citizens of the City of Albemarle voted in favor of a \$10,000 electric light bond referendum; and

Whereas, on March 1, 1910, dedicated leaders of the City of Albemarle, including Mayor I. B. Miller and Board of City Commissioners L. A. Moody, F. E. Starnes, R. A. Crowell, J. A. Groves, and F. V. Watkins, awarded a construction contract for an electric system; and

Whereas, by March 18, 1910, the City of Albemarle had approved a contract with Southern Power Company for electric power; and

Whereas, on January 20, 1938, the City of Albemarle approved a contract with Duke Power Company for purchase of electric power; and

Whereas, in 1978, Duke Power Company sold 75% of its interest in Catawba Nuclear Station to the City of Albemarle and 18 other municipalities, allowing for the creation of the North Carolina Municipal Power Agency Number 1, which provides power to all of the participants; and

Whereas, in 2007, Albemarle received American Public Power Association Reliable Public Power Provider Gold Designation and two years later received the American Public Power Association Reliable Public Power Provider Platinum Designation; and

Whereas, the City of Albemarle currently provides reliable and efficient electric service to more than 11,000 customers; and

Whereas, the Albemarle Electric System's 100th anniversary is worthy of recognition; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly extends its congratulations to the Albemarle Electric System on its 100th anniversary.

SECTION 2. The General Assembly honors the memory of those who were instrumental in establishing the Albemarle Electric System in 1910.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to Mayor Elbert L. "Whit" Whitley, Jr.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Resolution 2010-28

H.J.R. 1407

A JOINT RESOLUTION HONORING THE ONE HUNDREDTH ANNIVERSARY OF NORTH CAROLINA CENTRAL UNIVERSITY.

Whereas, North Carolina Central University (NCCU) in Durham was chartered in 1909 as a private institution and opened to students on July 10, 1910; and

Whereas, NCCU was founded by Dr. James E. Shepard as the National Religious Training School and Chautauqua; and

Whereas, in 1915, the School was sold and reorganized and its name was changed to the National Training School; and

Whereas, in 1923, the General Assembly appropriated funds for the purchase and maintenance of the School making it a publicly supported institution; and

Whereas, during that time, the School was renamed the Durham State Normal School; and

Whereas, in 1925, the School was converted to the North Carolina College for Negroes becoming the nation's first state-supported liberal arts college for African-American students; and

Whereas, the College saw significant expansion between 1927 and 1929 through appropriations from the General Assembly, a generous gift from B.N. Duke, and contributions from the citizens of Durham; and

Whereas, the College was accredited by the Southern Association of Colleges and Secondary Schools as an "A" class institution in 1937 and gained membership in that association in 1957; and

Whereas, in 1939, the General Assembly authorized the College to offer graduate studies, which led to the establishment of the School of Law in 1940 and the School of Library Science in 1941; and

Whereas, in 1947, the General Assembly changed the name of the College to North Carolina College at Durham and in 1969 changed the name to North Carolina Central University; and

Whereas, in 1972, NCCU became part of the consolidated University of North Carolina; and

Whereas, NCCU was led by Dr. Shepard from 1910 until his death on October 6, 1947; and

Whereas, the leaders who followed Dr. Shepard include Dr. Alfonso Elder, Dr. Samuel P. Massie, Dr. Albert N. Whiting, Dr. LeRoy T. Walker, Dr. Tyronza R. Richmond, Julius L. Chambers, Dr. James H. Ammons, and Dr. Charlie Nelms; and

Whereas, NCCU currently offers bachelor's degrees in more than 100 fields of study and awards graduate degrees in an estimated 40 disciplines; and

Whereas, NCCU has a state-of-the-art biotechnology research institute, which collaborates with pharmacy and biotech companies in the Research Triangle Park area; and

Whereas, NCCU has an enrollment of nearly 9,000 students and through its international studies and exchange programs attracts students from several countries, including Liberia, India, Senegal, Sierra Leone, Nepal, China, the Czech Republic, Nigeria, South Korea, Russia, the Dominican Republic, Mexico, and South Africa; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of Dr. James E. Shepard for his role in founding North Carolina Central University.

SECTION 2. The General Assembly acknowledges the 100th anniversary of North Carolina Central University and encourages the citizens of this State to participate in activities marking this historic occasion for one of the State's public universities.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to Dr. Charlie Nelms, Chancellor of North Carolina Central University.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Resolution 2010-29

H.J.R. 2082

A JOINT RESOLUTION HONORING THE ONE HUNDRED TWENTY-FIFTH ANNIVERSARY OF YMCA CAMPING.

Whereas, founded in London, England in 1844, the YMCA's mission is to put Christian principles into practice through programs that build healthy spirit, mind, and body for all; and

Whereas, at the heart of community life across America, mission-driven YMCAs are a place to belong and to live the values that guide and unite its members with caring, honesty, respect, and responsibility; and

Whereas, in 1867, the YMCA became involved in camping, when a Vermont youth director took a group of teens to Lake Champlain in New York for summer encampment; and

Whereas, by 1882, enough YMCAs were holding youth and adult camping that the activity was included in national records as "outings and excursions"; and

Whereas, Sumner Dudley, a volunteer with New York and New Jersey YMCAs, is credited with starting the first continuously used camp to help build character in young men; in 1885, he took seven teenagers for a week's encampment at Orange Lake, New York; and

Whereas, the first YMCA camps were small, consisting of a cluster of tents, lined up near a lake, a continuous fire and a flagpole; led by a YMCA director and aided by volunteer male leaders, the camps were regimented programs that included training the boys in character, good health habits, and respect for each other; and

Whereas, over the years, as more YMCAs believed the camping experience nurtured young people's values and leadership skills, camps would expand and change to serve males and females of many ages, abilities, and incomes; and

Whereas, by 1905, the number of YMCA campers had grown to 6,348 in 187 YMCA camps; in 1910, YMCA leaders helped create the American Camping Association (ACA) with YMCA camp director Charles Scott as its first president; and

Whereas, as society evolved, YMCA camps branched out; in the early 1900s, Columbus, Ohio's Camp Wilson offered a Fitness Week for men; Cleveland had an excursion camp, teaching history while leading trips through Ohio in covered wagons; by 1938, the Wilshire-Beverly YMCA in Los Angeles reported 191 coeds in its winter camp; and

Whereas, the most significant development since the start of the YMCA camping came in 1932; when day camps began to nurture the same character-building skills in kids that resident camps did; by the mid-1900s, camp leaders were encouraging campers to help make program decisions and set and reach individual goals; and

Whereas, today, YMCA camps spread from the shore of Maine to the peaks of the Colorado Rockies to the northwest branches of Hawaii; more than 335 residents camps and nearly 2,000 day camps serve more than 800,000 kids and adults every summer; each year an additional 1.5 million people participate in camp programs through YMCA family camps, weekend retreats, outdoor education, and school camping; and

Whereas, in addition, the YMCA employs over 61,000 college-aged young adults as summer resident camp leaders each year providing exceptional leadership development experiences; and

Whereas, day and resident camping are the cornerstone of YMCA programs, building character and memories in such effective ways that key YMCA volunteers and donors often point back to their YMCA camp experiences as their primary emotional tie to the YMCA today; and

Whereas, camp is not only about the fun activities, but also about the chance for children to develop and learn new skills, enjoy nature, handle new responsibilities, experience independence, make new friends, and build memories that last a lifetime; and

Whereas, the YMCA camping programs have greatly enriched the quality of life of the citizens of the State of North Carolina by making available the opportunity to enjoy exceptional recreational facilities, including the following resident camps:

Blue Ridge Assembly YMCA Retreat Center, Black Mountain, NC

Camp Cheerio, Glade Valley, NC

Camp Greenville, Cedar Mountain, NC

Camp Hanes YMCA, King, NC

Camp Harrison at Herring Ridge, Boomer, NC

Camp Kanata, Wake Forest, NC

Camp Sea Gull YMCA, Arapahoe, NC

Camp Seafarer YMCA, Arapahoe, NC

Camp Weaver, Greensboro, NC

Camp Thunderbird (Charlotte YMCA), Lake Wylie, SC.; and

Whereas, the 125th anniversary of YMCA camping is worthy of recognition and celebration; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly expresses its appreciation to the YMCA for providing outstanding resident camps for the youth in this State and congratulates the organization on 125 years of YMCA camping.

SECTION 2. The General Assembly honors the memory of those who helped to establish YMCA camps in North Carolina, including Wyatt Taylor, founder of Camp Sea Gull and Camp Seafarer.

SECTION 3. The Secretary of State shall transmit a certified copy to each of the resident camps located in North Carolina.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Resolution 2010-30

S.J.R. 1463

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JOHN ARTHUR FORLINES, JR., FORMER BANKER.

Whereas, John Arthur Forlines, Jr. was born on January 8, 1918, in Graham, North Carolina, to John A. Forlines Sr., and Nancy Hutchens Forlines; and

Whereas, John Arthur Forlines, Jr. grew up in the City of Durham and graduated from Duke University in 1939; and

Whereas, John Arthur Forlines, Jr. served in the United States Army from 1940 to 1946, where he was assigned to the finance department and achieved the rank of major; and

Whereas, after his service in the army, John Arthur Forlines, Jr. returned to Durham, where he served as Secretary-Treasurer for Dailey's Inc.; and

Whereas, in 1954, John Arthur Forlines, Jr. moved to Granite Falls, North Carolina, to take over the leadership of the Bank of Granite; and

Whereas, John Arthur Forlines, Jr. led the bank for 52 years, turning the institution into one of the most lucrative community banks in the nation; and

Whereas, John Arthur Forlines, Jr. proudly served his profession as President of the North Carolina Bankers Association and was inducted into the North Carolina Business Hall of Fame in 1999 and the North Carolina Bankers Hall of Fame in 2001; and

Whereas, John Arthur Forlines, Jr. was loyal to his alma mater, serving two terms as a trustee of Duke University, and as a member of the Duke University Management

Corporation, the Duke University Athletics Advisory Board, and as President of the Duke University Half-Century Club; and

Whereas, John Arthur Forlines, Jr. received numerous honors from Duke University, including the Distinguished Alumni Award in 1994 and the University Medal for Distinguished Meritorious Service in 2008, which is the University's highest honor; and

Whereas, John Arthur Forlines was also honored by the Duke University Trustees Emeriti, who named the University's alumni house, the John A. Forlines, Jr. Alumni House, in 2009; and

Whereas, John Arthur Forlines, Jr. served his community and State in many capacities, including serving on the Board of Caldwell County's Hospice and Palliative Care, an organization that he helped to establish; President of the Catawba Valley Executive Club; President of the North Carolina Chamber of Commerce; Chair of the State Board of Community Colleges from 1985 to 1990; and Chair of the Board of Trustees for Caldwell Community College and Technical Institute from 1965 to 1984; and

Whereas, John Arthur Forlines, Jr. was recognized for many of his good deeds; he received the Ernst & Young Entrepreneur of the Year Award in 2004, the National Hospice Foundation's Volunteer of the Year Award in 1997, and the Lenoir Rhyne University Business Leader of the Year Award in 1996, and he was the recipient of the Terry Sanford Lifetime Achievement Award in 2002 and the Order of the Long Leaf Pine in 2006; and

Whereas, John Arthur Forlines, Jr. was a member of the First Presbyterian Church in Lenoir, where he served as an elder; and

Whereas, John Arthur Forlines, Jr. died on July 6, 2010, at the age of 92; and

Whereas, John Arthur Forlines, Jr. was preceded in death by his wife, Julia Dunn Forlines; and

Whereas, John Arthur Forlines, Jr. is survived by his children, Judith Tarlton, Joy Crosby, John A. Forlines III, and Jane Forlines; grandchildren, Phillip Couch, Laurel Crosby, John David Crosby, Megan Forlines, Molly Forlines, John A. Forlines IV, Justin Greenhill, and Julia Greenhill; and a sister, Martha Forney; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the memory of John Arthur Forlines, Jr. and expresses the appreciation of this State and its citizens for the service he rendered his profession, community, State, and nation.

SECTION 2. The General Assembly extends its deepest sympathy to the family of John Arthur Forlines, Jr. for the loss of a beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of John Arthur Forlines, Jr.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 9th day of July, 2010.

Resolution 2010-31

S.J.R. 1462

A JOINT RESOLUTION PROVIDING FOR ADJOURNMENT SINE DIE OF THE 2009 REGULAR SESSION OF THE GENERAL ASSEMBLY.

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. When the Senate and the House of Representatives, constituting the 2009 Session of the General Assembly, adjourn on Saturday, July 10, 2010, they stand adjourned sine die.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 10th day of July, 2010.

**EXECUTIVE ORDERS
OF
GOVERNOR BEVERLY E. PERDUE**

Title	Number
REDUCE MONTHLY BUDGET ALLOTMENTS FOR THE 2009-10 FISCAL YEAR	21
AMENDING AND EXTENDING EXECUTIVE ORDER NO. 128, GOVERNOR'S ADVISORY COUNCIL ON HISPANIC/ LATINO AFFAIRS	22
GOVERNOR'S SCIENTIFIC ADVISORY PANEL ON OFFSHORE ENERGY	23
REGARDING GIFTS TO STATE EMPLOYEES	24
AMENDING EXECUTIVE ORDER NO. 12, STREETS SAFE TASK FORCE	25
REESTABLISHING THE GOVERNOR'S TASK FORCE FOR HEALTHY CAROLINIANS	26
PROCLAMATION OF A STATE OF EMERGENCY BY THE GOVERNOR OF THE STATE OF NORTH CAROLINA	27
REESTABLISHING THE NORTH CAROLINA FILM COUNCIL	28
ESTABLISHING THE NORTH CAROLINA INNOVATION COUNCIL	29
PROCLAMATION OF A STATE OF EMERGENCY BY THE GOVERNOR OF THE STATE OF NORTH CAROLINA	30
IMMEDIATE ELIGIBILITY FOR UNEMPLOYMENT BENEFITS IN WAKE OF MAJOR INDUSTRIAL DISASTER IN WAKE COUNTY	31
GOVERNOR'S LOGISTICS TASK FORCE	32
ESTABLISHMENT OF THE NORTH CAROLINA COMPLETE COUNT COMMITTEE	33

ETHICS AND ATTENDANCE STANDARDS FOR GUBERNATORIAL APPOINTEES TO BOARDS.....	34
ETHICS STANDARDS FOR CERTAIN BOARDS	35
DESIGNATION OF CERTAIN STATE EMPLOYEES AND APPOINTEES AS COVERED PUBLIC SERVANTS UNDER THE STATE GOVERNMENT ETHICS ACT	36
NORTH CAROLINA EMERGENCY RESPONSE COMMISSION.....	37
REESTABLISHING THE FOOD SAFETY AND DEFENSE TASK FORCE	38
REPLACING EXECUTIVE ORDER NO. 124, STATEWIDE FLEXIBLE BENEFITS PROGRAM.....	39
REPLACING EXECUTIVE ORDER NO. 133, JUVENILE JUSTICE PLANNING COMMITTEE.....	40
REESTABLISHING THE NORTH CAROLINA COMMISSION ON VOLUNTEERISM AND COMMUNITY SERVICE	41
EMERGENCY RELIEF FOR DAMAGE CAUSED BY ICE/SNOW STORM	42
TEMPORARY SUSPENSION OF MOTOR VEHICLE REGULATIONS TO ENSURE ADEQUATE FUEL SUPPLIES THROUGHOUT THE STATE.....	43
PROCLAMATION OF A STATE OF EMERGENCY BY THE GOVERNOR OF THE STATE OF NORTH CAROLINA.....	44
TO FACILITATE EMPLOYEE ACCESS TO STATE FACILITIES AND CABINET AGENCY LEADERS	45
TEMPORARY SUSPENSION OF MOTOR VEHICLE REGULATIONS TO ENSURE RESTORATION OF UTILITY SERVICES THROUGHOUT THE STATE	46

PROCLAMATION OF A STATE OF EMERGENCY BY THE GOVERNOR OF THE STATE OF NORTH CAROLINA DUE TO A WINTER STORM	47
TEMPORARY SUSPENSION OF MOTOR VEHICLE REGULATIONS TO TRANSPORT ESSENTIAL FEED AND SUPPLIES TO POULTRY FARMS	48
NORTH CAROLINA MOTORSPORTS ADVISORY COUNCIL.....	49
ENHANCED PURCHASING OPPORTUNITIES FOR NORTH CAROLINA BUSINESSES.....	50
GOVERNOR'S TEACHER ADVISORY COMMITTEE.....	51
AMENDING AND EXTENDING EXECUTIVE ORDER NO. 139, NORTH CAROLINA STATE HEALTH COORDINATING COUNCIL	52
PROCLAMATION OF A STATE OF DISASTER FOR THE TOWNS OF NAGS HEAD AND KITTY HAWK.....	53
ASSESSMENT OF STATE'S READINESS FOR AGING POPULATION.....	54
ENHANCED DISCLOSURES FROM APPLICANTS TO BOARDS AND COMMISSIONS.....	55
PROCLAMATION OF A STATE OF DISASTER FOR DAVIDSON AND GUILFORD COUNTIES	56
NORTH CAROLINA INTERAGENCY COUNCIL FOR COORDINATING HOMELESS PROGRAMS	57
EMERGENCY RELIEF FOR DAMAGE CAUSED BY FLOODING IN THE STATE OF TENNESSEE	58
PROCLAMATION OF A STATE OF DISASTER FOR HOKE COUNTY	59
PROCLAMATION OF A STATE OF DISASTER FOR TOWN OF HIGHLANDS.....	60

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NUMBER NO. 21 REDUCE MONTHLY BUDGET ALLOTMENTS FOR THE 2009-10 FISCAL YEAR

WHEREAS, there continues to be economic volatility in the State and nation; and

WHEREAS, although there has been some improvement in the State's fiscal outlook, there still remains a level of uncertainty; and

WHEREAS, it is important to continue to exercise fiscal restraint with regard to the State's budget.

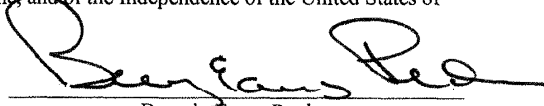
NOW THEREFORE, by the power vested in me as Governor by the Constitution and laws of the State of North, **IT IS ORDERED:**

The Office of State Budget and Management shall reduce monthly allotments by five percent of each State agency's certified budget. Special exceptions may be made for constitutionally mandated or entitlement programs as well as urgent situations related to direct classroom instruction, economic development opportunities, law enforcement, health care, and public safety.

This Executive Order rescinds Executive Order No. 20, issued on July 24, 2009. This Order shall be effective immediately and shall remain in effect until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this fourteenth day of August in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and thirty-fourth.




Beverly Eaves Perdue
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 22 AMENDING AND EXTENDING EXECUTIVE ORDER NO. 128, GOVERNOR'S ADVISORY COUNCIL ON HISPANIC/LATINO AFFAIRS

By the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED:**

Section 1 of Executive Order 128, issued by Governor Michael F. Easley on September 7, 2007, is hereby amended as follows:

Section 1. Membership Composition

The Governor's Advisory Council on Hispanic/Latino Affairs is hereby established. It shall be composed of 15 voting members who shall serve for terms of two (2) years. A member may not be appointed for more than two consecutive full terms.

In addition to the 15 appointed members, the following persons or their designees shall serve as ex-officio, non-voting members:

- a. The Secretary of the Department of Commerce;
- b. The Secretary of the Department of Health and Human Services;
- c. The Secretary of the Department of Crime Control and Public Safety;
- d. The Secretary of the Department of Juvenile Justice and Delinquency Prevention;
- e. The Secretary of the Department of Correction;
- f. The Secretary of the Department of Transportation;
- g. The Secretary of the Department of Revenue;
- h. The Governor's Policy Director; and
- i. The Chairman of the Employment Security Commission.

Additionally, the Council shall invite the following persons, or their designees, to serve as ex-officio, non-voting members of the Advisory Council:

- a. The Commissioner of the North Carolina Department of Agriculture and Consumer Services;
- b. The Commissioner of Labor;

- c. The Attorney General;
- d. The Superintendent of Public Instruction; and
- e. The Commissioner of Insurance.

Section 2. Duration

Except as amended herein, Executive Order 128 remains in full force and effect. Executive Order 128 is hereby extended until September 4, 2011, pursuant to N.C. Gen. Stat. § 147-16.2 or until rescinded by the Governor.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this fourth day of September in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and thirty-fourth.



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 23 GOVERNOR'S SCIENTIFIC ADVISORY PANEL ON OFFSHORE ENERGY

WHEREAS, North Carolina's coast has many potential energy production opportunities, including oil, natural gas, wind, and other renewable sources of energy; and

WHEREAS, the United States Department of Interior through its Minerals Management Service is proposing three oil and natural gas lease sales off the East Coast during the period 2010 to 2015; and

WHEREAS, a recent study by the University of North Carolina at Chapel Hill finds significant potential for wind energy in the sounds and ocean waters off the North Carolina coast; and

WHEREAS, the technologies employed in extracting oil and natural gas and in harnessing wind and other offshore energy resources are continuously evolving; and

WHEREAS, the level of scientific knowledge about the potential benefits and risks of all types of offshore energy has also made significant advances; and

WHEREAS, wise stewardship of North Carolina's coastal resources is vital, not only to the local economy, environment, and public health and safety, but also to that of the entire state; and

WHEREAS, any policies and positions regarding the use of North Carolina's offshore oil, natural gas, wind, and other renewable energy resources must be based on sound science and a thorough evaluation of all available and relevant information.

NOW THEREFORE, by the power vested in me as Governor by the Constitution and laws of North Carolina, **IT IS ORDERED**:

Section 1. Establishment

The Governor's Scientific Advisory Panel on Offshore Energy ("Scientific Advisory Panel") is hereby established. The Scientific Advisory Panel shall consist of at least seven members, but

no more than 15 members, including ex-officio members. The Governor shall appoint a Chair of the Scientific Advisory Panel.

Section 2. Term of Membership and Vacancies

All members shall be appointed for a term of two (2) years and shall serve at the pleasure of the Governor. A vacancy occurring during a term of appointment shall be filled by the Governor for the balance of the unexpired term.

Section 3. Meetings

The Scientific Advisory Panel shall meet quarterly or at the call of the Governor.

- a. A majority of the members of the Scientific Advisory Panel shall constitute a quorum for the transaction of business.
- b. No per diem allowance shall be paid to members of the Scientific Advisory Panel. Members of the Scientific Advisory Panel may receive necessary travel and subsistence expenses in accordance with State law and the policies and regulations of the Office of State Budget and Management.

Section 4. Duties

The Scientific Advisory Panel shall have the following duties:

- a. Perform a comprehensive evaluation of the potential of all offshore energy resources available to North Carolina, including oil, natural gas, wind, and other renewable resources.
- b. Report on the current state of all relevant technologies for utilizing these resources, as well as on their feasibility for use in North Carolina.
- c. Identify any benefits and areas of concern related to use of these energy resources, including those related to the economy, emergency management and public safety, the environment, existence of necessary infrastructure for resource extraction and power generation, and the availability of federal revenue sharing.
- d. Inventory current laws, rules, and processes that affect the utilization of offshore energy resources including, but not limited to, federal leasing programs, state and federal permitting programs, and local zoning and ordinances.
- e. Review relevant laws, regulations, policies, practices, and developments in other states, including those related to federal revenue sharing; permitting and siting of offshore energy facilities; and protection of the environment, public health, and public safety.

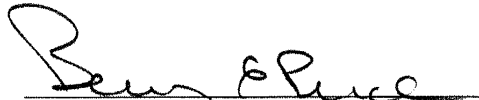
- f. Evaluate federal proposals for use of North Carolina's offshore energy resources, including any proposals from the United States Minerals Management Service for offshore oil and gas lease sales.
- g. Make policy recommendations to ensure that North Carolina has a comprehensive plan for using its offshore resources wisely and to the benefit of its citizens.

Section 5. Duration

This Executive Order shall be effective immediately. It shall remain in effect until September 18, 2011, pursuant to N.C. Gen. Stat. § 147-16.2, or until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this eighteenth day of September in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and thirty-fourth.





Beverly Eaves Perdue
Governor

ATTEST:



Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 24 REGARDING GIFTS TO STATE EMPLOYEES

WHEREAS, those in State government who do the work of the public must continuously ensure that their actions reflect the ethical standards that are essential to maintaining the public's trust; and

WHEREAS, N.C. Gen. Stat. 133-32 makes it unlawful for a State employee to willfully receive or accept any gift or favor from a contractor, subcontractor, or supplier of the State agency if the State employee is involved in (1) preparing plans, specifications, or estimates for public contracts; (2) awarding or administering public contracts; or (3) inspecting or supervising construction; and

WHEREAS, N.C. Gen. Stat. 133-32 applies to a limited group of State employees; and

WHEREAS, no State employee should be permitted to accept gifts or favors from contractors working or seeking to work with the employee's agency; and

WHEREAS, as State employees continue to work to provide excellent service to the State, it is imperative that they understand the legal restrictions to accepting gifts and favors and the consequences for such actions.

NOW, THEREFORE, by the power vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED**:

1. North Carolina General Statute 133-32 shall apply to all employees in the Cabinet agencies and the Office of the Governor.
2. Within the next 30 days, the secretary of each executive branch agency shall do the following:
 - a. Review this Executive Order with the employees in their respective agency and inform all employees that violation of this Order may subject the employees to disciplinary action.

- b. Review N.C. Gen. Stat. 133-32 with all employees in their respective agency and inform all employees that violation of N.C. Gen. Stat. 133-32 is a Class 1 misdemeanor and may subject the employees to disciplinary action.
 - c. Review with all employees in their respective agency any additional policies or rules that the agency may have regarding the acceptance of gifts, meals, or favors by employees in the agency.
 - d. Distribute this Executive Order, N.C. Gen. Stat. 133-32, and any relevant agency policies to all employees in the agency and require employees to certify, in writing, that they have received a copy of and are responsible for complying with this Executive Order, N.C. Gen. Stat. 133-32, and any internal policies.
 - e. As a part of new employee orientation for their respective agency and in conjunction with the Office of State Personnel, establish a process to provide a copy of all documents specified in Section 2d above to new employees and require new employees to certify, in writing, that they have received a copy of and are responsible for complying with the provisions of this Executive Order, N.C. Gen. Stat. 133-32, and any internal policies.
 - f. Provide a report to the Governor's Ethics Officer concerning compliance with the directives of this Executive Order and any recommendations for changes to policies or state law regarding acceptance of gifts by State employees.
3. The Office of State Personnel shall assist the secretaries of the executive agencies to ensure that the documents specified in Section 2d above are provided to employees through the new employee orientation process and that new employees certify that they have received a copy of such documents as provided in Section 2e above.
 4. The State Ethics Commission shall discuss this Executive Order and N.C. Gen. Stat. 133-32 in their training for State employees who are covered by the Ethics Act.
 5. The Department of Administration shall include a provision regarding this Executive Order and N.C. Gen. Stat. 133-32 in all new RFPs, the North Carolina General Contract Terms and Conditions, and all other contracts under the authority of the Department of Administration, the Department of Transportation, the Office of Information Technology Services, and all other cabinet agencies to inform contractors of the requirements of this Order and the statute. The department shall also notify current contractors regarding the provisions of this Order and N.C. Gen. Stat. 133-32.
 6. The Board of Governors of the University of North Carolina System, the State Board of Community Colleges, and each head of the Council of State agencies are encouraged and invited to participate in this Executive Order.

This Executive Order shall be effective immediately and shall remain in effect until rescinded. This Executive Order shall supplement, but shall not supersede, existing agency policies regarding the acceptance of gifts and favors by agency employees.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this first day of October in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and thirty-fourth.



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 25 AMENDING EXECUTIVE ORDER NO. 12, STREETSAFE TASK FORCE

By the power vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED:**

Section 1 of Executive Order 12, StreetSafe Task Force, issued by Governor Beverly Eaves Perdue on May 1, 2009, is hereby amended as follows:

Section 1. Establishment

The Governor's Task Force on StreetSafe: Stop Repeat Offenders (hereinafter the "Task Force" or "StreetSafe Task Force") is hereby established. Task Force members shall be appointed by the Governor and shall serve at the pleasure of the Governor. The StreetSafe Task Force shall consist of at least 15 members, but no more than 40 members, including ex-officio members.

1. The following shall serve as ex-officio members of the Task Force:
2. The following additional members shall be appointed by the Governor from the following public and private agencies and categories of qualification. They shall serve for a term of two (2) years.
 - n. A large business owner or representative of a large business.
 - s. Five members shall serve at-large.

Except as amended herein, Executive Order No. 12, remains in full force and is effective until May 1, 2011, pursuant to N.C. Gen. Stat. § 147-16.2, or until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this fifth day of October in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and thirty-fourth.



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 26 REESTABLISHING THE GOVERNOR'S TASK FORCE FOR HEALTHY CAROLINIANS

WHEREAS, North Carolina is blessed with some of the finest medical facilities and medical care found anywhere in the world; and

WHEREAS, despite these resources, many North Carolinians die or are disabled prematurely every year due to preventable causes, exacting an enormous economic, social, and personal toll upon our state; and

WHEREAS, most premature deaths and disabilities are preventable by relatively simple changes in behavior that would reduce the causes of these deaths and disabilities, including diabetes, stroke, and obesity; and

WHEREAS, in order to provide to the citizens of our State a way to prevent these tragic losses, a realistic plan needs to be developed that communities and individual citizens may implement to improve their health status and avoid premature death and disability; and

WHEREAS, this plan must promote the advantages of healthy living and disease prevention.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. **Establishment**

The Governor's Task Force for Healthy Carolinians ("Task Force") is hereby established.

Section 2. **Membership**

The Task Force shall have no more than 44 members. The Governor shall appoint 40 members, including the Chair. The Vice Chair shall be elected by the Task Force. The President Pro Tempore of the Senate shall be invited to appoint two members of the Senate, one of whom serves on the Public Health Study Commission. The Speaker of the House of Representatives shall be invited to appoint two members of the House, one of whom serves on the Public Health Study Commission.

Each member of the Task Force shall be appointed for terms of four years, and will serve until appointment of a successor. Members on the Task Force shall serve at the pleasure of the appointing authority. A vacancy on the Task Force shall be filled by the original appointing authority.

The Governor shall appoint members of the Task Force as follows:

- a. The Secretary of the Department of Health and Human Services (DHHS), or designee;
- b. The State Health Director, DHHS Division of Public Health, or designee;
- c. The Director of the DHHS Office of Research, Demonstrations, and Rural Health Development, or designee;
- d. The Commissioner of the North Carolina Department of Agriculture and Consumer Services, or designee;
- e. The Superintendent of Public Instruction, or designee;
- f. The Dean of the School of Public Health, University of North Carolina at Chapel Hill, or designee;
- g. The Chair of the Department of Public Health, East Carolina School of Medicine, or designee;
- h. A representative of the Association of North Carolina Boards of Health;
- i. A representative of the North Carolina Hospital Association;
- j. A representative of the North Carolina Medical Society;
- k. A representative of the North Carolina Academy of Family Physicians;
- l. A representative of the North Carolina Association of Local Health Directors;
- m. A representative of the North Carolina Chamber;
- n. A representative of the North Carolina Commission on Indian Affairs;
- o. A representative of the North Carolina Association of County Commissioners;
- p. A representative of the National Association for the Advancement of Colored People;
- q. A representative of the DHHS Mental Health, Developmental Disabilities, and Substance Abuse Services Division;
- r. A representative of the North Carolina Dental Society;
- s. A representative of the North Carolina Nurses Association;
- t. A representative of the Old North State Medical Society;
- u. A representative of the North Carolina Public Health Association;
- v. A representative of the DHHS Office of Minority Health;
- w. A representative of the North Carolina Health and Wellness Trust Fund;
- x. A representative of the North Carolina Institute of Medicine;
- y. A representative of the North Carolina Alliance for Health;
- z. A representative of North Carolina Prevention Partners;
- aa. A representative of a statewide organization whose primary goal is to promote physical activity;
- bb. A representative of a local Healthy Carolinians partnership; and
- cc. Twelve at-large members, including a representative of local education, religious, older adults, and non-profit organizations.

Section 3. Duties

- a. The Task Force shall advise the Secretary of the Department of Health and Human Services and the State Health Director on policies, programs, and resources needed to improve the population health in North Carolina.
- b. The Task Force shall develop and deliver to the Governor no later than December 31, 2010, a list of health objectives for the year 2020 for the citizens of the State. The health objectives shall be designed to do the following:
 1. Increase the span of healthy life of the citizens of North Carolina;
 2. Eliminate health disparities and achieve health equity;
 3. Promote access to preventive health services;
 4. Protect the public's health;
 5. Foster positive and supportive living and working conditions in our communities;
and
 6. Support individuals to develop the capacities and skills to achieve healthy living.

Such health objectives must be measurable, include measures to benefit the State's disparate populations, emphasize individual and community intervention, emphasize the value of health promotion and disease prevention in our society, and be achievable by the year 2020.

- c. The Task Force shall periodically review the state health objectives, make amendments as necessary, and report progress toward achieving the objectives to the Governor, Secretary of DHHS, and the State Health Director.
- d. The Task Force shall have the power to designate local Healthy Carolinians partnerships, comprised of representatives of public and private organizations, and community members and leaders, that support the goals of the Task Force.
- e. The Task Force shall provide encouragement and guidance to communities establishing their own local groups to accomplish the objectives developed by the Task Force.
- f. The Task Force shall review the Preventative Health and Health Services Block Grant annually and carry out the necessary functions of the advisory committee as required by federal law.

Section 4. Meetings

- a. The Task Force shall meet regularly at the call of the Chair or the Governor.
- b. A simple majority of the Task Force members shall constitute a quorum for the purpose of transacting the business of the Task Force.

Section 5. Administration

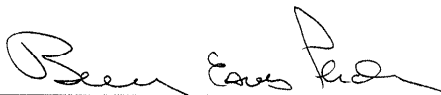
- a. Administrative support and meeting-related expenses for the Task Force shall be provided by the Department of Health and Human Services.
- b. Each Cabinet department shall make every reasonable effort to cooperate with the Task Force in carrying out the provisions of this Order.

Section 6. Effect and Duration

This Executive Order shall be effective immediately. It shall remain in effect until October 7, 2013, pursuant to N.C. Gen. Stat. § 147-16.2, or until rescinded. This Order replaces Executive Order No. 91 dated September 27, 2005, and Executive Order No. 115 dated January 5, 2007.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this eighth day of October in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and thirty-fourth.




Beverly Eaves Perdue
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 27 PROCLAMATION OF A STATE OF EMERGENCY BY THE GOVERNOR OF THE STATE OF NORTH CAROLINA

WHEREAS, I have determined that a state of emergency, as defined in G.S. §166A-4 and G. S. §14-288.1(10), exists in the State of North Carolina, specifically in Haywood County, due to a landslide obstructing highway Interstate 40, beginning on October 25, 2009.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Pursuant to G. S. §§166A-5 and 14-288.15, I, therefore, proclaim the existence of a state of emergency in the State.

Section 2. I hereby order all state and local government entities and agencies to cooperate in the implementation of the provisions of this proclamation and the provisions of the North Carolina Emergency Operations Plan.

Section 3. I hereby delegate to Reuben F. Young, Secretary of Crime Control and Public Safety, and/or his designee, all power and authority granted to me and required of me by Chapter 166A, and Article 36A of Chapter 14 of the General Statutes for the purpose of implementing the said Emergency Operations Plan and to take such further action as is necessary to promote and secure the safety and protection of the populace in North Carolina.

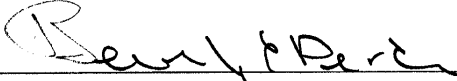
Section 4. Further, Reuben F. Young, Secretary of Crime Control and Public Safety, as chief coordinating officer for the State of North Carolina, shall exercise the powers prescribed in G. S. §143B-476.

Section 5. I hereby order this proclamation: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) unless the circumstances of the state of emergency prevent or impede, to be promptly filed with the Secretary of Crime Control and Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to assure proper implementation of this proclamation.

Section 6. This proclamation shall become effective immediately and shall continue until it is terminated in writing.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this **twenty-eighth** day of **October** in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and thirty-fourth.




Beverly Eaves Perdue
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 28 REESTABLISHING THE NORTH CAROLINA FILM COUNCIL

By the authority vested in me as Governor by the Constitution and laws of North Carolina, **IT IS ORDERED:**

Section 1. Establishment

The North Carolina Film Council is hereby established.

Section 2. Duties

The Council shall have the following duties and functions:

- a. Advise the Governor on matters that would enhance the likelihood of the film industry choosing North Carolina for filmmaking.
- b. Serve as a forum for film-making concerns and recommendations relating to the film industry in North Carolina including, but not limited to, the following:
 1. Assist in the ongoing development and growth of the North Carolina film industry;
 2. Support financial incentives that help North Carolina remain competitive in recruiting film to the State;
 3. Develop the financial capability of North Carolina to support projects with local financing of the film industry;
 4. Develop a support network for production activities relating to the film industry;
 5. Assist in developing a marketing strategy and vision of the North Carolina Film Office;
 6. Assist in the support and coordination of the activities of local and regional film commissions in North Carolina;
 7. Provide advice on projects directly assigned by the Governor to the Council;
 8. Assist with recruitment of the film industry to select North Carolina sites for filmmaking; and
 9. Monitor the North Carolina film industry and assist in developing protocol to measure filmmaking activity within North Carolina.

Section 3. Membership

The Council shall consist of no more than 25 voting members who shall be appointed by the Governor and who shall serve at the pleasure of the Governor. The Council shall include the following members:

- a. representatives of the film industry within the state representing acting, production, directing, producing, and film studio management;
- b. representatives of state or local government; and
- c. at-large members.

Section 4. Terms of Membership

All members shall be appointed for a term of three years.

Section 5. Vacancies

A vacancy occurring during a term of appointment is filled in the same manner as the original appointment and for the balance of the unexpired term.

Section 6. Travel Expense

Members of the Council shall receive necessary travel and subsistence expenses, when available, from Department of Commerce funds, pursuant to N.C. Gen. Stat. §138-5.

Section 7. Officers

The Chair and Vice Chair of the Council shall be appointed by the Governor and serve at the pleasure of the Governor. The Council may elect other officers as it deems necessary.

Section 8. Meetings

The Council shall meet at least three times yearly and at other times at the call of the Governor or the Chair or upon written request of at least 10 of its members.

Section 9. Staff Assistance

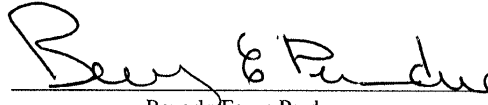
The Department of Commerce shall provide clerical support and other services required by the Council.

Section 10. Effect and Duration


This Executive Order rescinds Executive Order No. 121 issued July 30, 2007. It shall be effective immediately and shall remain in effect until November 11, 2013, pursuant to N.C. Gen. Stat. § 147-16.2, or until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twelfth day of November in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and thirty-fourth.




Beverly Eaves Perdue
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 29

ESTABLISHING THE NORTH CAROLINA INNOVATION COUNCIL

WHEREAS, amidst increasing economic competition from other states and countries, North Carolina must aggressively pursue and leverage innovation, the creation of new ideas and the translation of those new ideas into products, processes and services with economic value, as a means to grow and diversify its economy through the 21st century; and

WHEREAS, in the transition to a knowledge and innovation economy, the State has responded by making strategic investments in infrastructure, institutions, and human capital; however, the constantly and rapidly evolving nature of our technology industries requires new perspectives and approaches to stimulate technological innovation advancement in the State of North Carolina; and

WHEREAS, North Carolina has the intellectual capital and facilities to foster research and innovation, yet, the State must establish an institutional and policy framework that maximizes the potential of its assets to accelerate the progression and transformation of innovative ideas into economic development and prosperity; and

WHEREAS, given the broad scope and interdependence of innovation-related activities such as targeted research investments, commercialization efforts, entrepreneurship services, risk capital development, and the development of new, high-growth industry segments, sustained and coordinated statewide leadership across various sectors is needed to strategically advance North Carolina's innovation agenda; and

WHEREAS, the Office of Science and Technology of the North Carolina Department of Commerce's Advancing Innovation in North Carolina report in December 2008 calls for coordinated leadership for a well-functioning innovation framework.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Establishment

The North Carolina Innovation Council (hereafter the "Council") is hereby established. The Council members shall serve at the pleasure of the Governor. The Council shall be comprised of no fewer than 26 and no more than 35 members appointed by the Governor, as follows:

- a. The Governor or designee;
- b. Two Representatives from the State Senate;
- c. Two Representatives from the State House of Representatives;
- d. The Secretary of Commerce or designee;
- e. The State Treasurer or designee;
- f. Three representatives from the North Carolina Board of Science and Technology;
- g. Three representatives from the North Carolina Economic Development Board
- h. One representative from higher education;
- i. One representative from K-12 education;
- j. One representative from local government;
- k. Two representatives from high-tech, innovative businesses;
- l. Two representatives from the venture capital, financing or intellectual property community;
- m. Two representatives from non-profit and/or trade organizations interested in innovation and economic development; and
- n. Any other member(s) as the Governor deems appropriate.

Section 2. Officers

The Governor shall appoint a Chair, Vice-Chair, or Co-Chairs of the Council as she or he deems appropriate.

Section 3. Duties and Responsibilities

The duties and responsibilities of the Council shall include, but not be limited to, the following:

- a. Provide the Governor with advice, counsel and recommendations regarding the following matters:
 - (1) Aligning investments in public and private innovation programs strategically;
 - (2) Facilitating access to bridge funding and technical assistance that move high-potential product concepts into the commercial marketplace faster;
 - (3) Eliminating redundancy in programming to reduce unnecessary overhead and optimize the funds invested in outcome-driven research and commercialization;
 - (4) Making strategic investments and policies to build world-class research and development enterprises, aid the development of a scalable collaborative communications network infrastructure, encourage and foster collaboration among academia and industry, commercialize innovative products and practices, and cultivate human capital in North Carolina;
 - (5) Identifying gaps in North Carolina's technology portfolio;

- (6) Measuring outcomes to align performance of the programs;
 - (7) Facilitating access to information and resources on the State's innovation agenda;
 - (8) Encouraging state agencies to communicate and collaborate with one another to unify the state around a strategic innovation and competitiveness agenda; and
 - (9) Facilitating collaboration among state, local, private, and federal agencies on a shared innovation agenda.
- b. Champion the importance of innovation, as well as coordinate promotion and communication of the State's successes to its citizens and other audiences;
 - c. Convene cross-functional groups of policy, academic, and business leaders to elicit information and strategic policy initiatives that accelerate the progression of innovative ideas to economic development and social prosperity;
 - d. Assist in devising methods to identify, promote, and recruit potential enterprises and individuals to bring to North Carolina to augment innovation clusters and economic growth throughout the state;
 - e. Develop ideas and recommendations on policies to cultivate and retain innovative researchers, entrepreneurs, and enterprises within the state – in the public, private and nonprofit sectors and throughout the state; and
 - f. Develop criteria to measure performance relative to strategic goals and, where the state has invested heavily in innovation policies, improve coordination of those policies to optimize the benefits the state receives from its investments.

Section 4. Meetings

The Council shall meet at regularly scheduled quarterly meetings, and at the call of the Chairs of the Governor.

Section 5. Council Administration and Expenses

- a. Council members shall not receive compensation or a per diem for serving on the Council.
- b. Support staff, facilities, and resources for the Council shall be provided by the Governor's Policy Office, the Office of Science and Technology, and the Treasurer's Office.
- c. All departments, commissions, boards, offices, entities, agencies, and officers of the State of North Carolina, or any political subdivision thereof, are authorized and directed to cooperate with the Council in implementing the provisions of this Order.

Section 6. Implementation and Duration

This Executive Order shall be effective immediately and shall remain in effect until November 16, 2013, pursuant to N.C. Gen. Stat. § 147-16.2, or until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this sixteenth day of November in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and thirty-fourth.



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 30

PROCLAMATION OF A STATE OF EMERGENCY BY THE GOVERNOR OF THE STATE OF NORTH CAROLINA

WHEREAS, I have determined that a state of emergency, as defined in G.S. §166A-4 and G.S. §14-288.1(10), exists in the State of North Carolina, specifically in Dare County, due to the remnants of Tropical Storm Ida causing widespread flooding and damaging and obstructing North Carolina Highway 12, beginning on November 12, 2009.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Pursuant to G. S. §§166A-5 and 14-288.15, I, therefore, proclaim the existence of a state of emergency in the State.

Section 2. I hereby order all state and local government entities and agencies to cooperate in the implementation of the provisions of this proclamation and the provisions of the North Carolina Emergency Operations Plan.

Section 3. I hereby delegate to Reuben F. Young, Secretary of Crime Control and Public Safety, and/or his designee, all power and authority granted to me and required of me by Chapter 166A, and Article 36A of Chapter 14 of the General Statutes for the purpose of implementing the said Emergency Operations Plan and to take such further action as is necessary to promote and secure the safety and protection of the populace in North Carolina.

Section 4. Further, Reuben F. Young, Secretary of Crime Control and Public Safety, as chief coordinating officer for the State of North Carolina, shall exercise the powers prescribed in G.S. §143B-476.

Section 5. I hereby order this proclamation: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) unless the circumstances of the state of emergency prevent or impede, to be promptly filed with the Secretary of Crime Control and Public Safety, the Secretary of State, and the clerks of

superior court in the counties to which it applies; and (c) to be distributed to others as necessary to assure proper implementation of this proclamation.

Section 6. This proclamation shall become effective immediately and shall continue until it is terminated in writing.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this sixteenth day of November in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and thirty-fourth.



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 31

IMMEDIATE ELIGIBILITY FOR UNEMPLOYMENT BENEFITS IN WAKE OF MAJOR INDUSTRIAL DISASTER IN WAKE COUNTY

WHEREAS, on June 9, 2009, a major industrial disaster occurred in Wake County at the facility of ConAgra Foods that substantially destroyed the physical facilities of the ConAgra Foods plant; and

WHEREAS, the State has worked to assist ConAgra Foods and its employees after this difficult event; and

WHEREAS, I have designated the Rapid Response Team of the Employment Security Commission and the Department of Commerce to serve as my task force to coordinate state assistance to ConAgra Foods and its employees; and

WHEREAS, compensation from ConAgra for numerous employees ended the week of November 9, 2009, through November 14, 2009.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

1. I hereby direct and authorize the Employment Security Commission to waive the "waiting week," as provided in N.C. Gen. Stat. §96-13(c1), for the receipt of unemployment insurance benefits for employees affected by the ConAgra Foods industrial disaster.
2. I hereby direct and authorize the Employment Security Commission to implement regulations prescribing the procedure for the waiver of the waiting period week in accordance with G.S. §96-4(b).

This Executive Order is effective immediately and shall remain in effect until November 24, 2010.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twenty-fourth day of November in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and thirty-fourth.



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NUMBER 32

GOVERNOR'S LOGISTICS TASK FORCE

WHEREAS, North Carolina's ability to create jobs and to recruit and retain business and industry depends on an integrated system of transportation and commerce assets that enables people and goods to move swiftly and safely across our State; and

WHEREAS, North Carolina has many existing transportation assets, including its highways, airports, ports, inland ports, and rail facilities; and

WHEREAS, these assets serve an increasingly global market and diverse economy, ranging from traditional manufacturing to new knowledge-based enterprises; and

WHEREAS, the volume of freight in the United States is expected to double in the next twenty years, and the number of highway miles traveled is increasing across the country; and

WHEREAS, many ports and intermodal rail facilities in the Southeast and across the country are already at or near capacity; and

WHEREAS, North Carolina is poised to make significant transportation infrastructure decisions in the coming years to support key industries and continued economic growth; and

WHEREAS, these decisions must be guided by a strategic plan to maximize existing assets and prioritize new investments so that North Carolina gains a competitive advantage and emerges as a leader in transportation logistics.

NOW, THEREFORE, by the power vested in me as Governor by the laws and Constitution of North Carolina, **IT IS ORDERED**:

Section 1. Establishment

The Governor's Logistics Task Force (hereinafter the "Task Force") is hereby established. Task Force members shall be appointed by the Governor and shall serve at the pleasure of the Governor. The Task Force shall consist of at least 25 members, but no more than 40 members. The Governor shall appoint a Chair and a Vice Chair of the Task Force.

Section 2. Meetings

The Task Force shall meet bi-monthly or at the call of the Governor or the Chair.

Section 3. Duties

The Task Force shall have the following duties:

- a. Conduct a thorough inventory and evaluation of existing public and private transportation and commerce assets, including ports, inland ports, airports, highways, railroads, major distribution centers, and business and industrial parks.
- b. Report on the current system for moving goods and people, including the condition of the system, its overall performance, and its safety.
- c. Project future needs for the state's multi-modal transportation system and explore challenges and opportunities in meeting those needs.
- d. Identify relevant research and best practices in transportation and logistics from other states.
- e. Inventory current laws, rules, policies, processes, and organizational structures that affect the movement of people and goods across the state and make recommendations for changes to improve the efficiency and safety of our transportation system.
- f. Explore innovative ideas in transportation and economic development that can help support the state's logistics capacity, including public private partnerships.
- g. Make additional short-term and long-term recommendations to create an integrated logistics plan for North Carolina.

The Task Force shall report its progress, findings, and recommendations to the Governor every six months, or more frequently, if warranted.

Section 4. Administration

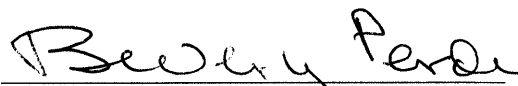
- a. The Department of Transportation shall provide clerical support and other services required by the Task Force.
- b. No per diem allowance shall be paid to members of the Task Force. Members of the Task Force and staff may receive necessary travel and subsistence expenses in accordance with State law and the policies and regulations of the Office of State Budget and Management.

Section 5. Duration

This Executive Order shall be effective immediately and shall remain in effect until December 7, 2011, pursuant to N.C. Gen. Stat. § 147-16.2, or until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this eighth day of December in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and thirty-fourth.





Beverly Eaves Perdue
Governor

ATTEST:



Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NUMBER 33

ESTABLISHMENT OF THE NORTH CAROLINA COMPLETE COUNT COMMITTEE

WHEREAS, Article I, Section 2 of the United States Constitution mandates that the nation undertake a census of population every ten years; and

WHEREAS, the next Census is to take place on April 1, 2010; and

WHEREAS, it is vitally important that all households complete a Census form; and

WHEREAS, the Census will determine how the national government distributes \$400 billion annually to fund critical community services and generate jobs; and

WHEREAS, the Census will also determine how many seats North Carolina will have in the United States House of Representatives; and

WHEREAS, North Carolina received an additional Congressional district following the 2000 census by a margin of fewer than 1,000 residents counted; and

WHEREAS, it is essential that accurate data comes from populations that are historically difficult to count, including non-native English speakers, low income households, and children; and

WHEREAS, in order to ensure that the Census is as accurate as possible, strategic planning is required to effectively account for these populations in the most efficient manner possible; and

WHEREAS, the United States Census bureau encourages all states to form a Complete Count Committee with the goals of heightening awareness about the 2010 Census and encouraging the populace to participate in the United States Census of Population.

NOW THEREFORE, by the power vested in me as Governor by the Constitution and laws of North Carolina, **IT IS SO ORDERED:**

Section 1. Establishment and Membership

The North Carolina Complete Count Committee (hereafter the "Committee") is hereby established. The Committee shall be comprised of at least 35 members and no more than 50 members who shall

represent the diverse geographic, economic, racial, cultural, gender, and occupational makeup of the State. Committee members shall serve at the pleasure of the Governor. The Governor shall appoint a Chair of the Committee from the Committee's membership.

Section 2. Duties

The Committee shall have the following duties and functions:

- a. Advise the Governor on Census activities in the State;
- b. Promote and advertise the 2010 Census;
- c. Respond to the population's questions and concerns about the Census;
- d. Focus on and reach out to traditionally hard-to-count areas and populations; and
- e. Work to ensure the highest participation rate possible.

Section 3. Meetings

The Committee shall meet upon the call of the Chair or the Governor. A simple majority of the Committee members shall constitute a quorum for the purpose of transacting the business of the Committee.

Section 4. Administration

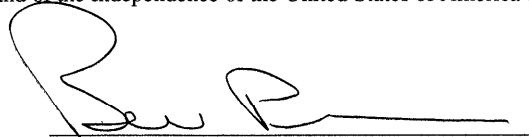
The Office of the Governor shall provide staff and administrative support services for the Committee. No per diem allowance, travel expenses, or subsistence shall be paid to members of the Task Force.

Section 5. Effect and Duration

This Executive Order is effective immediately and shall remain in effect until December 31, 2010, pursuant to N.C. Gen. Stat. § 147-16.2, or until rescinded.

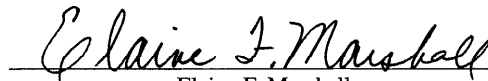
IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this ninth day of December in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and thirty-fourth.





Beverly Eaves Perdue
Governor

ATTEST:



Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NUMBER 34

ETHICS AND ATTENDANCE STANDARDS FOR GUBERNATORIAL APPOINTEES TO BOARDS

WHEREAS, the Governor appoints members to various boards, commissions, committees, councils, and similar entities (hereinafter "boards"); and

WHEREAS, it is essential for the public and the Governor to have confidence in the members of boards and the work done by such boards; and

WHEREAS, gubernatorial appointees to boards must maintain the highest ethical and board attendance standards; and

WHEREAS, the failure of appointees to maintain high ethical standards erodes public confidence in the actions of boards; and

WHEREAS, the excessive absences of appointees from board meetings diminishes the effectiveness of the entire board.

NOW, THEREFORE, by the power vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED:**

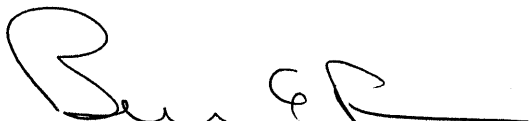
1. In transacting board business, each person appointed by the Governor shall act always in the best interest of the public without regard for her or his financial interests. To this end, each appointee must recuse herself or himself from voting on any matter on which the appointee has a financial interest.
2. No person appointed by the Governor to serve on a board shall accept a gift from any contractors, subcontractors, or suppliers of the appointee's board. This provision does not prohibit an appointee from accepting a gift that would be permitted under the State Ethics Act, regardless of whether the appointee is covered by the State Ethics Act.

3. If any person appointed by the Governor to serve on a board is indicted for a felony by a state or federal grand jury or fails to fully cooperate in an investigation conducted by a state or federal agency pursuant to law, such action shall constitute grounds for removal from the board for misfeasance, malfeasance, or nonfeasance pursuant to N.C. Gen. Stat. § 143B-13(d), N.C. Gen. Stat. § 143B-16, or other applicable statutes or regulations.
4. All persons appointed by the Governor to serve on a board shall attend at least 75 percent of all regularly scheduled meetings of the board during the board's calendar year. Failure of a board member to attend board meetings in a manner consistent with this Order shall constitute grounds for removal from the board for misfeasance, malfeasance, or nonfeasance pursuant to N.C. Gen. Stat. § 143B-13(d), N.C. Gen. Stat. § 143B-16, or other applicable statutes or regulations.

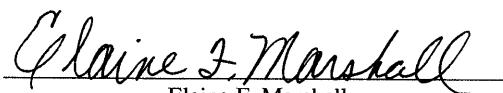
This Executive Order shall be effective immediately and shall remain in effect until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this ninth day of December in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and thirty-fourth.




Beverly Eaves Perdue
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 35

ETHICS STANDARDS FOR CERTAIN BOARDS

WHEREAS, the General Assembly, Governor, other state officials, or state agencies have established numerous boards, commissions, councils, committees, task forces, or similar entities (hereinafter "boards") to assist the State in its work for the citizens of North Carolina; and

WHEREAS, to provide the expertise necessary to perform the complex advisory and other functions of such boards, the membership of such boards may include persons who have professional or economic interests that relate to the functions of the board; and

WHEREAS, the General Assembly has concluded that the State Government Ethics Act does not cover public entities that have only advisory authority, and the State Ethics Commission has determined that the boards subject to this Order have only advisory authority; and

WHEREAS, it is nevertheless important that such boards exercise their advisory responsibilities in a transparent manner so that the Governor and citizens will have full knowledge of the professional and economic interests of the board members as the State evaluates their expert advice provided to their boards; and

NOW, THEREFORE, by the power vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED**:

1. This Executive Order shall apply to the following boards (hereinafter "covered boards"):
 - a. North Carolina Aeronautics Council
 - b. Advisory Committee on Cancer Coordination and Control
 - c. North Carolina Community Development Council
 - d. State Criminal Justice Partnership Advisory Board
 - e. North Carolina Council for the Deaf and Hard of Hearing
 - f. Energy Policy Council
 - g. North Carolina Film Council
 - h. North Carolina Travel and Tourism Board
 - i. North Carolina Forestry Council
 - j. Economic Development Board


- k. Information Technology Advisory Board
 - l. State Water Infrastructure Commission
 - m. Interagency Coordinating Council for Children from Birth to Five with Disabilities and Their Families
 - n. School Technology Commission
 - o. Domestic Violence Commission
 - p. Budget Reform and Accountability Commission
 - q. StreetSafe Task Force
2. The members of the covered boards shall always act in the best interests of the public and shall bring their particular knowledge and experience to the covered board to serve the public interest.
3. The following process shall be observed for all meetings at which the covered board or any subcommittee of such board takes any action:
- a. At the beginning of each meeting, the Chair shall remind all members of their duty to act always in the best interest of the public without regard for their financial or other interests and that they should recuse themselves from voting on any matter on which they cannot meet this standard.
 - b. Prior to conducting any business, each member shall disclose any financial benefit he or she may derive from any matter coming before the covered board or subcommittee for action at that meeting. A member derives a financial benefit from a matter under consideration if the person or his or her spouse (i) has an ownership interest in an entity that is directly affected by the matter under consideration; (ii) will derive any income or commission as a direct result of action on the matter under consideration; or (iii) will acquire property as a direct result of action on the matter under consideration. When any member indicates that he or she will derive a financial benefit from a matter coming before the covered board or any subcommittee, the member shall recuse himself or herself from voting on the matter, unless the chair determines that the member's financial benefit is so remote or insignificant that a reasonable person would conclude that the member's ability to perform his or her official duties would not be compromised.
 - c. Prior to conducting any business, each member also shall disclose any other interest(s) he or she may have, in any matter coming before the covered board or subcommittee for action at that meeting, that might cause a reasonable person to question the member's impartiality due to such interest. The Chair will determine if the member needs to recuse himself or herself from voting on the matter in order to ensure the integrity of the actions of the covered board or subcommittee.
 - d. A member who has recused himself or herself from voting is not prohibited from deliberating on the matter unless the Chair determines, after review, that participation by the member in deliberations would impair the integrity of the actions of the covered board or subcommittee.

- e. The minutes of the covered board and its subcommittees will reflect all disclosures and recusals made pursuant to this section, and such minutes will be provided to the state official or entity with authority over the board for review with any recommendations from the board.
 - f. A challenge to a member's participation in a vote on issues under this Executive Order may be raised only by a member of the covered board or a state employee who regularly works with the covered board. In such case where a challenge is made, the Chair, in consultation with the covered board's legal counsel, shall determine whether the challenge is valid and the action that should be taken.
 - g. For the purposes of this Executive Order, the term "Chair" means the Chair of a covered board or the Chair of any subcommittee of a covered board. In the absence of the Chair or if the financial or other interests of the Chair must be reviewed pursuant to this section, then the Vice-Chair of the covered board or subcommittee shall make the determinations required by this section.
4. No member of a covered board shall improperly influence or attempt to influence state employees in performing their responsibilities to the covered board for any action in which the member has a direct, conflicting financial or other interest.
 5. This Executive Order is for the Governor's and other state officials' purposes in reviewing and approving or amending proposals or recommendations of the covered boards. This Order does not and should not be construed to create any rights, nor create claims under the State Ethics Act or other laws of this State.
 6. Any covered board under this Executive Order that is subsequently determined to be subject to the State Ethics Act will no longer be subject to this Executive Order.

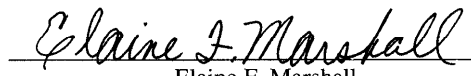
This Executive Order is effective immediately and shall remain in effect until rescinded in writing.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this ninth day of December in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and thirty-fourth.




 Beverly Eaves Perdue
 Governor

ATTEST:


 Elaine F. Marshall
 Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 36

DESIGNATION OF CERTAIN STATE EMPLOYEES AND APPOINTEES AS COVERED PUBLIC SERVANTS UNDER THE STATE GOVERNMENT ETHICS ACT

WHEREAS, the State Government Ethics Act (hereinafter the "Act"), codified in Chapter 138A of the North Carolina General Statutes, designates certain State employees and appointees as "public servants" who are covered by the provisions of the Act; and

WHEREAS, Section 138A-3(30)g of the Act authorizes the Governor to designate additional state employees and appointees as "public servants" under the Act; and

WHEREAS, I have determined that the persons identified in this Executive Order should be designated as "public servants" who are covered by the provisions of the Act.

NOW THEREFORE, by the power vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS SO ORDERED:**

The following state employees or appointees are designated as covered "public servants" under the State Government Ethics Act:

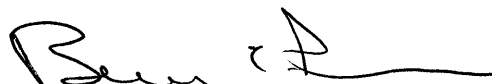
1. Linda Coleman, State Personnel Director
2. David McCoy, State Controller
3. Gerald Fralick, State Chief Information Officer, Office of Information Technology Services (ITS)
4. George J. Bakolia, ITS Senior Deputy Chief Information Officer
5. Sharon Hayes, ITS Deputy Chief Information Officer
6. John McShane, ITS Deputy Chief Information Officer/Chief Financial Officer and Controller
7. William Sam Byassee, ITS General Counsel
8. Lawrence J. Wheeler, Director of the State Museum of Art
9. Ivy Hoffman, Executive Director of the Agency for Public Telecommunication
10. Mike Robertson, Commissioner of Motor Vehicles
11. Joseph A. Smith, Jr., Commissioner of Banks
12. Mark Pearce, Chief Deputy Commissioner of the Banking Commission

13. Raymond E. Grace, Deputy Commissioner of the Banking Commission
14. Bob Kucab, Executive Director of the NC Housing Finance Agency
15. David W. Joyner, Executive Director of the NC Turnpike Authority
16. Grady Rankin, Chief Financial Officer of the NC Turnpike Authority
17. Jim Eden, Chief Operating Officer of the NC Turnpike Authority
18. Members of the Governor's Crime Commission

This Order is effective immediately and shall remain in effect until rescinded. This Order rescinds Executive Order No. 116, dated January 26, 2007, and Executive Order No. 117, dated March 6, 2007.


IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this ninth day of December in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and thirty-fourth.





Beverly Eaves Perdue
Governor

ATTEST:



Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 37

NORTH CAROLINA EMERGENCY RESPONSE COMMISSION

By the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Establishment

There is hereby established the North Carolina Emergency Response Commission, hereinafter referred to as the "Commission." The Commission shall consist of not less than 12 members and shall be composed of at least the following persons, or their designee as approved by the Commission Chairperson:

- a. Secretary of the North Carolina Department of Crime Control and Public Safety, who shall serve as the Chairperson;
- b. Director of the Division of Emergency Management, North Carolina Department of Crime Control and Public Safety, who shall serve as the Vice-Chairperson;
- c. Commander of the State Highway Patrol, North Carolina Department of Crime Control and Public Safety;
- d. Deputy Secretary of the North Carolina Department of Environment and Natural Resources;
- e. Director of the Division of Safety and Loss Control, North Carolina Department of Transportation;
- f. Chief of the Office of Emergency Medical Services, Division of Facility Services, North Carolina Department of Health and Human Services;
- g. Deputy Director of the Training and Inspections Division, Office of State Fire Marshal, North Carolina Department of Insurance;
- h. Director of the State Bureau of Investigation, North Carolina Department of Justice;
- i. Director, Division of Public Health, North Carolina Department of Health and Human Services;
- j. Assistant Deputy Commissioner of the Labor for Occupational Safety and Health, North Carolina Department of Labor;
- k. President of the North Carolina Community College System; and
- l. Director of the Emergency Programs Division, North Carolina Department of Agriculture and Consumer Services.

In addition to the foregoing, six at-large members from local government and private industry may be appointed by the Governor and serve terms of two (2) years at the pleasure of the Governor.

Section 2. Duties

The Commission is designated as the State Emergency Response Commission as defined in the Emergency Planning and Community Right-to-Know Act of 1986 enacted by the United States Congress and hereinafter referred to as the "Act." The Commission serves in three roles:

- a. The Commission will perform all of the duties required under the Act and other advisory, administrative, regulatory, or legislative actions.
 1. Designate emergency planning districts to facilitate preparation and implementation of emergency plans as required under Section 301(b) of the Act.
 2. Appoint local emergency planning committees described under Section 301(c) of the Act and supervise and coordinate the activities of such committees for each planning district.
 3. Establish procedures for reviewing and processing requests from the public for information under Section 324 of the Act.
 4. Designate additional facilities that may be subject to the Act under Section 302 of the Act and notify the Administrator of the Environmental Protection Agency of any such additional facilities.
 5. Review the emergency plans submitted by the local emergency planning committees and recommend revisions of the plans that may be necessary to ensure their coordination with emergency response plans of adjacent districts and state plans.

- b. The Commission will act in an advisory capacity to the Homeland Security Advisor, as designated by the Governor, to provide input regarding the activities of the North Carolina State Homeland Security Program and the Domestic Preparedness Regions. Specifically, the Commission will:
 1. Review the State Homeland Security Strategy to ensure it is aligned with local, state, and federal priorities as required by the United States Department of Homeland Security (DHS), and that its goals and objectives are being met in accordance with program intent.
 2. Review DHS Homeland Security Grant Program applications and subsequent allocations for state and regional homeland security projects.
 3. Review plans for preventing, preparing for, responding to, and recovering from acts of terrorism and all hazards – man-made or natural.

- c. The Commission will act in an advisory capacity to provide coordinated stakeholder input to the Secretary of the Department of Crime Control and Public Safety and the Division of Emergency Management in the preparation, implementation, evaluation, and

revision of the North Carolina emergency management program. To this purpose, the Commission will work to:

1. Increase state and local disaster/emergency response capabilities; and
2. Coordinate training, education, technical assistance, and outreach activities.

Section 3. Administration

- a. The Department of Crime Control and Public Safety shall provide administrative support and staff to the Commission as may be required.
- b. Members of the Commission shall serve without compensation but may receive reimbursement for travel and subsistence expenses in accordance with state guidelines and procedures and contingent on the availability of funds.

Section 4. Effect and Duration

This Executive Order is effective immediately. It supersedes and replaces all other executive orders on this subject. It shall remain in effect until December 14, 2013, pursuant to N.C. Gen. Stat. § 147-16.2 or until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this fifteenth of December in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and thirty-fourth.



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 38

REESTABLISHING THE FOOD SAFETY AND DEFENSE TASK FORCE

By the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. **Establishment**

The North Carolina Food Safety and Defense Task Force is hereby established.

Section 2. **Purpose**

The purpose of the Food Safety and Defense Task Force (hereinafter the "Task Force") is to coordinate interagency and public-private efforts to enhance protection of the State's food supply system and its agricultural industry.

Section 3. **Membership**

Task Force members shall serve at the pleasure of the Governor. The Governor shall appoint members to the Task Force as follows:

- a. The Commissioner of Agriculture, or designee;
- b. The Secretary of Environment and Natural Resources, or designee;
- c. The Secretary of Health and Human Services, or designee;
- d. The Secretary of Crime Control and Public Safety, or designee;
- e. Representatives of the University of North Carolina System; and
- f. Representatives of other government agencies, private industry, and other public members invited to participate by the Governor.

The Commissioner of Agriculture, the Secretary of Health and Human Services, and the Secretary of Environment and Natural Resources shall serve as co-chairs of the Task Force.

Section 4. **Duties**

The Task Force shall have the following duties:

- a. Partner with state and federal agencies to conduct focused studies of the vulnerability of the State's food system to criminal and terrorist acts and make recommendations regarding the following issues:

1. improving safety and defense of the food supply system,
 2. reducing terrorism threat measures,
 3. improving food safety and defense mitigation and response plans, and
 4. implementing or coordinating training for key stakeholders in the State's food supply system.
- b. Recommend legislation needed to improve the ability of State departments and agencies to protect the safety and defense of the State's food supply and the agricultural industry base, including legislation to protect sensitive and proprietary information of the State's food supply system, safety and defense vulnerability information, and defense plans that, if compromised, would heighten the exposure of the State's food supply system to criminal or terrorist acts.
- c. Recommend budget, staffing, and resource adjustments necessary to improve the capability of State departments and agencies to protect the safety and defense of the State's food supply system and agricultural industrial base.
- d. Prepare an annual report no later than December 15th each year that includes any recommendations or proposals for changes in laws, rules, and programs that the Task Force determines to be appropriate to enhance food safety and defense in the State.

Section 5. Administration

The Office of State Budget and Management shall assist the Task Force in its efforts to obtain State and Federal funding necessary to carry out its duties.

Section 6. Effect and Duration

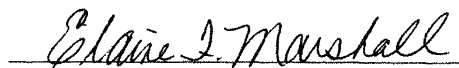
This Executive Order shall be effective immediately. It shall remain in effect until December 14, 2013, pursuant to N.C. Gen. Stat. § 147-16.2, or until rescinded. All other executive orders or portions of executive orders inconsistent herewith are hereby rescinded. This order specifically replaces Executive Order No. 89, dated September 12, 2005, and Executive Order No. 126, dated September 7, 2007.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this fifteenth day of December in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and thirty-fourth.




 Beverly Eaves Perdue
 Governor

ATTEST:


 Elaine F. Marshall
 Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 39

REPLACING EXECUTIVE ORDER NO. 124, STATEWIDE FLEXIBLE BENEFITS PROGRAM

WHEREAS, State employees are an important resource to State government; and

WHEREAS, the State needs to provide a uniform competitive compensation package that includes an up-to-date benefits program in order to maintain the State's competitive edge with businesses and other states in the region; and

WHEREAS, the State needs to provide the same tax-advantaged benefits to all State employees, regardless of the agency, department, university or community college where they work; and

WHEREAS, the reasonable cost of administering an efficiently designed flexible benefits program could be recovered by the savings associated with such a program.

NOW THEREFORE, by the power vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Policy

A statewide employee flexible benefits coordination effort is hereby formalized for the purpose of administering these benefits to employees and promoting the development and maintenance of a competitive compensation package for all State employees in conjunction with the provisions of N.C. Gen. Stat. § 126-95.

Section 2. Administration

There is created within the Office of State Personnel a Statewide Employee Flexible Benefits Program (SEFBP). The State Personnel Director shall be responsible for central flexible benefits coordination for all State employees. The administration of the statewide flexible benefits plan shall become the responsibility of SEFBP. This program shall begin the process of assessing the flexible benefits plan design, administrative procedures, administrative capabilities, and communications needs for the implementation of a comprehensive statewide flexible benefits plan. These responsibilities include, but are not limited to the following:

- a. implementing the Statewide Flexible Benefits Plan;
- b. administering contracts for supplemental insurance carriers and third party administrators for spending accounts and premium conversion plans participating in the SEFBP;
- c. coordinating administration of spending accounts;
- d. coordinating enrollment and communication efforts concerning the SEFBP and other benefit programs;
- e. coordinating the Statewide Flexible Benefits Advisory Committee; and
- f. speaking on behalf of State government flexible benefits in the Legislature.

Section 3. Statewide Flexible Benefits Advisory Committee

There is hereby established a Statewide Flexible Benefits Advisory Committee (FBAC) for the purpose of assisting the State in developing and maintaining an effective flexible benefits plan for State employees. The FBAC shall make recommendations to the State Personnel Director concerning the administration of the Flexible Benefits Plan and the components of the flexible benefits package for State employees.

a. Duties of the FBAC

The FBAC shall be responsible for the following:

- (1) assisting the SEFBP in developing administrative functions;
- (2) reviewing existing flexible benefit programs in State government;
- (3) recommending pre-tax benefits to be included in the SEFBP;
- (4) assisting in reviewing contracts and administering spending accounts; and
- (5) undertaking other functions as necessary.

b. Membership

The membership of the FBAC shall consist of 16 members and one ex-officio member. Members shall be appointed to a three-year staggered term. Members are as follows:

- (1) a representative from the State Controller's Office;
- (2) a representative from the State Treasurer's Office;
- (3) a representative from the State Budget Office;
- (4) a representative from the Attorney General's Office;
- (5) a representative from the State Health Benefits Office;
- (6) a representative from the Administrative Office of the Courts;
- (7) a representative from the Department of Environment and Natural Resources;
- (8) a representative from the University of North Carolina System;
- (9) a representative from the State Employees Association of North Carolina;
- (10) a representative from the Department of Health and Human Services;

- (11) a representative from the Department of Transportation;
- (12) a representative from the Department of Correction;
- (13) a representative from the Department of Public Instruction;
- (14) a representative from the Community College System;
- (15) two representatives of the private sector; and
- (16) the SEFBP Manager, who shall serve as a voting ex officio member and provide support staff as required.

c. Chairperson

The Director of the Office of State Personnel shall appoint a Chair from among the membership for a one-year term.

Section 4. Effect and Duration

This Executive Order replaces Executive Order No. 124 dated September 7, 2007, and is effective immediately. It shall remain in effect until December 14, 2013, pursuant to N.C. Gen. Stat. § 147-16.2, or until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this fifteenth day of December in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and thirty-fourth.



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 40

REPLACING EXECUTIVE ORDER NO. 133, JUVENILE JUSTICE PLANNING COMMITTEE

WHEREAS, the Executive Organization Act of 1973 established the Governor's Crime Commission; and,

WHEREAS, North Carolina General Statute § 143B-480, creates the Juvenile Justice Planning Committee as an adjunct committee to advise the Governor's Crime Commission on matters referred to it that are relevant to juvenile justice; and

WHEREAS, pursuant to North Carolina General Statute § 143B-480, the composition of the Juvenile Justice Planning Committee shall be designated by the Governor through executive order; and

WHEREAS, the federal Juvenile Justice and Delinquency Act of 1974, as amended, requires states to establish state advisory groups to administer juvenile justice and delinquency prevention grants from the United States Department of Justice; and

WHEREAS, the Juvenile Justice Planning Committee is ideally suited to serve as such a state advisory group consistent with federal law.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Membership Composition

The Juvenile Justice Planning Committee shall consist of no less than 15 and no more than 33 members each appointed by the Governor and each having training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice.

The majority of the members, as well as the chair, shall not be full-time employees of federal, state, or local government. At least one-fifth of the members shall be under the age of twenty-

four at the time of appointment and at least three members shall be currently or have been under the jurisdiction of the juvenile justice system.

The Governor shall appoint at least one representative from the following:

1. An elected official representing the state's local governments.
2. A representative of a law enforcement agency and juvenile justice agencies.
3. A juvenile or family district court judge.
4. A juvenile or assistant district attorney.
5. A legal counsel for children and youth.
6. A juvenile court counselor.
7. A probation worker.
8. Representatives of public agencies concerned with delinquency prevention, which may include a social services agency, a mental health agency, a state education agency, a special education program, a recreation program, or a youth services agency.
9. Private non-profit agencies working with children including persons with a special focus on parent groups and parent self-help groups, youth development, delinquency prevention and treatment, neglected or dependent children, the quality of juvenile justice, education, and social services for children and programs focused on preserving and strengthening families.
10. Volunteers who work with delinquents or potential delinquents.
11. Youth workers in alternative programs including organized recreation programs, vocational programs, or other skill-building programs.
12. Programs providing alternatives to suspension and expulsion, including experience with the prevention of school violence, vandalism, and similar issues.
13. Persons with special experience relating to learning disabilities, emotional difficulties, child abuse and neglect, or youth violence.
14. State or local police departments.
15. Local sheriff's departments.
16. Private non-profit victim's advocacy organizations (guardian ad litem).
17. Non-profit religious or community groups.

Section 2. Terms of Service

The terms of service for the members shall be for two years provided that the Governor may remove any member or the chair at any time for misfeasance, malfeasance, or nonfeasance to ensure continued compliance with federal requirements.

Section 3. Chair

The chair of the Juvenile Justice Planning Committee shall be designated by and shall serve at the pleasure of the Governor.

Section 4. Meetings

The Juvenile Justice Planning Committee shall meet at least quarterly upon the call of the chair or upon written request of one-third of its membership. A majority of the committee shall constitute a quorum for the transaction of business.

Section 5. Administration of Federal Grants

The Juvenile Justice Planning Committee shall serve as North Carolina's advisory board for purposes of administering juvenile justice and delinquency prevention grants from the Department of Justice.

Section 6. Duration

This Executive Order is effective immediately. It supersedes and replaces all other executive orders on this subject. It shall remain in effect until December 14, 2011, pursuant to N.C. Gen. Stat. § 147-16.2 or until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this fifteenth day of December in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and thirty-fourth.



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 41

REESTABLISHING THE NORTH CAROLINA COMMISSION ON VOLUNTEERISM AND COMMUNITY SERVICE

WHEREAS, the increasing realization of the importance of volunteerism and civic engagement; the growing recognition of community service as a means of community and state problem-solving; and the revival of national services as an avenue for addressing many of the country's unmet social, environmental, educational, public safety, and homeland security needs have revealed new options for enhancing the quality of life for North Carolinians; and

WHEREAS, promoting the capacity of North Carolina's people, communities, and enterprises to work collaboratively is vital to the long-term prosperity of this State; and

WHEREAS, building and encouraging community services as an integral component of the formula to our growth as a State and as a nation requires cooperative efforts by the public sector, the private sector, the nonprofit sector, and partnerships among these sectors; and

WHEREAS, a State Commission is necessary to assist in the development and implementation of a comprehensive, statewide service plan for promoting and recognizing volunteer involvement and citizen participation in North Carolina.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Establishment

The North Carolina Commission on Volunteerism and Community Service ("Commission") is hereby established to encourage and recognize community service and volunteer participation as a means of community and state problem-solving; to promote and support voluntary citizen engagement in government and private programs throughout the state; to develop a long-term, comprehensive vision and plan of action for community service initiatives in North Carolina; and to serve as the State's liaison to national and state organizations that support its mission.

Section 2. Membership

- a. All members of the Commission shall be appointed by the Governor and shall serve at the pleasure of the Governor. The Commission shall consist of no fewer than 15, and no more than 25, voting members.
- b. Commission members shall serve terms of three years, except upon establishment of the Commission. Initial appointment terms shall be staggered for one, two, or three years so that approximately one-third of the terms expire each year. Vacancies among the members shall be filled by the Governor to serve for the remainder of the unexpired term.
- c. To the extent practicable, the members of the Commission shall be diverse with respect to ethnicity, age, disability, gender, and race.
- d. Not more than 50 percent of the members of the Commission, plus one member, may be from the same political party.
- e. The number of voting members of the Commission who are officers or employees of the State may not exceed 25 percent (reduced to the nearest whole number) of the total membership of Commission members; although, additional state agency representatives may sit on the Commission as non-voting members.
- f. The Commission shall include the following voting members:
 1. An individual with expertise in the educational, training, and developmental needs of youth, particularly disadvantaged youth.
 2. An individual with experience in promoting the involvement of older adults in service and volunteerism.
 3. A representative of a community-based, nonprofit agency or organization within the State.
 4. The Superintendent of the Department of Public Instruction, or designee.
 5. A representative of the volunteer sector.
 6. A representative of the military or veterans.
 7. A representative of the faith community.
 8. A representative of local governments in the State.
 9. A representative of local labor organizations in the State.
 10. A representative of business.
 11. An individual between the ages of 16 and 25 who is a supervisor or recipient in a volunteer or service program.
 12. A representative of a national service program described in Section 122(a) of the United State Public Law (P.L.) 103-82, such as a youth corps program described in Section 122(a)(2).
- g. The Commission also may include the following voting members:
 1. Members selected from among local educators.
 2. Members selected from among experts in the delivery of human, educational, environmental, homeland security, or public safety services to communities and persons.
 3. Representatives of Native American tribes.

4. Members selected from among out-of-school youth or other “at-risk” youth.
 5. Representatives of entities that receive assistance under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 *et seq.*).
- h. The Commission shall include the following non-voting members:
1. A representative of the Corporation for National and Community Service described in Section 122(a) of P.L. 103-82.
 2. A designee from the Governor’s Office.
 3. A designee from the Director of the Department of Public Instruction’s Learn and Serve School-Based Program.

Section 3. Officers

The Officers of the Commission shall be the Chair and Vice-Chair. All officers shall be elected by the voting Commission members from among their ranks. Officers shall serve for a term of one year. Vacancies in any offices shall be filled with an election by the Commission for the remainder of the unexpired term.

- a. Chair. It shall be the responsibility of the Chair to preside at all meetings of the Commission, to appoint all committee chairs, to assist all committee chairs in the planning of committee plans, to authorize and execute the wishes of the Commission, and to be an ex-officio member of all committees, unless other specific committee responsibilities are assigned to the Chair.
- b. Vice-Chair. The Vice-Chair shall assist the Chair and, in the absence of the Chair, shall perform the duties of the Chair. The Vice-Chair shall accept special assignments from the Chair and shall perform other duties as delegated by the Commission.

Section 4. Committees

- a. Standing Committees

Standing committees of the Commission shall include the Executive Committee, the Program Management Committee, and the Nominating Committee. The standing committees shall advise and assist the Commission in carrying out its duties and responsibilities. Committee chairs shall be appointed by the Commission Chair from among Commission members; however, the committee members need not be limited to Commission members. The Commission Chair, in consultation with the committee chairs, shall name committee members.

1. Executive Committee. The Executive Committee shall be comprised of the Chair and Vice-Chair of the Commission, along with the chairs (or co-chairs) of all standing committees, ad hoc committees, and task forces. The Chair of the Commission shall serve as the Chair of the Executive Committee.
2. Program Management Committee. The Program Management Committee shall be comprised of a chair and two voting members of the Commission. The Committee shall review all grant applications submitted to the Commission for funding by the

Corporation for National and Community Service. Committee members shall participate in the peer review processes, make programmatic and funding recommendations to the full Commission, participate in pre-award site visits, and assist staff in addressing any programmatic and funding issues that may occur during the program year.

3. Nominating Committee. The Nominating Committee shall be comprised of a chair and two voting members of the Commission. The Commission Chair shall appoint nominating committee members at the third quarterly meeting of the Commission. The Nominating Committee shall provide a nominating report at the fourth quarterly meeting of the Commission.

b. Ad Hoc Committees

The Commission may establish ad hoc committees or task forces as necessary to carry out the Commission's duties.

Section 5. Meetings

- a. The Commission shall meet at least quarterly. Failure to attend at least 75 percent of called meetings in any calendar year may result in a recommendation to the Governor to remove the member from the Commission. For the purpose of transacting the business of the Commission, a quorum shall consist of a simple majority of voting members.
- b. A voting member of the Commission shall not participate in the administration of a grant program described below in Section 6p (including any discussion or decision regarding the provision of assistance or approved national service positions, or the continuation, suspension, or termination of such assistance or such positions, to any program entity) if (1) a grant application related to the program is pending before the Commission and (2) the application was submitted by a program or entity of which such Commission member is, or in the one-year period before submission of such application was, an officer, director, trustee, full-time volunteer, or employee.

Section 6. Duties

The Commission shall perform the following tasks and functions:

- a. Ensure that its funding decisions meet all federal and state statutory requirements.
- b. Recommend innovative, creative, statewide service programs to increase volunteer participation in all age groups and community-based problem-solving among diverse participants.
- c. Promote strong interagency collaboration as an avenue for maximizing resources and provide that model on the state level.
- d. Provide public recognition and support of individual volunteer efforts, successful or promising initiatives, and public/private partnerships that address community needs.

- e. Stimulate increased community awareness of the impact of volunteer services in North Carolina.
- f. Utilize local, state, and federal resources to reinforce, expand, and initiate quality service programs.
- g. Serve as the State's liaison and voice to appropriate national and state organizations that support its mission.
- h. Prepare a three-year plan for the State, in accordance with state and federal guidelines, that is developed through an open and public process (such as regional forums, hearings, and other means that provide maximum participation and input). Update the three-year plan annually.
- i. Establish a web-based registry that allows organizations to register their volunteer needs and allows individuals to find service opportunities.
- j. Prepare the financial assistance applications of the State under Sections 117B and 130 of P.L. 103-82.
- k. Assist in the preparation of the application of the North Carolina Department of Public Instruction for assistance under Section 113 of P.L. 103-82.
- l. Prepare the State's application under Section 130 of P.L. 103-82 for the approval of service positions, such as the national service educational award described in Subtitle D of P.L. 103-82.
- m. Make technical assistance available to enable applicants for assistance under Section 121 of P.L. 103-82 to plan and implement service programs and to apply for assistance under the federal service laws.
- n. Assist in the provision of health care and child care benefits under Section 140 of P.L. 103-82 to participants in national service programs that receive assistance under Section 121 of P.L. 103-82.
- o. Develop a state system for the recruitment and placement of participants in programs that receive assistance under the national service laws and disseminate information concerning national service programs that receive such assistance or approved national service positions.
- p. Administer the State's grant program in support of national service programs (using assistance provided to the State under Section 121 of P.L. 103-82) including selection, oversight, and evaluation of grant recipients.
- q. Make recommendations to the Corporation for National and Community Service with respect to priorities for programs receiving assistance under the Domestic Volunteer Service Act of 1973 (42 U.S.C. § 4950 *et seq.*).

- r. Develop projects, training methods, curriculum materials, and other materials and activities related to national service programs that receive assistance directly from the Corporation for National and Community Service or from the State using assistance provided under Section 121 of P.L. 103-82, for use by programs that request such projects, methods, materials, and activities.
- s. Establish a North Carolina Business Volunteer Council to develop employee volunteer programs and volunteerism in the work place and to facilitate partnerships between the business community, nonprofit organizations, volunteer centers, and public agencies to gain a greater understanding of the community and its needs.

Section 7. Administration and Expenses

The Governor's Office shall provide necessary administrative and staff support services to the Commission. The Commission is authorized to accept funds and in-kind services from other state and federal entities, as authorized by the North Carolina State Budget Act. No per diem allowance shall be paid to members of the Commission. Members of the Commission and staff may receive necessary travel and subsistence expenses in accordance with State law. These expenses shall be paid from federal funds where possible. If federal funds are not available, these expenses may be paid only if the Governor's Office has sufficient funds.

Section 8. Duration

This Executive Order is effective immediately. It supersedes and replaces all other executive orders on this subject and specifically rescinds Executive Order No. 136 issued on February 7, 2008. This Executive Order shall remain in effect until December 16, 2013, pursuant to N.C. Gen. Stat. § 147-16.2, or until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this seventeenth day of December in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and thirty-fourth.



Beverly Eaves Pardue
 Beverly Eaves Pardue
 Governor

ATTEST:

Elaine F. Marshall
 Elaine F. Marshall
 Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 42

EMERGENCY RELIEF FOR DAMAGE CAUSED BY ICE/SNOW STORM

WHEREAS, I have proclaimed that a State of Emergency and threatened Disaster exists in North Carolina due to the imminent ICE/SNOW STORM thereby, justifying an exemption from 49 CFR Part 395 (Federal Motor Carrier Safety Regulations); and

WHEREAS, under the provisions of N.C.G.S. §§ 166A-4 and 166A-6(c)(3) the Governor, with the concurrence of the Council of State, may regulate and control the flow of vehicular traffic and the operation of transportation services; and

WHEREAS, with the concurrence of the Council of State, I have found that vehicles bearing UTILITIES to relieve our grief stricken counties must adhere to the registration requirements of N.C.G.S. § 20-86.1 and 20-382, fuel tax requirements of N.C.G.S. § 105-449.47, and the size and weight requirements of N.C.G.S. §§ 20-116 and 20-118; I have further found that citizens in those counties will likely suffer losses and, therefore, invoke an imminent threat of widespread damage within the meaning of N.C.G.S. § 166-A-4(3).

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, and with the concurrence of the Council of State, **IT IS ORDERED**:

Section 1.

The Department of Crime Control & Public Safety in conjunction with the North Carolina Department of Transportation shall waive certain size and weight restrictions and penalties therefore arising under N.C.G.S. §§ 20-116 and 20-118 and certain registration requirements and penalties therefore arising under N.C.G.S. §§ 20-86.1, 20-382, 105-449.47, 105-449.49 for the vehicles transporting UTILITIES along North Carolina roadways to our grief stricken counties.

Section 2.

Notwithstanding the waivers set forth above, size and weight restrictions and penalties **have not been waived** under the following conditions:

- A. When the vehicle weight exceeds the maximum gross weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross weight, whichever is less.

- B. When the tandem axle weight exceeds 42,000 pounds and the single axle weight exceeds 22,000 pounds.
- C. When a vehicle/vehicle combination exceeds 12 feet in width and a total overall vehicle combination length 75 feet from bumper to bumper.

Section 3.

Vehicles referenced under Section 1 shall be exempt from the following registration requirements:

- A. The \$50.00 fee listed in N.C.G.S. § 105-449.49 for a temporary trip permit is waived for the vehicles described above. No quarterly fuel tax is required because the exception in N.C.G.S. § 105-449.45(a)(1) applies.
- B. The registration requirements under N.C.G.S. § 20-382 concerning intrastate and interstate for-hire authority is waived; however, vehicles shall maintain the required limits of insurance as required.
- C. Non-participants in North Carolina's International Registration Plan will be permitted into North Carolina in accordance with the exemptions identified by this Executive Order.

Section 4.

The size and weight exemption for vehicles will be allowed on all routes designated by the North Carolina Department of Transportation, except those routes designated as light traffic roads under N.C.G.S. § 20-118. This order shall not be in effect on bridges posted pursuant to N.C.G.S. § 136-72.

Section 5.

The waiver of regulations under 49 CFR Part 395 (Federal Motor Carrier Safety Regulations) **does not apply** to the CDL and Insurance Requirements. This waiver shall be in effect for 30 days or the duration of the emergency, whichever is less.

Section 6.

The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 1, 2, and 3 in a manner, which would best accomplish the implementation of this rule without endangering motorists in North Carolina.

Section 7.

Upon request, exempted vehicles will be required to produce identification sufficient to establish that its load will be used for emergency relief efforts associated with the **WINTER STORM**.

Section 8.

This Executive Order is effective immediately and shall remain in effect for thirty (30) days or the duration of the emergency whichever is less.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this **eighteenth** day of **December** in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and thirty-fourth.



Beverly Eaves Perdue

Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall

Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 43

TEMPORARY SUSPENSION OF MOTOR VEHICLE REGULATIONS TO ENSURE ADEQUATE FUEL SUPPLIES THROUGHOUT THE STATE

WHEREAS, I have determined that a state of emergency exists due to the continued period of cold weather and the after-effects of the winter storm in Western North Carolina, thereby, justifying an exemption from 49 CFR Part 395 (Federal Motor Carrier Safety Regulations); and

WHEREAS, the uninterrupted supply of fuel oil, diesel oil, gasoline, kerosene, propane, and liquid petroleum gas to residential and commercial establishments is essential during wintertime and any interruption in the delivery of those fuels threatens the public welfare; and

WHEREAS, the continued period of cold weather has increased the demand for those heating fuels, and threatens the uninterrupted delivery of those fuels to residential and commercial customers; and

WHEREAS, 49 CFR § 390.23 allows the governor of a state to suspend the rules and regulations under 49 CFR Part 395 for up to 30 days if the Governor determines that an emergency condition exists; and

WHEREAS, under N.C.G.S. §§ 166A-4 and 166A-6.03(b) the Governor, may declare that the health, safety, or economic well-being of persons or property in this State require that the maximum hours of service for drivers proscribed by N.C.G.S. § 20-381 should be waived for persons transporting essential fuels.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1.

The Department of Crime Control and Public Safety in conjunction with the North Carolina Department of Transportation shall waive the maximum hours of service for drivers proscribed by the Department of Crime Control and Public Safety pursuant to N.C.G.S. § 20-381.

Section 2.

Notwithstanding the waiver set forth above, size and weight restrictions and penalties are not waived.

Section 3.

The waiver of regulations under 49 CFR Part 395 (Federal Motor Carrier Safety Regulations) does not apply to the commercial drivers' licenses and insurance requirements.

Section 4.

The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 1, 2, and 3 of this Executive Order in a manner which will implement this rule without endangering motorists in North Carolina.

Section 5.


Upon request by law enforcement officers, exempted vehicles must produce documentation sufficient to establish their loads are being used for relief efforts associated with the cold weather and winter storm.

Section 6.

This Executive Order is effective immediately and shall remain in effect for thirty (30) days or the duration of the emergency, whichever is less.

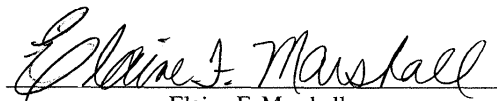
IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this **seventh** day of **January** in the year of our Lord two thousand and ten, and of the Independence of the United States of America the two hundred and thirty-fourth.





Beverly Eaves Perdue
Governor

ATTEST:



Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 44

PROCLAMATION OF A STATE OF EMERGENCY BY THE GOVERNOR OF THE STATE OF NORTH CAROLINA

WHEREAS, I have determined that a state of emergency, as defined in G.S. § 166A-4 and G. S. § 14-288.1(10), existed in the State of North Carolina, specifically in Alleghany, Avery, Ashe, Buncombe, Burke, Caldwell, Haywood, Jackson, Madison, McDowell, Mitchell, Transylvania, Watauga, Rutherford, and Yancey counties, due to two major winter storms, beginning on December 18, 2009, and December 25, 2009.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Pursuant to G.S. §§ 166A-5 and 14-288.15, therefore, I proclaim that a state of emergency existed in the aforementioned counties in the State, during the period beginning on December 18, 2009.

Section 2. I hereby order all state and local government entities and agencies to cooperate in the implementation of the provisions of this proclamation and the provisions of the North Carolina Emergency Operations Plan, including but not limited to obtaining federal reimbursement and assistance.

Section 3. I hereby delegate to Reuben F. Young, Secretary of Crime Control and Public Safety, and/or his designee, all power and authority granted to me and required of me by Chapter 166A, and Article 36A of Chapter 14 of the General Statutes for the purpose of implementing the said Emergency Operations Plan and to take such further action as is necessary to promote and secure the safety and protection of the populace in North Carolina.

Section 4. Further, Reuben F. Young, Secretary of Crime Control and Public Safety, as chief coordinating officer for the State of North Carolina, shall exercise the powers prescribed in G.S. § 143B-476.

Section 5. I hereby order this proclamation: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) unless the

circumstances of the state of emergency prevent or impede, to be promptly filed with the Secretary of Crime Control and Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to assure proper implementation of this proclamation.

Section 6. This proclamation shall become effective immediately and shall continue until it is terminated in writing.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this **twenty-first** day of **January** in the year of our Lord two thousand and ten, and of the Independence of the United States of America the two hundred and thirty-third.



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 45

TO FACILITATE EMPLOYEE ACCESS TO STATE FACILITIES AND CABINET AGENCY LEADERS

WHEREAS, the people of North Carolina have a right to expect that their public agencies will be run as efficiently and effectively as possible; and

WHEREAS, regular communication and exchange of ideas between employees and managers is essential to addressing service delivery problems and achieving greater levels of efficiency and effectiveness in governmental operations; and

WHEREAS, ensuring a more effective, accountable, reliable and efficient state government requires the commitment, dedication, cooperation, and hard work of all state employees in both managerial and non-managerial positions; and

WHEREAS, employee organizations that represent and articulate the views, concerns, and ideas of state employees are important participants in improving the efficiency and quality of service delivery and government operations; and

WHEREAS, ensuring reasonable opportunities for public employees to communicate with the representatives of their employee organizations is in the interests of furthering effective dialog between state employees and managers.

NOW, THEREFORE, by the power vested in me as the Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Reasonable Access to Facilities

- a. All heads of state institutions, departments, bureaus, agencies, or commissions subject to the authority of the Governor (hereinafter "executive branch agency") shall permit reasonable access to their facilities for the purposes of membership recruitment, distribution of educational materials related to membership, and consultation regarding membership with representatives of a domiciled employee association that has at least 2,000 members in the State, 500 of whom are employees of the State, a political

subdivision of the State, or a local board of education (hereinafter "covered employee association").

- b. A covered employee association desiring access to facilities under this Order must submit a request for access to the head of an executive branch agency at least two weeks prior to the requested date of access, unless a shorter time period is authorized by the head of the executive branch agency. A covered employee association's access under this Order shall be limited to a reasonable number of times each year, as determined by the head of the executive branch agency. Unless otherwise authorized by the head of the executive branch agency, the times for access under this Order shall be limited to the beginning or end of the workday, during shift changes, or at the lunch hour.

Section 2. Meet and Confer

- a. The representatives of each covered employee association shall have the opportunity to meet annually with representatives of the Governor and quarterly with the State Personnel Director regarding issues of mutual concern.
- b. Additionally, the representatives of a covered employee association whose membership includes at least 20 percent of the employees in an executive branch agency shall have the opportunity to meet at least quarterly with representatives of that agency to confer regarding areas of mutual concern, including ways of improving employee-management cooperation, ways of more efficiently and cost effectively delivering high quality services to the public, and the terms and conditions of employment. The head of an executive branch agency may authorize additional meetings as she or he deems appropriate.

The head of each executive branch agency shall designate agency representatives to meet with the representatives of a covered employee association. Such designated persons shall have a level of authority and areas of responsibility that are appropriate to the matters to be discussed. Following the meetings, the representatives of the executive branch agency shall forward to representatives of the Governor any areas of concern related to their particular agency. The representatives of the covered employee association may also forward areas of concern to representatives of the Governor.

Section 3. Participation of Employees in Certain Association Activities

State employees who serve as elected officers or delegates of covered employee associations shall be allowed up to three (3) days of managerially approved leave to participate in the annual convention or annual conference of the covered employee association without a loss of the employees' personal leave time.

Section 4. Participation by Associations in this Order

Any domiciled employee association that desires to be included in the provisions of this Order shall provide to the Director of State Personnel evidence that it meets the criteria under Section 1.a. of this Order. Any domiciled employee association that desires to meet with an executive

branch agency shall provide to the head of that agency evidence that it meets the criteria under Section 2.b. of this Order.

Section 5. Employee and State Rights and Responsibilities Maintained

This Order is intended to encourage communication between employees and State leaders. Nothing in this order shall be construed to limit communication between or among employees, representatives of employee associations, the heads of executive branch agencies, and the Governor. The provisions of this Order shall not be construed or interpreted to diminish any rights, responsibilities, powers, or duties of individual employees in their service to the State or to require or prohibit any state employee's participation in a covered employee association or any other association or group. Further, the provisions of this Order shall not diminish or infringe upon any rights, responsibilities, powers, or duties conferred upon any state officer or agency by the Constitution or laws of the State of North Carolina.

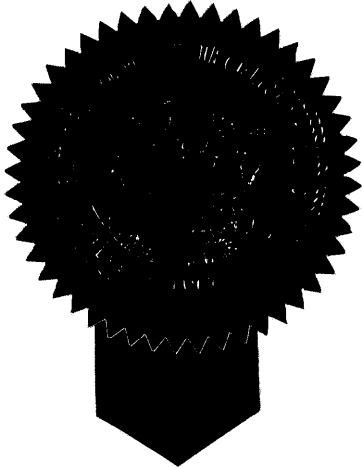
Section 6. Participation by Other State Entities

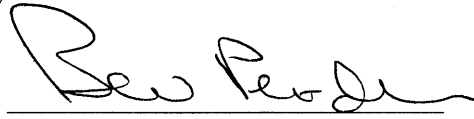
The Board of Governors of the University of North Carolina System, the State Board of Community Colleges, the State Board of Education, and each head of the Council of State agencies are encouraged and invited to participate in this Executive Order.

Section 7. Effect and Duration

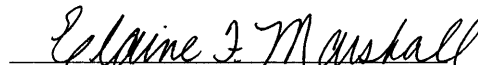
This Executive Order shall be effective immediately and shall remain in effect until rescinded. All other Executive Orders or portions of Executive Orders inconsistent with this Order are hereby rescinded. This Order specifically rescinds Executive Order No. 105 signed on August 18, 2006.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this **twenty-first** day of **January** in the year of our Lord two thousand and ten and of the Independence of the United States of America the two hundred and thirty-fourth.




Beverly Eaves Perdue
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 46

TEMPORARY SUSPENSION OF MOTOR VEHICLE REGULATIONS TO ENSURE RESTORATION OF UTILITY SERVICES THROUGHOUT THE STATE

WHEREAS, Governor Perdue and I have conferred and I am entering this executive order at her request pursuant to N.C.G.S. § 147-11.1(a)(2); and

WHEREAS, I have determined that a state of emergency exists due to the threatened winter storm and its after-effects in North Carolina, thereby justifying an exemption from 49 CFR Part 395 (Federal Motor Carrier Safety Regulations); and

WHEREAS, the uninterrupted supply of fuel oil, diesel oil, gasoline, kerosene, propane, and liquid petroleum gas to residential and commercial establishments is essential during wintertime and any interruption in the delivery of those fuels threatens the public welfare; and

WHEREAS, the prompt restoration of utility services to citizens is essential to their safety and well being; and

WHEREAS, 49 CFR § 390.23 allows the Governor of a state to suspend the rules and regulations under 49 CFR Part 395 for up to 30 days if the Governor determines that an emergency condition exists; and

WHEREAS, under N.C.G.S. §§ 166A-4 and 166A-6.03(b), the Governor may declare that the health, safety, or economic well-being of persons or property in this State require that the maximum hours of service for drivers proscribed by N.C.G.S. § 20-381 should be waived for persons transporting essential fuels and restoration of utility services; and

WHEREAS, under N.C.G.S. § 166A-6(c)(3) with the concurrence of the Council of State, the Governor is authorized to waive certain motor vehicle weight restrictions and registration requirements during the time of emergency.

NOW, THEREFORE, pursuant to the authority vested in me as Acting Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1.

The Department of Crime Control and Public Safety in conjunction with the North Carolina Department of Transportation shall waive the maximum hours of service for drivers proscribed by the Department of Crime Control and Public Safety pursuant to N.C.G.S. § 20-381.

Section 2.

The waiver of regulations under 49 CFR Part 395 (Federal Motor Carrier Safety Regulations) does not apply to the commercial drivers' licenses and insurance requirements.

Section 3.

The Department of Crime Control & Public Safety in conjunction with the North Carolina Department of Transportation shall waive certain size and weight restrictions and penalties arising under N.C.G.S. §§ 20-116 and 20-118, and certain registration requirements and penalties arising under N.C.G.S. §§ 20-86.1, 20-382, 105-449.47, 105-449.49 for the vehicles transporting equipment and supplies for the restoration of utility services along North Carolina roadways to our impacted counties.

Section 4.

Notwithstanding the waivers set forth above, size and weight restrictions and penalties **have not been waived** under the following conditions:

- A. When the vehicle weight exceeds the maximum gross weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross weight, whichever is less.
- B. When the tandem axle weight exceeds 42,000 pounds and the single axle weight exceeds 22,000 pounds.
- C. When a vehicle/vehicle combination exceeds 12 feet in width and a total overall vehicle combination length 75 feet from bumper to bumper.

Section 5.

Vehicles referenced under Sections 1 and 3 shall be exempt from the following registration requirements:

- A. The \$50.00 fee listed in N.C.G.S. § 105-449.49 for a temporary trip permit is waived for the vehicles described above. No quarterly fuel tax is required because the exception in N.C.G.S. § 105-449.45(a)(1) applies.
- B. The registration requirements under N.C.G.S. § 20-382 concerning intrastate and interstate for-hire authority is waived; however, vehicles shall maintain the required limits of insurance as required.

- C. Non-participants in North Carolina's International Registration Plan will be permitted into North Carolina in accordance with the exemptions identified by this Executive Order.

Section 6.

The size and weight exemption for vehicles will be allowed on all routes designated by the North Carolina Department of Transportation, except those routes designated as light traffic roads under N.C.G.S. § 20-118. This order shall not be in effect on bridges posted pursuant to N.C.G.S. § 136-72.

Section 7.

The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 1-6 of this Executive Order in a manner which will implement this rule without endangering motorists in North Carolina.

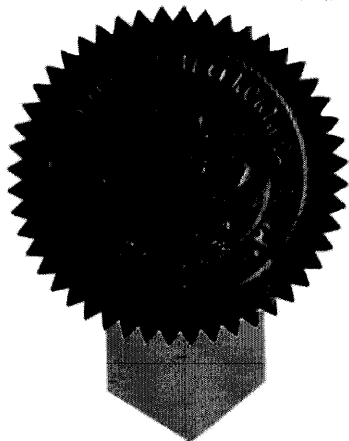
Section 8.

Upon request by law enforcement officers, exempted vehicles must produce documentation sufficient to establish their loads are being used for relief efforts associated with the cold weather and winter storm.

Section 9.

This Executive Order is effective immediately and shall remain in effect for thirty (30) days or the duration of the emergency, whichever is less.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this **twenty-ninth** day of **January** in the year of our Lord two thousand and ten, and of the Independence of the United States of America the two hundred and thirty-fourth.



Walter H. Dalton
Acting Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 47

PROCLAMATION OF A STATE OF EMERGENCY BY THE GOVERNOR OF THE STATE OF NORTH CAROLINA DUE TO A WINTER STORM

WHEREAS, I have determined that a state of emergency, as defined in G.S. § 166A-4 and G.S. § 14-288.1(10), in the State of North Carolina due to the winter storm that started on January 29, 2010.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Pursuant to G.S. §§ 166A-5 and 14-288.15, therefore, I proclaim that a state of emergency exists in the State.

Section 2. I hereby order all state and local government entities and agencies to cooperate in the implementation of the provisions of this proclamation and the provisions of the North Carolina Emergency Operations Plan.

Section 3. I hereby delegate to Reuben F. Young, Secretary of Crime Control and Public Safety, and/or his designee, all power and authority granted to me and required of me by Chapter 166A, and Article 36A of Chapter 14 of the General Statutes for the purpose of implementing the said Emergency Operations Plan and to take such further action as is necessary to promote and secure the safety and protection of the populace in North Carolina.

Section 4. Further, Reuben F. Young, Secretary of Crime Control and Public Safety, as chief coordinating officer for the State of North Carolina, shall exercise the powers prescribed in G.S. § 143B-476.

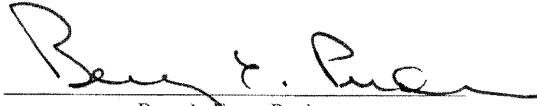
Section 5. Further, I direct Reuben F. Young, Secretary of Crime Control and Public Safety, to seek direct assistance from any and all agencies of the United States Government as may be needed to meet the emergency and seek reimbursement for costs incurred by the State in responding to this emergency.

Section 6. I hereby order this proclamation: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) unless the circumstances of the state of emergency prevent or impede, to be promptly filed with the Secretary of Crime Control and Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to assure proper implementation of this proclamation.

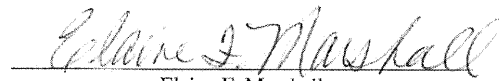
Section 7. This Executive Order is effective immediately and shall remain in effect for thirty (30) days or the duration of the emergency, whichever is less.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this **thirtieth** day of **January** in the year of our Lord two thousand and ten, and of the Independence of the United States of America the two hundred and thirty-fourth.




Beverly Haves Perdue
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 48

TEMPORARY SUSPENSION OF MOTOR VEHICLE REGULATIONS TO TRANSPORT ESSENTIAL FEED AND SUPPLIES TO POULTRY FARMS

WHEREAS, I have determined that a state of emergency exists due to the after-effects of the winter storm in the North Carolina counties of Alexander, Surry, Wilkes and Yadkin justifying an exemption from 49 CFR Part 395 (Federal Motor Carrier Safety Regulations); and

WHEREAS, the uninterrupted supply of feed and supplies to our poultry industry is necessary for the economic well-being of persons and the industry to the State; and

WHEREAS, 49 CFR § 390.23 allows the governor of a state to suspend the rules and regulations under 49 CFR Part 395 for up to 30 days if the Governor determines that an emergency condition exists; and

WHEREAS, under N.C.G.S. §§ 166A-4 and 166A-6.03(b), the Governor may declare that the health, safety, or economic well-being of persons or property in this State require that the maximum hours of service for drivers proscribed by N.C.G.S. § 20-381 should be waived for persons transporting essential feed and supplies for the poultry farms in those impacted counties.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1.

The Department of Crime Control and Public Safety in conjunction with the North Carolina Department of Transportation shall waive the maximum hours of service for drivers proscribed by the Department of Crime Control and Public Safety pursuant to N.C.G.S. § 20-381.

Section 2.

Notwithstanding the waiver set forth above, size and weight restrictions and penalties are not waived.

Section 3.

The waiver of regulations under 49 CFR Part 395 (Federal Motor Carrier Safety Regulations) does not apply to the commercial drivers' licenses and insurance requirements.

Section 4.

The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 1, 2, and 3 of this Executive Order in a manner which will implement this rule without endangering motorists in North Carolina.

Section 5.

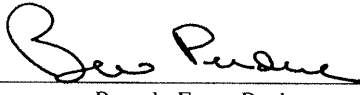
Upon request by law enforcement officers, exempted vehicles must produce documentation sufficient to establish their loads are being used for relief efforts associated with the winter storm in the impacted counties.

Section 6.

This Executive Order is effective immediately and shall remain in effect for thirty (30) days or the duration of the emergency, whichever is less.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this fifth day of February in the year of our Lord two thousand and ten, and of the Independence of the United States of America the two hundred and thirty-fourth.





Beverly Eaves Perdue
Governor

ATTEST:



Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 49 NORTH CAROLINA MOTORSPORTS ADVISORY COUNCIL

WHEREAS, North Carolina is the “State of Racing” and home to the motorsports industry; and

WHEREAS, motorsports racing, including circle track and drag racing, is a part of the heritage of North Carolina; and

WHEREAS, the first NASCAR race was held in Charlotte in 1949, and North Carolina is home to 90 percent of NASCAR teams and the NASCAR Hall of Fame; and

WHEREAS, North Carolina hosts NASCAR events, National Hot Rod Association events, and International Hot Rod Association events; and

WHEREAS, the motorsports industry contributes over \$6 billion a year to the State’s economy, providing more than 27,000 direct and indirect jobs to our citizens; and

WHEREAS, the motorsports industry has had to adjust to the global economic recession and the reorganization of the American automotive industry; and

WHEREAS, the State of North Carolina must consider measures that will preserve, strengthen, and expand this historical industry in North Carolina.

NOW THEREFORE, by the power vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Establishment

The North Carolina Motorsports Advisory Council (“Advisory Council”) is hereby established. The Advisory Council shall consist of at least 15 members, but no more than 30 members, appointed by the Governor. The Governor shall designate a Chair and Vice Chair. Members shall include, but not be limited to, representatives of the motorsports industry and related industries.

Section 2. Term of Membership and Vacancies

All members shall be appointed for a term of two (2) years and shall serve at the pleasure of the Governor. A vacancy occurring during a term of appointment shall be filled by the Governor for the balance of the unexpired term.

Section 3. Meetings

The Advisory Council shall meet quarterly and at other times at the call of the Chair or the Governor.

- (a) A majority of the members of the Advisory Council shall constitute a quorum for the transaction of business.
- (b) No per diem allowance shall be paid to members of the Advisory Council. Members of the Advisory Council may receive necessary travel and subsistence expenses in accordance with State law and the policies and regulations of the Office of State Budget and Management.

Section 4. Staff Assistance

The Department of Commerce shall provide clerical support and other services required by the Advisory Council.

Section 6. Duties

The Advisory Council shall have the following duties:

- a. Recommend policy, procedures, and program initiatives to protect, strengthen, and expand the motorsports industry in North Carolina;
- b. Provide ongoing advice and consultation to State policy leaders as to how to recruit, retain and expand the motorsports industry in North Carolina;
- c. Conduct public hearings or input sessions regarding the motorsports industry when deemed necessary or beneficial;
- d. Encourage support for the motorsports industry and serve as a resource for the industry to the North Carolina General Assembly and State departments and agencies; and
- e. Perform such other duties as assigned by the Governor or the Chair.

Section 7. Conflicts of Interests


The Advisory Council shall comply with the requirements of Executive Order No. 35, *Ethics for Certain Boards* (issued December 9, 2009), regarding conflicts of interest standards for members of the Advisory Council.

Section 8. Duration

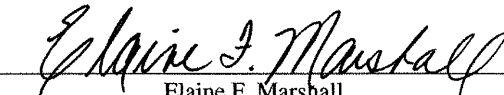
This Executive Order shall be effective immediately. It shall remain in effect until February 10, 2014, pursuant to N.C. Gen. Stat. § 147-16.2, or until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this eleventh day of February in the year of our Lord two thousand and ten, and of the Independence of the United States of America the two hundred and thirty-fourth.




Beverly Eaves Perdue
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 50

ENHANCED PURCHASING OPPORTUNITIES FOR NORTH CAROLINA BUSINESSES

WHEREAS, North Carolina is currently experiencing an unprecedented rate of unemployment; and

WHEREAS, North Carolina citizens continue to manufacture and produce some of the world's best and most economical products; and

WHEREAS, pursuant to N.C. Gen. Stat. § 143-59, the General Assembly has empowered the Secretary of Administration and appropriate state agencies to give preference as far as may be practicable to North Carolina products provided there is no sacrifice or loss in price or quality; and

WHEREAS, with the exception of furniture, the State of North Carolina does not currently employ any strategic efforts to purchase goods or equipment from North Carolina companies; and

WHEREAS, leveraging the buying power of the State of North Carolina could provide an immediate economic benefit to North Carolina citizens and companies during these difficult economic times and should be regarded as a business objective that is advantageous to the State in its procurement efforts.

NOW, THEREFORE, by authority vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED**:

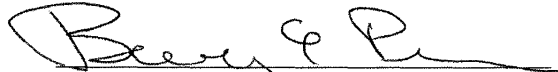
1. I hereby instruct the Secretary of Administration to examine the State's procurement laws and policies and identify and implement lawful and appropriate policies to use the buying

power of the State of North Carolina to encourage North Carolina companies to do the following: (a) do business with the State of North Carolina; (b) stimulate economic development; and (c) most importantly, create jobs in North Carolina.

2. I particularly direct the Secretary of Administration, through the authority given to him by the General Assembly pursuant to N.C. Gen. Stat. § 143-59, to develop a price-matching preference for North Carolina resident bidders on contracts for the purchase of goods so that qualified North Carolina companies whose price is within five percent (5%) or \$10,000.00 of the lowest bid, whichever is less, may be awarded contracts with the State of North Carolina.
3. The Secretary of Administration shall take all appropriate steps to implement the terms of this Executive Order, consistent with the terms of N.C. Gen. Stat. § 143-59, and apply them to invitations for bids from the State of North Carolina by no later than March 1, 2010.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this seventeenth day of February in the year of our Lord two thousand and ten, and of the Independence of the United States of America the two hundred and thirty-fourth.




Beverly Haves Perdue
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 51

GOVERNOR'S TEACHER ADVISORY COMMITTEE

WHEREAS, teachers are essential to the success of our public schools in North Carolina; and

WHEREAS, teachers work to open students' minds to ideas, knowledge and dreams, and are the voices for the students they teach every day; and

WHEREAS, teachers use 21st Century technology and high quality professional development to ensure that all students receive individualized instruction; and

WHEREAS, pre-kindergarten through grade 12 teachers must prepare students to graduate from high school to succeed in a career, in a two- or four-year college or in technical training; and

WHEREAS, it is important for teachers to contribute their knowledge and skills to enhance public education and to help public officials understand how educational decisions affect the classroom;

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Establishment

The Governor's Teacher Advisory Committee ("Committee") is hereby established.

Section 2. Membership

- a. The Committee shall be composed of up to twenty-five members appointed by the Governor. Members shall be active classroom teachers serving in a North Carolina public school. Members should represent diverse demographic and geographic regions of the state, grade levels, and subject areas.

- b. The Committee may include the North Carolina Teacher of the Year as a voting member of the Committee.
- c. The Committee also may include as voting members the president or designee of state affiliates to the following National Teacher Organizations: the North Carolina Association of Educators and the American Federation of Teachers – North Carolina.
- d. Committee members shall serve terms of two years. Committee members may be reappointed to successive terms. Committee members serve at the pleasure of the Governor.
- e. The Governor’s Teacher Advisor shall serve as the Chair of the Committee. The Committee shall select a Vice-Chair from its membership.

Section 3. Duties

The Committee shall have the following duties and functions:

- a. Advise the Governor regarding the effect on classroom teachers of the following:
 - (1) state and federal education policies for pre-kindergarten through grade 12;
 - (2) local board of education policies that are not required by state or federal laws, policies or regulations;
 - (3) the state budget;
 - (4) proposed or pending state or federal legislation, policies or regulations; and
 - (5) other issues deemed appropriate by the Governor.
- b. Serve as Education Ambassadors for the Governor, including, but not limited to the following:
 - (1) representing the Governor at designated events and
 - (2) establishing and maintaining positive communications with local boards of education and education stakeholders for the purpose of sharing the Governor’s education agenda.
- c. Advise the Governor regarding other education related issues as requested by the Governor.

Section 4. Meetings

- a. The Committee shall meet as a body of the whole once a quarter and at other times at the call of the Chair or the Governor. The Committee is encouraged to conduct meetings using electronic conferencing or other electronic means.
- b. A simple majority of the Committee members shall constitute a quorum for the purpose of transacting the business of the Committee.

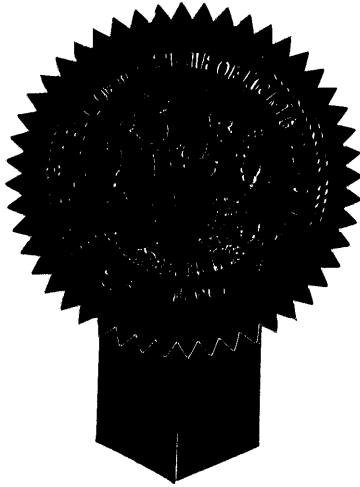
Section 5. Administration

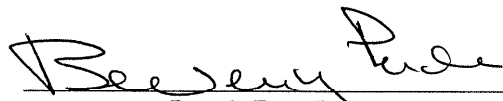
The Office of the Governor shall provide staff and administrative support services for the Committee.

Section 6. Effect and Duration

This Executive Order is effective immediately. It supersedes and replaces all other executive orders on this subject and specifically rescinds Executive Order No. 77, dated June 16, 2005, and Executive Order No. 119, dated June 11, 2007. This Executive Order shall remain in effect until March 1, 2014, pursuant to N.C. Gen. Stat. § 147-16.2, or until rescinded.


IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this second day of March in the year of our Lord two thousand and ten and of the Independence of the United States of America the two hundred and thirty-fourth.





Beverly Eaves Perdue
Governor

ATTEST:



Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 52

AMENDING AND EXTENDING EXECUTIVE ORDER NO. 139, NORTH CAROLINA STATE HEALTH COORDINATING COUNCIL

By the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED:**

Executive Order 139, issued on March 3, 2008, is hereby amended as follows:

Section 4. Terms of Membership

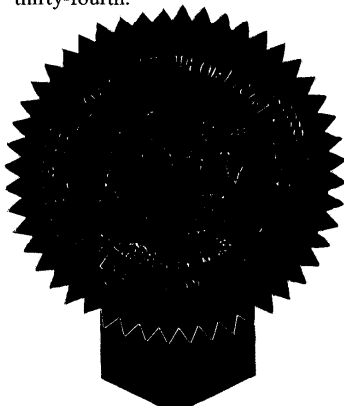
The terms of membership of the Council shall be staggered so that the terms of approximately one-third of the members shall expire in a single calendar year. All members shall be appointed for a term of three years. Terms shall expire on December 31, and new terms shall begin on January 1. Members of the Council shall serve at the pleasure of the Governor.

Section 11. Ethical Standards

The Council shall comply with Executive Order No. 10, *Ethical Standards for the State Health Coordinating Council*, issued on March 3, 2009.

Except as amended herein, Executive Order 139 remains in full force and effect. Executive Order 139 is hereby extended until March 1, 2014, pursuant to N.C. Gen. Stat. § 147-16.2, or until rescinded. This order is effective immediately.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this second day of March in the year of our Lord two thousand and ten, and of the Independence of the United States of America the two hundred and thirty-fourth.



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 53

PROCLAMATION OF A STATE OF DISASTER FOR TOWNS OF NAGS HEAD AND KITTY HAWK

WHEREAS, the North Carolina Emergency Management Act, Chapter 166A of the North Carolina General Statutes, N.C.G.S. § 166A-6, authorizes the issuance of a proclamation defining an area subject to a state of disaster and categorizing the disaster as a Type I, Type II or Type III disaster; and

WHEREAS, on November 12, 2009, Kitty Hawk and Nags Head proclaimed local states of emergency; and

WHEREAS, on November 16, 2009, I proclaimed the existence of a state of emergency in Dare County, North Carolina which includes the towns of Kitty Hawk and Nags Head; and

WHEREAS, I have determined that a state of a disaster, as defined in G.S. §166A-6, existed in the State of North Carolina, specifically for the Town of Nags Head and the Town of Kitty Hawk as a result of the remnants of Tropical Storm Ida, coupled with a nor'easter system over several days starting on November 12, 2009; and

WHEREAS, pursuant to N.C.G.S. § 166A-6, the criteria for a Type I disaster are met if: (1) the Secretary of Crime Control and Public Safety has provided a preliminary damage assessment to the Governor and the General Assembly; (2) the Town of Nags Head and the Town of Kitty Hawk have declared a local state of emergency pursuant to N.C.G.S. § 166A-8; (3) the preliminary damage assessment has met or exceeded the criteria established for the Small Business Disaster Loan Program pursuant to 13 C.F.R. Part 123, or has met or exceeded the State infrastructure criteria set out in N.C.G.S. § 166A-6.01(b)(2)a; and (4) a major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared.

WHEREAS, pursuant to N.C.G.S. § 166A-6A, if a state of disaster is proclaimed, the Governor may make State funds available for disaster assistance in the form of individual assistance and public assistance for recovery from those disasters for which federal assistance under the Stafford Act is either not available or does not adequately meet the needs of the citizens of the State in the disaster area.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Pursuant to N.C.G.S. § 166A-6, a Type I state of disaster is hereby declared for the Town of Nags Head and the Town of Kitty Hawk.

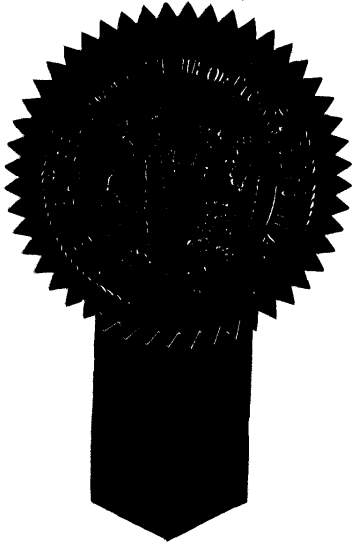
Section 2. I authorize state disaster assistance in the form of public assistance grants to eligible entities located within the disaster area that meet the terms and conditions under N.C.G.S. § 166A-6.01(b)(2)(c) for costs incurred for the following purposes only:

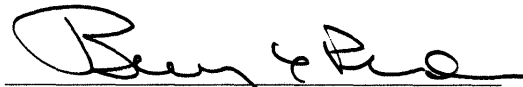
1. Debris clearance
2. Emergency protective measures
3. Repairs to roads and bridges

Section 3. I hereby order this proclamation: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) to be promptly filed with the Secretary of Crime Control and Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to ensure proper implementation of this proclamation.

Section 4. This Type I Disaster Declaration shall expire 30 days after issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of 30 days each, not to exceed a total of 120 days from the date of first issuance.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 24th day of March in the year of our Lord two thousand and ten, and of the Independence of the United States of America the two hundred and thirty-fourth.




Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 54

ASSESSMENT OF STATE'S READINESS FOR AGING POPULATION

WHEREAS, North Carolina is undergoing a major demographic shift with the aging of its population; and

WHEREAS, North Carolina's 2.4 million "baby boomers" represent more than a quarter of our present population; and

WHEREAS, 30 of North Carolina's counties today have more persons age 60 and older than persons age 17 and younger, and many more counties are expected to face this circumstance by 2029; and

WHEREAS, the aging of North Carolina's workforce may result in skill and labor shortages; and

WHEREAS, it is vitally important that North Carolina be well prepared to meet the challenges and realize the opportunities of an aging population.

NOW, THEREFORE, by the power vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Purpose and Administration of Assessment

Cabinet agencies will assess their readiness to serve our aging population and will develop strategies and proposals to strengthen their preparedness for and response to our aging population. The Division of Aging and Adult Services, Department of Health and Human Services and the Governor's Policy Office will work with the University of North Carolina Institute on Aging and the Governor's Advisory Council on Aging (hereinafter collectively referred to as the "Aging Assessment Team") to plan, prepare, administer and report on this assessment.

Section 2. Scope of Assessment

The assessment should include a review of the following:

- a. existing and proposed policies, programs and services specifically targeted toward older adults;
- b. other documents and initiatives that have examined the effect of an aging population on policies and programs;
- c. the participation of older adults, their families and caregivers in shaping relevant programs, policies or services;
- d. the participation of the private sector and local government in shaping relevant programs and policies; and
- e. other relevant items identified by the Aging Assessment Team.

Section 3. Participation by Other State Agencies

Other state agencies under the authority of The Board of Governors of the University of North Carolina System, the State Board of Community Colleges, the State Board of Education, and the Council of State that are requested to participate in the assessment are encouraged to do so.

Section 4. Participation by Local Government Entities

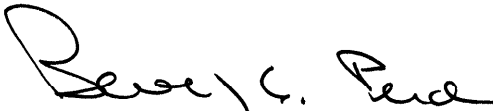
Upon completion of the statewide assessment, the Aging Assessment Team will work with local government entities to assess their readiness to serve the aging population. Local government entities that are requested to participate in the assessment are encouraged to do so.

Section 5. Effect and Duration

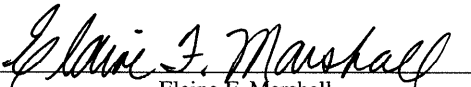
This Executive Order is effective immediately and shall remain in effect until December 31, 2012, unless earlier rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this thirtieth day of March in the year of our Lord two thousand and ten, and of the Independence of the United States of America the two hundred and thirty-fourth.




 Beverly Eaves Perdue
 Governor

ATTEST:


 Elaine F. Marshall
 Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 55

ENHANCED DISCLOSURES FROM APPLICANTS TO BOARDS AND COMMISSIONS

WHEREAS, as Governor, I appoint hundreds of persons each year to numerous boards, commissions, councils, committees, task forces, or similar entities (hereinafter "boards") to assist the State in its work for the citizens of North Carolina; and

WHEREAS, the current method used to select persons to serve on these boards has not provided the Office of the Governor with sufficient information to thoroughly evaluate applicants for these boards; and

WHEREAS, the citizens of North Carolina are entitled to have well qualified persons appointed to fill seats on the many boards created to serve important needs of our citizens; and

WHEREAS, the citizens of North Carolina expect that the Governor, in selecting well qualified members to serve on boards, will have full knowledge of the personal, professional, and economic interests of the applicants.


NOW, THEREFORE, by the power vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED:**

All persons under consideration for appointment to any board through my Office will complete the attached application, or a substantially similar application, fully and accurately prior to appointment.

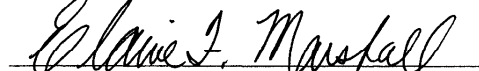
This Executive Order shall be effective immediately and shall remain in effect until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this fifth day of April in the year of our Lord two thousand and ten, and of the Independence of the United States of America the two hundred and thirty-fourth.




Beverly Eaves Perdue
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

Application for Boards and Commissions

Office of Governor Bev Perdue
State of North Carolina

BOARD OR COMMISSION FOR WHICH YOU ARE APPLYING:

First Name		MI	Last Name		Prefix
Home Address			City	State	Zip
County		Home Phone #		Personal Email	
Congressional District		Senate District		House District	
Are you a resident of NC?		Registered Voter:		Yes	No
Age		Gender: M F	Race (optional)		
Present Employer/Occupation			Job Title		
Business Address			City	State	Zip
Business Phone #			Business Email		
Cell Phone #			Correspondence Preference: Home Business		
Spouse's Name			Spouse's Employer		

EDUCATION HISTORY (Specify school attended, year of graduation and type of degree received, if any)

High School/Equivalence (G.E.D.)
Undergraduate
Graduate/Professional

PROFESSIONAL LICENSE (Identify all of your professional license(s) and provide the information requested. Specify if your license is in a name other than your name listed above.)

Type of License	License #	Issuance Date	Has the license been continuously active since issuance?

REFERENCES (List three persons, not related to you, who have known you at least a year.)

NAME	ADDRESS	PHONE #

PUBLIC OFFICIAL/OFFICES (List all appointed or elected positions you currently hold on any board, commission, council, authority or other entity created by local, state or federal government.)

Answer each question below. Please attach an additional sheet(s) to explain any "Yes" answers.

CRIMINAL		
1. Have you ever been charged with a felony in North Carolina or elsewhere?	Yes _____	No _____
2. Have you ever been convicted of a felony in North Carolina or elsewhere?	Yes _____	No _____
3. Have you ever been charged with a misdemeanor, other than a traffic offense, in North Carolina or elsewhere?	Yes _____	No _____
4. Have you ever been convicted of a misdemeanor, other than a traffic offense, in North Carolina or elsewhere?	Yes _____	No _____
5. Has your driver's license ever been suspended, revoked, or limited?	Yes _____	No _____
PROFESSIONAL/EMPLOYMENT		
6. Have you ever had any grievance or complaint filed against you with any board that regulates your professional license(s) or had a professional license suspended, revoked or modified?	Yes _____	No _____
7. Have you ever had any sanction or reprimand entered against your professional license?	Yes _____	No _____
8. Have you, or any business in which you own a controlling interest, ever been fined or otherwise sanctioned by a local, state or federal agency?	Yes _____	No _____
9. Have you ever been disciplined by the board to which you seek appointment?	Yes _____	No _____
TAXES		
10. Have you ever failed to file state or federal income tax returns?	Yes _____	No _____
11. Are you, or any company in which you or your spouse has a controlling interest, delinquent in paying any local, state or federal taxes?	Yes _____	No _____
LOBBYIST		
12. Are you currently a registered lobbyist, have you been a registered lobbyist in the last year, or have you employed a registered lobbyist in the last year?	Yes _____	No _____
CONFLICT OF INTEREST/OTHER DISCLOSURES		
13. Are you or your spouse regulated by, licensed by, or engaged in a business relationship with the board to which you are seeking appointment?	Yes _____	No _____
14. Do you have any financial interest in any company that does business with the State of North Carolina?	Yes _____	No _____
15. Are you, or any entity in which you have a financial or other interest, the recipient of any grant or appropriation from the State of North Carolina?	Yes _____	No _____
16. Are you aware of any other information that would be relevant for the Governor to know as she considers appointing you to a board or commission?	Yes _____	No _____

I certify that the facts contained in this application are true and correct to the best of my knowledge. I release all parties from all liability for any damage that may result from furnishing such information. I understand that failure to fill out this form accurately and truthfully shall subject me to immediate removal.

SIGNATURE _____ DATE _____

Return completed form to: Office of the Governor; Attn: Boards and Commissions Office; 20301 Mail Service Center; Raleigh, NC 27699-0301 or via fax to (919) 715-4239.

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 56

PROCLAMATION OF A STATE OF DISASTER FOR DAVIDSON AND GUILFORD COUNTIES

WHEREAS, the North Carolina Emergency Management Act, Chapter 166A of the North Carolina General Statutes, N.C.G.S. § 166A-6, authorizes the issuance of a proclamation defining an area subject to a state of disaster and categorizing the disaster as a Type I, Type II or Type III disaster; and

WHEREAS, on March 28, 2010, Davidson and Guilford counties in North Carolina were impacted by tornadoes; and

WHEREAS, Guilford and Davidson Counties proclaimed local states of emergency; and

WHEREAS, I have determined that a State of a Disaster, as defined in G.S. §166A-6, exists in the State of North Carolina specifically in Davidson and Guilford counties; and

WHEREAS, pursuant to N.C.G.S. § 166A-6, the criteria for a Type I disaster are met if: (1) the Secretary of Crime Control and Public Safety has provided a preliminary damage assessment to the Governor and the General Assembly; (2) Davidson and Guilford counties have declared a local state of emergency pursuant to N.C.G.S. § 166A-8; (3) the preliminary damage assessment has met or exceeded the criteria established for the Small Business Disaster Loan Program pursuant to 13 C.F.R. Part 123, and (4) a major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared; and

WHEREAS, pursuant to N.C.G.S. § 166A-6.01, if a state of disaster is proclaimed, the Governor may make State funds available for disaster assistance in the form of individual assistance and public assistance for recovery from those disasters for which federal assistance under the Stafford Act is either not available or does not adequately meet the needs of the citizens of the State in the disaster area.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

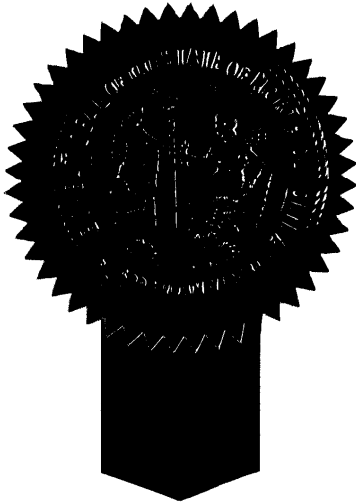
Section 1. Pursuant to N.C.G.S. § 166A-6, a Type I state of disaster is hereby declared for the counties of Davidson and Guilford.

Section 2. I authorize state disaster assistance in the form of public assistance grants to eligible entities located within the disaster area that meet the terms and conditions under N.C.G.S. § 166A-6.01.

Section 3. I hereby order this proclamation: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) to be promptly filed with the Secretary of Crime Control and Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to ensure proper implementation of this proclamation.

Section 4. This Type I Disaster Declaration shall expire 30 days after issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of 30 days each, not to exceed a total of 120 days from the date of first issuance.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this seventh day of April in the year of our Lord two thousand and ten, and of the Independence of the United States of America the two hundred and thirty-fourth.



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Chief Deputy Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 57

NORTH CAROLINA INTERAGENCY COUNCIL FOR COORDINATING HOMELESS PROGRAMS

WHEREAS, the problem of homelessness denies a segment of our population their basic need for adequate housing; and

WHEREAS, several State agencies offer programs and services for homeless persons; and,

WHEREAS, to combat the problem of homelessness most effectively, it is critical that these agencies coordinate program development and delivery of essential services with a shared goal to end homelessness.

NOW, THEREFORE, by the power vested in me as the Governor by the laws and Constitution of the State of North Carolina, **IT IS ORDERED:**

Section 1. Establishment

The North Carolina Interagency Council for Coordinating Homeless Programs (hereinafter the "Interagency Council") is hereby established.

Section 2. Membership

The Interagency Council shall consist of a Chairperson appointed by the Governor and 28 additional members who shall be appointed by the Governor from the following public and private agencies and categories of qualifications:

- a. One member from the Department of Administration.
- b. One member from the North Carolina Housing Finance Agency.
- c. One member from the Office of State Budget and Management.
- d. One member from the North Carolina Community College System.
- e. One member from the Department of Correction.
- f. One member from the Department of Juvenile Justice and Delinquency Prevention.

- g. One member from the Department of Commerce.
- h. Three members from the Department of Health and Human Services that represent persons with disabilities, older adults, and the economically disadvantaged.
- i. One member from the State Board of Education or a member from the Department of Public Instruction.
- j. One county government official.
- k. One city government official.
- l. One member from the faith-based community.
- m. Four members from non-profit agencies concerned with housing issues and other services for homeless people.
- n. One member from the North Carolina Coalition to End Homelessness.
- o. One homeless or formerly homeless person.
- p. One member from the private sector.
- q. One member representing Public Housing Authorities.
- r. Three members of the NC Senate.
- s. Three members of the NC House of Representatives.

Section 3. Term of Membership

All members shall be appointed for a term of three (3) years and shall serve at the pleasure of the Governor. A vacancy occurring during a term of appointment shall be filled by the Governor for the balance of the unexpired term.

Section 4. Meetings

The Interagency Council shall meet quarterly and at other times at the call of the Chairperson or upon written request of at least five (5) of its members.

Section 5. Duties

- a. The Interagency Council shall advise the Governor and the Secretary of the Department of Health and Human Services on issues related to the problems of persons who are homeless or at risk of becoming homeless; identify and secure available resources throughout the State and nation; and provide recommendations for joint and cooperative efforts and policy initiatives in carrying out programs to meet the needs of the homeless.
- b. The Interagency Council shall set short-term and long-term goals and determine yearly priorities.
- c. The Interagency Council shall submit an annual report to the Governor, by November 1, on its accomplishments and the status of homelessness in North Carolina.

Section 6. Administration

The Department of Health and Human Services shall provide administrative and staff support services required by the Interagency Council. Administrative costs, special function expenses

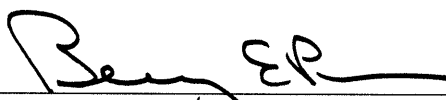
and the cost of member per diem, travel and subsistence expenses shall be paid from state funds appropriated to the Department of Health and Human Services.

Section 7. Effect and Duration

This Executive Order is effective immediately. It supersedes and replaces all other executive orders on this subject and specifically rescinds Executive Order No. 137, dated February 26, 2008. This Executive Order shall remain in effect until April 12, 2014, pursuant to N.C. Gen. Stat. § 147-16.2, or until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this thirteenth day of April in the year of our Lord two thousand and ten and of the Independence of the United States of America the two hundred and thirty-fourth.





Beverly Eaves Perdue
Governor

ATTEST:



Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 58 EMERGENCY RELIEF FOR DAMAGE CAUSED BY FLOODING IN THE STATE OF TENNESSEE

WHEREAS, the Governor of Tennessee has proclaimed that a State of Emergency exists in Tennessee due to Flooding from Storms and due to the imminent threats thereby, has requested that North Carolina issue an executive order allowing an exemption from 49 CFR 390.23 (Federal Motor Carrier Safety Regulations); and

WHEREAS, under the provisions of N.C.G.S. §§ 166A-4 and 166A-6(c)(3) the Governor, with the concurrence of the Council of State, may regulate and control the flow of vehicular traffic and the operation of transportation services; and

WHEREAS, with the concurrence of the Council of State, I have found that vehicles bearing Food, Fuel, Equipment, Supplies, Utilities, and Temporary Housing to relieve grief stricken areas in Tennessee must adhere to the registration requirements of N.C.G.S. § 20-86.1 and N.C.G.S. § 20-382, fuel tax requirements of N.C.G.S. § 105-449.47, and the size and weight requirements of N.C.G.S. § 20-116 and N.C.G.S. § 20-118; I have further found that citizens in those affected areas will likely suffer losses and, therefore, invoke an imminent threat of widespread damage within the meaning of N.C.G.S. § 166A-4(3).

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, and with the concurrence of the Council of State, **IT IS ORDERED**:

Section 1. The Department of Crime Control & Public Safety in conjunction with the N.C. Department of Transportation shall waive certain size and weight restrictions and penalties therefore arising under N.C.G.S. § 20-116 and N.C.G.S. § 20-118 for the vehicles transporting Food, Fuel, Equipment, Supplies, Utilities, and Temporary Housing along North Carolina roadways.

Section 2. Notwithstanding the waivers set forth above, size and weight restrictions and penalties **have not been waived** under the following conditions:

- (A) When the vehicle weight exceeds the maximum gross weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross weight, whichever is less.

- (B) When the tandem axle weight exceeds 42,000 pounds and the single axle weight exceeds 22,000 pounds.
- (C) When a vehicle/vehicle combination exceeds 12 feet in width and a total overall vehicle combination length 75 feet from bumper to bumper.

Section 3. The size and weight exemption for vehicles will be allowed on all routes designated by the North Carolina Department of Transportation, except those routes designated as light traffic roads under N.C.G.S. § 20-118. This order shall not be in effect on bridges posted pursuant to N.C.G.S. § 136-72.

Section 4. The waiver of regulations under 49 CFR 390.23 (Federal Motor Carrier Safety Regulations) **does not apply** to the CDL and Insurance Requirements. This waiver shall be in effect until July 1, 2010 or the duration of the emergency, whichever is less.

Section 5. The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 1, 2, 3 and 4 in a manner, which would best accomplish the implementation of this rule without endangering motorists in North Carolina.

Section 6. Upon request, exempted vehicles will be required to produce identification sufficient to establish that its load will be used for emergency relief efforts associated with the Tennessee State of Emergency.

This Executive Order is effective immediately and shall remain in effect until July 1, 2010 or the duration of the emergency whichever is less.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this eighth day of May in the year of our Lord two thousand and ten and of the Independence of the United States of America the two hundred and thirty-fourth.



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 59 PROCLAMATION OF A STATE OF DISASTER FOR HOKE COUNTY

WHEREAS, the North Carolina Emergency Management Act, Chapter 166A of the North Carolina General Statutes, N.C.G.S. § 166A-6, authorizes the issuance of a proclamation defining an area subject to a state of disaster and categorizing the disaster as a Type I, Type II or Type III disaster; and

WHEREAS, on May 16, 2010, Hoke County, North Carolina was impacted by a severe wind storm; and

WHEREAS, on May 16, 2010, Hoke County, proclaimed the existence of a state of emergency; and

WHEREAS, I have determined that a State of a Disaster, as defined in G.S. §166A-6, exists in the State of North Carolina specifically in Hoke County; and

WHEREAS, pursuant to N.C.G.S. § 166A-6, the criteria for a Type I disaster are met if: (1) the Secretary of Crime Control and Public Safety has provided a preliminary damage assessment to the Governor and the General Assembly; (2) Hoke County has declared a local state of emergency pursuant to N.C.G.S. § 166A-8; (3) the preliminary damage assessment has met or exceeded the criteria established for the Small Business Disaster Loan Program pursuant to 13 C.F.R. Part 123; and (4) a major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared; and

WHEREAS, pursuant to N.C.G.S. § 166A-6.01, if a state of disaster is proclaimed, the Governor may make State funds available for disaster assistance in the form of individual assistance and public assistance for recovery from those disasters for which federal assistance under the Stafford Act is either not available or does not adequately meet the needs of the citizens of the State in the disaster area.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Pursuant to N.C.G.S. § 166A-6, a Type I state of disaster is hereby declared for Hoke County.

Section 2. I authorize state disaster assistance in the form of public assistance grants to eligible entities located within the disaster area that meet the terms and conditions under N.C.G.S. § 166A-6.01.

Section 3. I hereby order this proclamation: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) to be promptly filed with the Secretary of Crime Control and Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to ensure proper implementation of this proclamation.

Section 4. This Type I Disaster Declaration shall expire 30 days after issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of 30 days each, not to exceed a total of 120 days from the date of first issuance.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twenty-fifth day of May in the year of our Lord two thousand and ten, and of the Independence of the United States of America the two hundred and thirty-fourth.



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 60

PROCLAMATION OF A STATE OF DISASTER FOR TOWN OF HIGHLANDS

WHEREAS, the North Carolina Emergency Management Act, Chapter 166A of the North Carolina General Statutes, N.C.G.S. § 166A-6, authorizes the issuance of a proclamation defining an area subject to a state of disaster and categorizing the disaster as a Type I, Type II or Type III disaster; and

WHEREAS, on January 29, 2010, the Town of Highlands in Macon County, North Carolina proclaimed the existence of a state of emergency; and

WHEREAS, on January 30, 2010, I proclaimed the existence of a state of emergency in North Carolina due to a winter storm; and

WHEREAS, I have determined that a state of a disaster, as defined in G.S. §166A-6, existed in the State of North Carolina, specifically for the Town of Highlands; and

WHEREAS, pursuant to N.C.G.S. § 166A-6, the criteria for a Type I disaster are met if: (1) the Secretary of Crime Control and Public Safety has provided a preliminary damage assessment to the Governor and the General Assembly; (2) the Town of Highlands has declared a local state of emergency pursuant to N.C.G.S. § 166A-8; (3) the preliminary damage assessment has met or exceeded the criteria established for the Small Business Disaster Loan Program pursuant to 13 C.F.R. Part 123, or has met or exceeded the State infrastructure criteria set out in N.C.G.S. § 166A-6.01(b)(2)a; and (4) a major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared.

WHEREAS, pursuant to N.C.G.S. § 166A-6A, if a state of disaster is proclaimed, the Governor may make State funds available for disaster assistance in the form of individual assistance and public assistance for recovery from those disasters for which federal assistance under the Stafford Act is either not available or does not adequately meet the needs of the citizens of the State in the disaster area.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Pursuant to N.C.G.S. § 166A-6, a Type I state of disaster is hereby declared for the Town of Highlands.

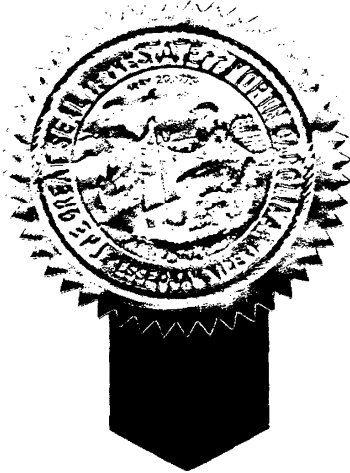
Section 2. I authorize state disaster assistance in the form of public assistance grants to eligible entities located within the disaster area that meet the terms and conditions under N.C.G.S. § 166A-6.01(b)(2)(c) for costs incurred for the following purposes only:

1. Debris clearance
2. Emergency protective measures
3. Repairs to roads and bridges

Section 3. I hereby order this proclamation: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) to be promptly filed with the Secretary of Crime Control and Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to ensure proper implementation of this proclamation.

Section 4. This Type I Disaster Declaration shall expire 30 days after issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of 30 days each, not to exceed a total of 120 days from the date of first issuance.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twenty-fifth day of May in the year of our Lord two thousand and ten, and of the Independence of the United States of America the two hundred and thirty-fourth.



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

STATE OF NORTH CAROLINA
DEPARTMENT OF STATE,
RALEIGH, JULY 10, 2010

I, ELAINE F. MARSHALL, Secretary of State of North Carolina, hereby certify pursuant to G.S. 120-34 that the foregoing volume was printed under the direction of the Legislative Services Commission from ratified acts and resolutions and executive orders of the Governor on file in the office of the Secretary of State.

A handwritten signature in black ink that reads "Elaine F. Marshall". The signature is written in a cursive style with a large initial 'E' and 'M'.

Secretary of State

**THE JOINT CONFERENCE COMMITTEE REPORT
ON THE
CONTINUATION, EXPANSION
AND CAPITAL BUDGETS**

S. L. 2010-31 (Senate Bill 897)

As Revised by:

- *S. L. 2010-123 (Senate Bill 1202) Budget Technical Corrections*
- *S.L. 2010-91 (Senate Bill 1171) Keeping NC Competitive Act*
- *S.L. 2010-147 (House Bill 1973) Various Economic Incentives*
- *House Bill 1829 – Renewable Energy Incentives*
- *Senate Bill 1215 – Economic Incentives Alignment and Changes*

North Carolina General Assembly

July 29th, 2010

Table of Contents

General Fund Availability Statement	i
Summary: General Fund Appropriations	1
Education	
Public Education	F-1
Community Colleges	F-7
UNC System	F-11
Health and Human Services	G-1
Natural and Economic Resources	
Agriculture and Consumer Services	H-1
Labor	H-5
Environment and Natural Resources	H-7
Clean Water Management Trust Fund	H-16
Commerce	H-17
Commerce – State Aid	H-22
NC Biotechnology Center	H-25
Rural Economic Development Center	H-26
Natural and Economic Resources Special Funds	H-27
Justice and Public Safety	
Judicial	I-1
Judicial – Indigent Defense	I-3
Justice	I-5
Juvenile Justice and Delinquency Prevention	I-7
Correction	I-8
Crime Control and Public Safety	I-12
General Government	
Administration	J-1
Auditor	J-12
Cultural Resources	J-14
Cultural Resources – Roanoke Island Commission	J-20
General Assembly	J-21
Governor	J-24
Housing Finance Agency	J-25
Insurance	J-26
Insurance – Volunteer Workers' Compensation Fund	J-31
Lieutenant Governor	J-32
Office of Administrative Hearings	J-33
Revenue	J-34
Secretary of State	J-37
State Board of Elections	J-39
State Budget and Management	J-42
State Budget and Management – Special Appropriations	J-43
State Controller	J-46
Treasurer	J-49
Treasurer – Retirement for Fire and Rescue Squad Workers	J-51
Transportation	K-1
Reserves, Debt Service, and Adjustments	L-1
Capital	M-1

General Fund Availability Statement

	FY 2010-2011
1 Unappropriated Balance Remaining from Previous Year	3,702,182
2 Adjustment from Estimated to Actual FY 2009-10 Beginning Unreserved Fund Balance	270,080
3 Beginning Unreserved Fund Balance	3,972,262
4 Revenues Based on Existing Tax Structure	18,199,339,016
5 Non-tax Revenues	
6 Investment Income	57,500,000
7 Judicial Fees	239,100,000
8 Disproportionate Share	100,000,000
9 Insurance	67,000,000
10 Other Non-Tax Revenues	182,700,000
11 Highway Trust Fund/Use Tax Reimbursement Transfer	72,800,000
12 Highway Fund Transfer	17,600,000
13 Subtotal Non-tax Revenues	736,700,000
14 Total General Fund Availability	18,940,011,278
15 Adjustments to Availability: Senate Bill 897	
16 Internal Revenue Code Conformity	(7,700,000)
17 Unemployment Insurance Refundable Tax Credit	(34,100,000)
18 Increase Sales Tax Prepayment Threshold	(7,000,000)
19 Relieve Annual Report Compliance Burden on Small Businesses	(400,000)
20 Fair Tax Penalties	0
21 Extend Sunsets on Various Tax Incentives	(3,500,000)
22 Improve Tax and Debt Collection Process	3,000,000
23 Modernize Sales Tax on Accommodations	1,700,000
24 Modernize Admissions Tax and Restore Amenities Exclusion	(700,000)
25 Reserve for Pending Finance Legislation (Balance Remaining)	(1,080,000)
26 Reduce Franchise Tax Burden on Construction Companies	(1,500,000)
27 Department of Revenue Settlement Initiative	110,000,000
28 Disproportionate Share	35,000,000
29 Loss of Estate Tax Revenues for FY 2010-11	(85,000,000)
30 Increase Justice and Public Safety Fees	13,930,670
31 Transfer from the Health and Wellness Trust Fund	5,397,000
32 Transfer Aviation From Department of Commerce to Department of Transportation	(500,000)
33 Transfer from Wildlife Resources Commission	3,000,000
34 Divert Funds from Scrap Tire Disposal Account	2,500,000
35 Divert Funds from White Goods Fund	1,200,000
36 Transfer from Mercury Pollution Prevention Fund	2,250,000
37 Transfer from Bladen Lakes Special Fund	150,000
38 Transfer from DACS-N.C. State Fair	1,000,000
39 Transfer from ECU Magnetic Resonance Imaging Lease and Equipment Fund	1,000,000
40 Adjust Transfer from Insurance Regulatory Fund	(2,176,454)
41 Transfer from Motorfleet Internal Services Fund	14,000,000
42 Adjustments to Availability: Other Legislation	
43 Keeping North Carolina Competitive (S.L. 2010-91;Senate Bill 1171)	(8,850,000)
44 Renewable Energy Incentives (House Bill 1829)	(700,000)
45 Various Economic Incentives (S.L. 2010-147;House Bill 1973)	830,000
46 Economic Incentives and Alignment Changes (Senate Bill 1215)	0
47 Subtotal Adjustments to Availability	41,751,216
48 Revised General Fund Availability	18,981,762,494
49 Less General Fund Appropriations	18,958,994,212
50 Balance Remaining	22,768,282

SUMMARY:

**GENERAL FUND
APPROPRIATIONS**

Summary of General Fund Appropriations						
2010 Legislative Session: Fiscal Year 2010-11						
	FY 2010-11	Legislative Adjustments				Revised
	Certified	Recurring	Nonrecurring	Net	FTE	Appropriation
	Budget	Adjustments	Adjustments	Changes	Changes	2010-11
Education:						
Community Colleges	1,012,467,778	57,268,183	(14,600,000)	42,668,183	-7.75	1,055,135,961
Public Education	7,360,833,223	(211,771,109)	(63,473,202)	(275,244,311)	-9.00	7,085,588,912
University System	2,656,552,008	1,550,221	8,832,977	10,383,198	382.10	2,666,935,206
Total Education	11,029,853,009	(152,952,705)	(69,240,225)	(222,192,930)	365.35	10,807,660,079
Health and Human Services:						
Central Management and Support	74,172,339	(4,462,834)	939,000	(3,523,834)	-24.00	70,648,505
Aging and Adult Services	37,282,029	100,000	0	100,000	0.00	37,382,029
Blind and Deaf / Hard of Hearing Services	8,649,731	(557,484)	(75,428)	(632,912)	-3.00	8,016,819
Child Development	269,183,962	(11,334,255)	(23,625,329)	(34,959,584)	-2.00	234,224,378
Education Services	36,844,718	(4,223,471)	130,211	(4,093,260)	-82.00	32,751,458
Health Service Regulation	17,914,125	(342,592)	(1,718,754)	(2,061,346)	-2.00	15,852,779
Medical Assistance	2,720,196,757	209,210,289	(561,041,217)	(351,830,928)	0.00	2,368,365,829
Mental Health, Dev. Disabilities and Sub. Abuse	664,695,955	7,511,466	33,269,193	40,780,659	-1.00	705,476,614
NC Health Choice	81,964,241	6,444,925	0	6,444,925	0.00	88,409,166
Public Health	160,515,329	(6,080,117)	2,147,000	(3,933,117)	-27.00	156,582,212
Social Services	208,589,483	(13,604,115)	(2,255,677)	(15,859,792)	-48.00	192,729,691
Vocational Rehabilitation	41,020,173	(252,067)	(1,288,915)	(1,540,982)	-5.00	39,479,191
Total Health and Human Services	4,321,028,842	182,409,745	(553,519,916)	(371,110,171)	-194.00	3,949,918,671
Justice and Public Safety:						
Correction	1,326,492,230	(14,504,334)	(26,734,913)	(41,239,247)	799.00	1,285,252,983
Crime Control & Public Safety	33,718,963	(856,592)	(800,000)	(1,656,592)	-2.69	32,062,371
Judicial Department	463,753,479	(7,518,061)	(5,916,294)	(13,434,355)	-57.75	450,319,124
Judicial - Indigent Defense	120,132,010	1,585,405	(6,017,031)	(4,431,626)	11.50	115,700,384
Justice	88,652,538	(1,679,760)	(1,325,000)	(3,004,760)	21.50	85,647,778
Juvenile Justice & Delinquency Prevention	147,183,945	(903,138)	0	(903,138)	30.50	146,280,807
Total Justice and Public Safety	2,179,933,165	(23,876,480)	(40,793,238)	(64,669,718)	802.06	2,115,263,447

Summary of General Fund Appropriations						
2010 Legislative Session: Fiscal Year 2010-11						
	FY 2010-11	Legislative Adjustments				
	Certified	Recurring	Nonrecurring	Net	FTE	Revised
	Budget	Adjustments	Adjustments	Changes	Changes	Appropriation
						2010-11
Natural And Economic Resources:						
Agriculture and Consumer Services	60,559,608	(405,556)	226,481	(179,075)	-31.68	60,380,533
Commerce	40,915,209	(2,706,028)	24,976,673	22,270,645	-9.00	63,185,854
Commerce - State Aid	15,388,725	16,780,564	3,800,000	20,580,564	0.00	35,969,289
Environment and Natural Resources	190,399,356	(6,839,026)	11,065,000	4,225,974	-30.03	194,625,330
DENR - Clean Water Mgmt. Trust Fund	50,000,000	0	0	0	0.00	50,000,000
Labor	17,400,863	(1,102,555)	0	(1,102,555)	-7.50	16,298,308
NC Biotechnology Center	14,501,900	5,000,000	0	5,000,000	0.00	19,501,900
Rural Economic Development Center	23,832,436	(1,191,622)	5,125,000	3,933,378	0.00	27,765,814
Total Natural and Economic Resources	412,998,097	9,535,777	45,193,154	54,728,931	-78.21	467,727,028
General Government:						
Administration	67,446,884	(570,992)	(174,134)	(745,126)	-9.10	66,701,758
Auditor	13,255,123	(337,033)	0	(337,033)	-1.00	12,918,090
Cultural Resources	73,249,990	(2,103,146)	850,000	(1,253,146)	-15.19	71,996,844
Cultural Resources - Roanoke Island	1,990,632	(115,926)	0	(115,926)	0.00	1,874,706
General Assembly	56,584,484	(2,914,926)	0	(2,914,926)	0.00	53,669,558
Governor	6,067,739	(353,359)	0	(353,359)	-3.00	5,714,380
Housing Finance Agency	14,608,417	(730,421)	(1,769,579)	(2,500,000)	0.00	12,108,417
Insurance	32,242,706	(1,180,254)	(996,200)	(2,176,454)	1.00	30,066,252
Insurance - Worker's Compensation Fund	1,561,846	0	0	0	0.00	1,561,846
Lieutenant Governor	931,703	(33,539)	0	(33,539)	-0.50	898,164
Office of Administrative Hearings	4,111,476	(30,000)	0	(30,000)	0.00	4,081,476
Revenue	87,790,970	(958,301)	757,118	(201,183)	-34.00	87,589,787
Secretary of State	11,451,488	(666,886)	0	(666,886)	-7.00	10,784,602
State Board of Elections	6,221,208	(243,278)	457,129	213,851	-1.00	6,435,059
State Budget and Management	6,407,809	(373,164)	0	(373,164)	-3.00	6,034,645
State Budget and Management -- Special	4,161,125	1,773,186	2,049,400	3,822,586	13.00	7,983,711
State Controller	23,188,207	8,060,088	(624,677)	7,435,411	27.50	30,623,618
Treasurer - Operations	17,565,400	(205,394)	2,685	(202,709)	3.00	17,362,691
Treasurer - Retirement / Benefits	10,804,671	0	0	0	0.00	10,804,671
Total General Government	439,641,878	(983,345)	551,742	(431,603)	-29.29	439,210,275

Summary of General Fund Appropriations						
2010 Legislative Session: Fiscal Year 2010-11						
	FY 2010-11	Legislative Adjustments				Revised
	Certified	Recurring	Nonrecurring	Net	FTE	Appropriation
	Budget	Adjustments	Adjustments	Changes	Changes	2010-11
Statewide Reserves and Debt Service:						
Debt Service:						
Interest / Redemption	707,573,496	(1,668,313)	0	(1,668,313)	0.00	705,905,183
Federal Reimbursement	1,616,380	0	0	0	0.00	1,616,380
Subtotal Debt Service	709,189,876	(1,668,313)	0	(1,668,313)	0.00	707,521,563
Statewide Reserves:						
Contingency and Emergency Fund	5,000,000	0	0	0	0.00	5,000,000
State Health Plan (S.L. 2009-16)	276,179,709	0	0	0	0.00	276,179,709
State Retirement System Contributions	160,000,000	0	0	0	0.00	160,000,000
Judicial Retirement System Contributions	1,300,000	0	0	0	0.00	1,300,000
Information Technology Funds	7,840,000	0	0	0	0.00	7,840,000
Statewide Administrative Support Reduction	(6,600,000)	0	0	0	0.00	(6,600,000)
Convert Contract Employees to State Employees	(4,000,000)	0	0	0	0.00	(4,000,000)
Job Development Investment Grants (JDIG)	27,400,000	0	(6,600,000)	(6,600,000)	0.00	20,800,000
Subtotal Statewide Reserves	467,119,709	0	(6,600,000)	(6,600,000)	0.00	460,519,709
Total Reserves and Debt Service	1,176,309,585	(1,668,313)	(6,600,000)	(8,268,313)	0.00	1,168,041,272
Total General Fund for Operations	19,559,764,576	12,464,679	(624,408,483)	(611,943,804)	865.91	18,947,820,772
Capital Improvements						
Water Resources Development Projects	0	0	9,130,000	9,130,000	0.00	9,130,000
Capital Improvements	0	0	2,043,440	2,043,440	0.00	2,043,440
Total Capital Improvements	0	0	11,173,440	11,173,440	0.00	11,173,440
Total General Fund Budget	19,559,764,576	12,464,679	(613,235,043)	(600,770,364)	865.91	18,958,994,212

EDUCATION

Section F

Public Education

GENERAL FUND

Total Budget Approved 2009 Session **FY 10-11**
\$7,360,833,223

Budget Changes

A. Technical Adjustments

- 1 Average Daily Membership** (\$4,980,046) R
Revises projected increase in ADM for FY 2010-11 to reflect 3,127 fewer students than originally projected. Dollar amount of adjustment includes revisions to all position, dollar, and categorical allotments.

Total funded ADM for FY 2010-11 is 1,475,668, an increase of 10,754 over FY 2009-10. There was a temporary ADM reduction in FY 2009-10 precipitated by a change in the Kindergarten eligibility age.

- 2 Average Teacher Salary** (\$44,950,676) R
Revises budgeted funding for certified personnel salaries based on actual salary data from December 2009. Adjustment does not reduce any salary paid to certified personnel.

- 3 Education Lottery Receipts** (\$121,243,793) R
Adjusts the receipts budgeted for the Classroom Teachers allotment to reflect an updated distribution between the four Lottery programs, as well as the redirection of \$16.8 million in the Lottery Reserve.

- 4 Exceptional Children Headcount** (\$12,077,255) R
Adjusts funding previously budgeted for the Children With Disabilities allotment to reflect actual student headcount and does not reduce funding per student. The continuation budget includes anticipated growth based on the projected headcount of children with disabilities. This adjustment revises budgeted funding for both preschool and school-age children with special needs to reflect the April 1, 2010 headcount.

- 5 Small County Supplemental Funding** (\$2,400,000) R
Reduces funding to adjust for the expiration of Currituck County's funding eligibility in FY 2009-10 as well as a surplus of funding needed to fully fund the other eligible counties. The remaining \$44.1 million is sufficient to fully fund the 28 eligible counties.

6 Learn and Earn Early College High Schools

(\$306,200) R

Adjusts funding to reflect the delayed opening of one Learn and Earn School scheduled to open in FY 2009-10. S.L. 2009-451 provided funding to open twelve Learn and Earn schools that had been given planning funding in FY 2008-09. Only ten of the twelve planning schools were ready to open in FY 2009-10, but one of them will be ready to open in FY 2010-11. Currently 66 Learn and Earn "Bricks and Mortar" schools are operating in North Carolina.

B. Other Public School Funding Adjustments

7 ADM and BRAC Contingency Reserve

(\$2,618,501) R

Reduces the Contingency Reserve by 50%. The Reserve is maintained to provide additional support to school systems that experience greater than projected student headcount growth. \$2.6 million will remain to support the Reserve.

8 More at Four

(\$30,559,012) NR

Replaces, on a one-time basis, General Fund appropriations for More at Four Pre-kindergarten services provided to TANF-eligible children with Temporary Assistance for Needy Families (TANF) Emergency Contingency Funds.

9 Instructional Supplies

(\$3,289,447) R

Reduces the Instructional Supplies allotment by 3.5%. \$90.9 million will remain for this purpose.

10 Central Office Administration

(\$2,400,000) R

Reduces the dollar allotment to LEAs for the salaries and benefits of central office staff by 2.2%. This staff includes, but is not limited to, superintendents, associate and assistant superintendents, finance officers, athletic trainers, and transportation directors. \$107.5 million will remain to support these local staff.

11 Mentoring

(\$9,214,190) NR

Eliminates all State funding for LEA mentoring programs on a nonrecurring basis in FY 2010-11 only.

12 Limited English Proficiency

(\$4,000,000) R

Reduces funding for this allotment by 5.0%. \$76.5 million will remain available for this allotment.

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

13 Transportation

(\$10,000,000) R

Reduces funding for the allotment, which supports the salaries of transportation personnel as well as the maintenance of yellow buses, by approximately 2.4%. \$403 million will remain available for this allotment.

14 Child and Family Support Teams

(\$2,500,000) R

Reduces this allotment by 21.4%. This allotment provides funding for a dedicated social worker and school nurse in 100 schools. \$9.2 million will remain available for this allotment. The State Board of Education shall allocate this reduction by eliminating funding to those schools it deems to be implementing the program ineffectively.

15 School Bus Replacement

(\$11,900,000) NR

Eliminates funding for the purchase of new replacement school buses in FY 2010-11. \$44 million will remain available to support the extended financing payments required for buses purchased in FYs 2007-10, and an additional \$1 million will be available for emergency bus replacement purchases.

16 North Carolina Virtual Public Schools

(\$5,574,784) R

Eliminates the direct appropriation for the North Carolina Virtual Public Schools (NCVPS). Instead of being funded through a direct appropriation, NCVPS will be funded via a new funding formula. The new funding formula reduces LEA allotments based on projected LEA enrollment in NCVPS courses, in order to recognize the extent to which "enrollment in e-learning courses affects funding required for other allotments that are based on ADM," as directed by S.L. 2006-66, Section 7.16. NCVPS courses will continue to be available at no cost to all high school students in North Carolina who are enrolled in North Carolina's public schools, Department of Defense schools, and schools operated by the Bureau of Indian Affairs.

17 Tarheel Challenge

(\$460,631) R

Adjusts State support for this program to reflect new Federal matching requirements. The required State funding share for this activity has been adjusted from 40% to 25%. \$348,527 of the unneeded State match funding will be reinvested into the National Guard Tuition Assistance Program, which is transferred into the UNC budget in the item "National Guard Tuition Assistance Program Transfer".

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

<p>18 Eliminate Geometry End of Grade Test Eliminates funding associated with the discontinued State-required Geometry End of Grade Test.</p>	<p>(\$585,459) R</p>
<p>19 HMCUC Funds Transfer Transfers some funds from the Historically Minority Colleges and Universities Consortium Closing the Achievement Gap project in the UNC system into the Department of Public Instruction to expand funding of the Dropout Prevention Grant initiative.</p>	<p>\$290,683 R</p>
<p>20 Connectivity Reduces funding for the School Connectivity Initiative (SCI) as it is deployed in all LEAs and is in the operations and maintenance phase. This adjustment also includes a \$3 million nonrecurring reduction of the cash balance. The recurring cut of \$1 million represents a reduction to recurring appropriations of approximately 4.5%, and leaves recurring appropriations at \$21.0 million per year. The nonrecurring cut of \$3 million reduces initiative funding projected to be unexpended in FY 2009-10.</p>	<p>(\$1,000,000) R (\$3,000,000) NR</p>
<p>21 Education Value Added Assessment System (EVAAS) Provides \$250,000 to expand funding for EVAAS licenses that had previously been funded out of reversions and \$750,000 to purchase EVAAS Teacher Analysis.</p>	<p>\$1,000,000 R</p>
<p>22 Student Diagnostic and Intervention Initiative Provides recurring funding to extend the Student Diagnostic Pilot program an additional year in the existing 40 pilot schools. Additional funding will expand the pilot program to additional school sites while also supporting the training needed for teachers to properly implement the program.</p>	<p>\$10,000,000 R</p>
<p>23 JOBS Commission Schools Provides funding to support the creation of two school sites in Wake County and Cumberland County recommended by the Joint Legislative Joining Our Businesses and Schools (JOBS) Study Commission.</p>	<p>\$200,000 R</p>
<p>24 North Carolina Science, Math and Technical Education Center Provides funding to the North Carolina Science, Mathematics and Technology Education Center, Inc. (NCSMTEC) to support interscholastic science competitions.</p>	<p>\$100,000 R</p>

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

<p>25 Kids Voting Provides funding to support continued operation of the Kids Voting program.</p>	<p>\$50,000</p>	<p>R</p>
<p>26 Textbooks Provides support on a nonrecurring basis for the purchase of replacement textbooks for emergency situations. The State Board of Education shall develop rules and guidelines for the allocation of these funds.</p>	<p>\$2,500,000</p>	<p>NR</p>
<p>27 Science Olympiad Provides funds for North Carolina Science Olympiad, a nonprofit organization, to sponsor tournaments and increase the number of schools participating in the program.</p>	<p>\$25,000</p>	<p>NR</p>
C. Department of Public Instruction		
<p>28 DPI Operating Reduction Reduces agency operating funds by 15.0%.</p>	<p>(\$2,000,000)</p>	<p>R</p>
<p>29 NC WISE Reduces the annual appropriation for the North Carolina Window on Student Education (NC WISE), as this project is deployed and is in operations and maintenance phase. As such, its annual budgetary needs are \$2 million less than previously budgeted. This item also includes a \$10 million nonrecurring reduction of the cash balance. The remaining balance will support the hardware and reporting projects associated with NC WISE.</p>	<p>(\$2,000,000) (\$10,025,000)</p>	<p>R NR</p>
<p>30 Department of Public Instruction Staffing Efficiencies Directs the Department of Public Instruction to eliminate 30 positions, up to 20 of which may be positions funded by non-General Fund sources. Any State-funded positions reduced must come from DPI's Technology Services area.</p>	<p>(\$1,080,000) -10.00</p>	<p>R</p>

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

31 Legacy Fund Balance

Eliminates the cash balance for this project. Funds were appropriated on a nonrecurring basis in three consecutive years to enable DPI to bring information technology applications into compliance with the statewide architecture requirements. This project has now been completed. The total appropriation for this purpose was \$6 million.

(\$1,300,000) NR

32 Superintendent of Residential Schools for the Deaf and Blind

Provides funding to establish the new position of Superintendent to oversee the operations of the North Carolina School for the Deaf, Eastern North Carolina School for the Deaf, and Governor Morehead School for the Blind.

\$55,000 R

1.00

Budget Changes	(\$211,771,109)	R
	(\$63,473,202)	NR
Total Position Changes		-9.00
Revised Total Budget	\$7,085,588,912	

Community Colleges

GENERAL FUND

FY 10-11

Total Budget Approved 2009 Session

\$1,012,467,778

Budget Changes

A. Technical Adjustments

33 Fully Fund Enrollment Growth

\$81,045,467 R

Provides funds to fully fund enrollment growth. According to the final enrollment for FY 2009-10, enrollment has increased by 15.3% (33,013 full-time equivalents or FTE) above the 2009-10 adjusted budgeted enrollment of 213,472. This increase brings FY 2010-11 budgeted enrollment to 246,485.

This funding is in addition to the \$41,126,850 in the continuation budget for FY 2010-11 enrollment growth, for a total of \$122,172,317 in enrollment growth funding.

B. State Aid Adjustments

34 Management Flexibility Reduction

(\$15,000,000) R

Reduces funds in the State Aid budget, bringing the total management flexibility reduction for FY 2010-11 to \$29 million. The State Board of Community Colleges shall distribute the flexibility reduction, accounting for the unique needs of each college. Each college reduced shall have the flexibility to adjust its budget to implement this reduction, but shall not impact those activities directly involved in retraining displaced workers.

35 Tuition Increase

(\$30,025,612) R

Increases curriculum tuition from \$50 to \$56.50 for residents (\$6.50 increase) and from \$241.30 to \$248.50 for nonresidents (\$7.20 increase). Tuition for full-time resident students will increase by a maximum of \$208 per year, from \$1,600 to \$1,808.

36 Overrealized Tuition Receipts

(\$10,000,000) NR

Increases the amount budgeted for tuition receipts to more accurately reflect anticipated receipts. Given recent enrollment growth trends, it is anticipated that enrollment in FY 2010-11 will increase by more than the budgeted amount.

37 One-time Increase in Federal Literacy Receipts

Increases the amount budgeted for federal literacy receipts, due to a one-time increase, and takes a corresponding one-time reduction in State funding.

(\$4,500,000) NR

38 Restore Small Business Center Funding

Restores the reduction made to the Small Business Center allotment in 2009. This funding will be added to each colleges' base allocation. With this restoration, the total funding available for this program will be \$5,756,853.

\$402,861 R

39 Minority Male Mentoring

Provides funds to assist Minority Male Mentoring programs at community colleges. These programs provide such activities as academic and personal counseling, drug intervention, and personal growth and development. These funds will be distributed through a competitive application process.

\$900,000 R

40 Restore Funding for Prisoner Education

Restores substantial funding to the prisoner education program. In 2009, the prison education program underwent a continuation review. Using FY 2007-08 FTE estimates, \$32.9 million was eliminated from the program and \$32.9 million was appropriated in non-recurring funds for FY 2009-10. When FY 2008-09 numbers were finalized, it was estimated that \$35,949,015 was expended on prisoner FTE; therefore, \$3.0 million remains in the continuation budget for this program.

\$21,000,000 R

Funding is not restored to fund prison FTE in federal prisons, local jails, or programs not related to job skills or basic skills education. In FY 2008-09, a total of 587 FTE were served in these categories, resulting in a reduction of \$2,741,189.

To increase efficiency an additional \$9.2 million was reduced, for a total restoration of \$24 million. First priority for use of these funds shall be to restore the FTE for basic skills courses to the FY 2008-09 level. Funds not used for this purpose may be used for continuing education and curriculum courses related to job skills training.

41 Equipment

Provides \$33 million for the purchase of equipment for education and research in health, science, engineering, and technology programs through the issuance of certificates of participation. This item is included in Section D of the Capital Section of this report.

C. System Office Adjustments

<p>42 Move Position to Receipt Support Reduces appropriations by shifting one Education Consultant position entirely to proprietary school receipts. This position oversees the activities that generate these receipts.</p>	<p>(\$60,747) R -0.75</p>
<p>43 Reduce State Board Reserve Reduces funding for the State Board Reserve by 24% from \$660,000 to \$500,000.</p>	<p>(\$160,000) R</p>
<p>44 Reduce Advertising Budget Reduces funds for advertising, due to unprecedented enrollment growth. The remaining \$100,000 shall be used to target advertising to underserved populations.</p>	<p>(\$100,000) R (\$100,000) NR</p>
<p>45 Reduce System Office Operating Budget Reduces the System Office operating budget with specific reductions to be identified by the System Office. Reductions should focus on travel, printing, postage, and registration fees.</p>	<p>(\$158,764) R</p>
<p>46 Eliminate Positions Eliminates 7 positions in the Community College System Office. The duties of these positions shall be eliminated or absorbed by other System Office employees. The positions are: -Education Program Director #60088191 (Bionetwork) - \$94,250 salary and \$22,045 benefits. -Technology Support Analyst #60088065 (Information Technology) - \$54,724 salary and \$14,867 benefits. -Information Technology Manager #60088013 (Information Technology) - \$98,976 salary and \$22,903 benefits. -Education Program Director II #60088192 (Workforce Development and Continuing Education) - \$102,750 salary and \$23,588 benefits. -Television Production Asst III #60088049 (Distance Learning) - \$35,497 salary and \$11,375 benefits. -Business Officer -C #60088111 (Facilities and Administration) - \$34,283 salary and \$11,155 benefits. -Office Assistant IV #60088142 (Student Services) - \$36,966 salary and \$11,642 benefits.</p>	<p>(\$575,022) R -7.00</p>

Budget Changes	\$57,268,183	R
	(\$14,600,000)	NR
Total Position Changes		-7.75
Revised Total Budget	\$1,055,135,961	

UNC System

GENERAL FUND

FY 10-11

Total Budget Approved 2009 Session

\$2,656,552,008

Budget Changes

A. Base Budget Adjustments

47 Management Flexibility Reduction	(\$70,000,000)	R
Mandates a management flexibility reduction for the UNC operating budget with a priority on non-teaching related budget cuts. This reduction is in addition to the \$100 million management flexibility reduction authorized for the FY 2010-11 base budget.		
48 Repeal of Nonresident Athletic Full Scholarship Tuition Waiver	(\$9,432,978)	R
Repeals the reimbursement to UNC institutions for their loss of revenue due to their compliance with G.S. 116-143.6 that grants resident tuition to nonresident student athletes on full scholarships.		
49 HMCUC Funds Transfer	(\$527,212)	R
Abolishes the Historically Minority Colleges and Universities Consortium Closing the Achievement Gap project and transfers \$290,683 of the savings to the Department of Public Instruction for the Dropout Prevention Grant initiative.		
50 UNC Advertising Reduced	(\$2,500,000)	R
Reduces the General Fund advertising budgets of UNC campuses by 24%. The campuses spent \$10.6 million from the General Fund and \$13.2 million from institutional trust funds on advertising in FY 2008-09.		
51 Distance Education Reserve Eliminated	(\$651,483)	R
Eliminates the remaining balance of a \$1.93 million reserve appropriated in 1996 for distance learning efforts. The expansion of distance learning is now funded by the enrollment growth model and by reserves for UNC Online and 2+2 efforts.		
52 UNC-TV Utilities Reduction	(\$410,863)	R
Reduces the \$1.8 million UNC-TV utilities budget due to savings from the station's conversion from analog to digital in June 2009.		

53 ECU MRI Account Transferred

Transfers \$1 million from magnetic resonance imaging (MRI) lease and equipment fund [Budget Code 06067, Fund Code 0142] at East Carolina University Brody School of Medicine to the General Fund.

54 Aid to UNC Hospitals Reduced

Reduces the \$44 million annual appropriation to UNC Hospitals due to the entity's \$501.1 million in unrestricted reserves.

(\$8,000,000) NR

55 Professional Development Grants Eliminated

Eliminates grants to Salem College for summer professional development workshops for teachers and to Wake Forest University for their Master Teacher Fellows graduate program.

(\$63,635) R

56 Enrollment Growth

Increases the UNC system enrollment growth funding in the FY 2010-11 base budget due to projected increase of 441 FTE over previous estimates. This funding is in addition to the \$53,432,226 for 4,485 FTE included in the FY 2010-11 base budget.

\$5,636,814 R

57 Tuition Repeal

Repeals the FY 2010-11 legislative tuition rates enacted in the 2009 legislative session and restores the associated appropriation reduction.

\$34,776,301 R

58 Need-Based Financial Aid

Increases UNC Need-Based Financial Aid to account for 1) funding 4,600 additional students that qualify for assistance and inflationary increases for previously funded students (\$22.85 million) and 2) restoring need-based aid that was nonrecurring in FY 2009-10 (\$12 million). This General Fund appropriation plus lottery receipts of \$26,661,046 equals the additional \$34,856,563 needed in FY 2010-11 for UNC need-based aid.

\$8,195,517 NR

59 Building Reserves Restored

Restores most of the building reserves cut in the 2009 Session. These reserves pay for the operating costs of 40 new or renovated buildings completed in FY 2009-11. The funds are for the housekeeping, maintenance, and security requirements for the added building square footage.

\$19,176,682 R
\$4,828,460 NR
286.10

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

<p>60 UNC High School Funding Restored</p> <p>Restores base budget cuts made in FY 2009-10 to the two high school programs in the UNC system. The North Carolina School of Science and Math will receive \$80,851 for lab and educational supplies and the University of North Carolina School of the Arts will receive \$201,165 for cost of living increases in their residential high school.</p>	<p>\$282,016</p>	<p>R</p>
<p>61 University Cancer Research Fund</p> <p>Adjusts the continuation budget for the University Cancer Research Fund to account for a decline in revenues from the tax on tobacco products other than cigarettes. This adjustment maintains the legislative commitment of \$50 million a year invested in this fund. With this adjustment, the General Fund appropriation will be \$16,020,000.</p>	<p>\$600,000</p>	<p>R</p>
<p>62 ECU Dental School Operations</p> <p>Continues the phase-in of funding for the additional faculty and operating needs of the new School of Dentistry at East Carolina University that will open with 50 students in the Fall of 2011. To date, \$5.5 million has been appropriated for the school's operating budget.</p>	<p>\$6,000,000</p> <p>36.00</p>	<p>R</p>
<p>63 Energy Production Infrastructure Center (EPIC)</p> <p>Completes the staffing and operational needs of the Energy Production Infrastructure Center (EPIC) opening at UNC-Charlotte in the Fall of 2011. These funds will enable the hiring of research faculty in electrical power, power system infrastructure, and power plant engineering. These funds are in addition to the \$2 million appropriated in 2009.</p>	<p>\$3,000,000</p> <p>23.00</p>	<p>R</p>
<p>64 ASU College of Health Sciences and Allied Professions</p> <p>Funds the operating and staffing needs of the newly established College of Health Sciences and Allied Professions at Appalachian State University.</p>	<p>\$500,000</p> <p>4.00</p>	<p>R</p>
<p>65 NC A&T/UNC-G Joint School of Nanoscience and Nanoengineering</p> <p>Continues the phase-in of faculty and staff for the NC A&T/UNC-G Joint School of Nanoscience and Nanoengineering located at the Gateway University Research Park in Greensboro. The program will conduct research in areas such as drug design and delivery, nanobioengineering, and genetic screening. The funds will be used to hire 4 additional faculty, 1 technician, 2 post doc positions, 1 staff scientist, and 15 additional graduate student positions. There has been \$3.9 million appropriated to date for the operating budget for this program.</p>	<p>\$1,000,000</p> <p>23.00</p>	<p>R</p>

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

<p>66 NC A&T State University College of Engineering Provides funds to North Carolina A&T State University's College of Engineering to strengthen its research profiles in the three targeted areas of energy, network security, and aviation safety. The funds will enable the school to hire 6 additional faculty, 2 lab technicians, an industrial extension officer, and a research associate. Funds will also be used to provide startup laboratory resources for new faculty members as well as for matching commitments for new research proposals.</p>	<p>\$1,000,000</p> <p>10.00</p>	<p>R</p>
<p>67 NC State University College of Engineering Provides funds to enable faculty hiring in the areas of health systems, energy and environmental systems, and advanced materials and engineering. A portion of the funds may be used to provide matching support to hire research faculty for the recently awarded US Department of Energy Modeling and Simulation for Nuclear Reactors Energy Innovation Hub as well as the NSF Engineering Research Center for Distribution and Management of Renewable Energy Sources (FREEDM).</p>	<p>\$3,000,000</p>	<p>R</p>
<p>68 Distinguished Professor Endowment Fund Increases the Distinguished Professor Endowment Fund to reduce the backlog of 66 professorships awaiting State matching funds. The Fund has an annual base budget appropriation of \$8 million.</p>	<p>\$3,500,000</p>	<p>NR</p>
<p>69 Institute for Emerging Issues Fellows Program Funds an expansion of the Fellows program at the Institute for Emerging Issues at North Carolina State University. Faculty and student Fellows will apply their expertise to the State's current public policy issues such as job growth and economic development.</p>	<p>\$309,000</p>	<p>NR</p>
<p>70 CASTLE Continues State support for the Center for the Acquisition of Spoken Language through Listening Enrichment (CASTLE) at UNC-Chapel Hill. The funds will be used to 1) train teachers and therapists to work with deaf preschool-age children with cochlear implants and 2) provide oral preschool classes to these children. The program has received nonrecurring appropriations annually since 2005.</p>	<p>\$550,000</p>	<p>R</p>

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

71 Coastal Wave Energy Research	\$2,000,000	R
<p>Funds research, design, and construction of devices to capture the energy of ocean waves. The research will be conducted by a consortium that includes the University of North Carolina Coastal Studies Institute and the Colleges of Engineering at North Carolina State University, North Carolina Agricultural and Technical State University, and the University of North Carolina Charlotte.</p>		
72 Veterinary Medicine Clinical Teaching and Research Fund	\$200,000	R
<p>Continues State funding for the North Carolina State University College of Veterinary Medicine Clinical Teaching and Research Fund. This fund was created in 2007 to allow advanced diagnostic and treatment options for animals where a) owner financing of such options are limited, b) significant instructional value exists, or c) the diagnostic and treatment options have the potential of adding significantly to the core knowledge in the relevant clinical area.</p>		
73 Aid to Private College Students	\$4,551,764	R
<p>Increases funding to the Legislative Tuition Grant (\$2,713,176) and the State Contractual Scholarship Fund (\$1,838,588) for a 2.9% growth in enrollment in FY 2010-11.</p>		
74 National Guard Tuition Assistance Program Transfer	\$1,862,815	R
<p>Transfers the National Guard Tuition Assistance Program from the Department of Crime Control and Public Safety (CCPS) to the North Carolina State Education Assistance Authority (SEAA). CCPS transfers \$1,514,288 from their budget to SEAA for the program. Another \$348,527 is transferred into the program from a cut in Tarheel Challenge funds. SEAA may use \$50,000 of the funds for program administration.</p>		
75 NC Research Campus at Kannapolis	\$1,000,000	R
<p>Provides funding to hire researchers and to provide equipment and supplies for University personnel working at the NC Research Campus in Kannapolis. Seven UNC-system campuses are involved in collaborative research at the Campus to bring new employers and jobs to the State.</p>		

Budget Changes	\$1,550,221	R
	\$8,832,977	NR
Total Position Changes	382.10	
Revised Total Budget	\$2,666,935,206	

	FY 2010-11
Beginning Unreserved Fund Balance	\$3,451,556
Total Budget Approved 2009 Session	
Requirements	\$5,687,321
Receipts	\$5,687,321
Positions	0.00

Legislative Changes

Requirements:

Teacher of the Year Awards Banquet	\$0	R
Authorizes the Department of Public Instruction to receive and expend a \$35,000 grant from AT&T for expenses related to the annual Teacher of the Year awards banquet.	\$35,000	NR
	0.00	
UNC-CH Partnerships For Inclusion Grant	\$0	R
Authorizes the Department of Public Instruction's Office of Early Learning to expend funding for training and coaching in support of the implementation of the Center on Social Emotional Foundations for Early Learning Pyramid Model in selected Head Start programs.	\$126,492	NR
	0.00	
Subtotal Legislative Changes	\$0	R
	\$161,492	NR
	0.00	

Receipts:

Teacher of the Year Awards Banquet	\$0	R
Authorizes the Department of Public Instruction to receive and expend a \$35,000 grant from AT&T for expenses related to the annual Teacher of the Year awards banquet.	\$35,000	NR
UNC-CH Partnerships For Inclusion Grant	\$0	R
Authorizes the Department of Public Instruction's Office of Early Learning to expend funding for training and coaching in support of the implementation of the Center on Social Emotional Foundations for Early Learning Pyramid Model in selected Head Start programs.	\$126,492	NR

	FY 2010-11
Subtotal Legislative Changes	\$0 R
	\$161,492 NR
<hr/>	
Revised Total Requirements	\$5,848,813
Revised Total Receipts	\$5,848,813
Change in Fund Balance	\$0
Total Positions	0.00
<hr/>	
Unappropriated Balance Remaining	\$3,451,556

**HEALTH
&
HUMAN SERVICES
Section G**

Health and Human Services

GENERAL FUND

Total Budget Approved 2009 Session	FY 10-11
	\$4,321,028,842

Budget Changes

(1.0) Division of Child Development

- | | | |
|---|---|------------------|
| <p>1 Equipment, Travel and Supplies</p> <p>Reduces the funding within the operations budget. This reduction holds the Division to its FY 2009-10 spending level for operations.</p> | <p>(\$261,518)</p> | <p>R</p> |
| <p>2 Vacant Positions</p> <p>Eliminates two vacant positions within the Division of Child Development. The positions to be eliminated are Administrative Assistant I budgeted at \$31,564 and an Administrative Officer III budgeted at \$41,173. These positions have been vacant longer than six months.</p> | <p>(\$72,737)</p> <p style="text-align: right;">-2.00</p> | <p>R</p> |
| <p>3 Child Care Subsidy</p> <p>Replaces State funding for child care subsidy with Temporary Assistance for Needy Families (TANF) Emergency Contingency Fund receipts for FY 2010-11.</p> | <p>(\$23,625,329)</p> | <p>NR</p> |
| <p>4 Electronic Payment System</p> <p>Reduces funds available within the Division of Child Development in anticipation of saving money related to better management and tracking of child care subsidy expenditures. The new system will reduce expenditures associated with fraudulent and inaccurate payments.</p> | <p>(\$6,000,000)</p> | <p>R</p> |
| <p>5 Smart Start</p> <p>Reduces funding for the North Carolina Partnership for Children, Inc. This is a 2.5% reduction to Smart Start, leaving a balance of \$188 million.</p> | <p>(\$5,000,000)</p> | <p>R</p> |

(2.0) Division of Mental Health, Developmental Disabilities, and Substance Abuse Services

<p>6 Vacant Position</p> <p>Reduces funding for a vacant position within the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services. This position is a Mental Health Program Administrator II and has been vacant for one year. This position is budgeted at \$84,864 and the work location is Raleigh.</p>	<p>(\$84,864) R</p> <p>-1.00</p>
<p>7 Division Management Funds</p> <p>Reduces unobligated funding available at the Division's discretion for one-time needs of community providers or LME system needs. The total includes \$1,169,355 for mental health, \$3,398,534 for developmental disabilities, and \$2,612,918 for substance abuse services. These funds have historically been spent to address specific one-time needs; these funds are not allocated to LMEs for service provision.</p>	<p>(\$7,180,807) NR</p>
<p>8 Convert Whitaker School to a PRTF</p> <p>Reduces State funds for the Whitaker School; the program will become a Psychiatric Residential Treatment Facility in which services are Medicaid reimbursable.</p>	<p>(\$1,938,465) R</p>
<p>9 Local In-Patient Bed Capacity</p> <p>Increases funds available for the three-way contracts to purchase local hospital bed capacity for crisis response within communities. These funds will support additional community hospital beds, bringing the total funding to \$29 million annually.</p>	<p>\$9,000,000 R</p>
<p>10 Training in Facilities</p> <p>Increases funds available for training direct care staff and front line leaders in patient care. Training will include medication administration, therapeutic communication, clinical and legal aspects of documentation and cultural awareness.</p>	<p>\$534,795 R</p>
<p>11 Community Service Funds</p> <p>Provides funding for community services administered through Local Management Entities. This funding fully restores the mental health, developmental disabilities, and substance abuse services funding reduced for FY 2010-11. This amount includes \$30,559,012 of funds transferred from Department of Public Instruction's Office of Early Learning.</p>	<p>\$40,000,000 NR</p>

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

12 Leadership Academy

Provides funds for a Mental Health Leadership Academy for training for Mental Health managers, finance/budget officers, and other leaders within Local Management Entities.

\$250,000 NR

13 Outreach and Support Intervention Services (OASIS) Program

Provides bridge funding and ongoing support for the OASIS Program within the UNC School of Medicine, Department of Psychiatry.

\$200,000 NR

(3.0) Division of Central Management and Support

14 Key Program

Reduces funding available for Key Program rental subsidies. The Key Program provides rental assistance for disabled persons in targeted Low-Income Housing Tax Credit (LIHTC) units. Approximately 187 rental units will not be completed during FY 2010-11, thereby reducing projected requirements for subsidies.

(\$561,000) NR

15 Information Technology Services

Reduces recurring funding within the Division of Information Resource Management for ITS telecommunication data services (\$300,564), computer/data processing (\$286,597), and ITS managed local area network services (\$350,000). Transitioned CSE programs, effective July 1, 2010, will assume responsibility for ITS charges for telecommunications services. Remaining reductions reflect ITS rate reductions and decreased mainframe use as new applications come online.

(\$937,161) R

16 Over-Realized Receipts

Reduces funding with the Controller's Office. This reduction will be offset by budgeting additional receipts regularly received but not currently budgeted.

(\$1,362,201) R

17 CARE-LINE

Reduces the hours of operation for the Department of Health and Human Services CARE LINE to regular business hours, and transfers after-hour calls to the Martin County Call Center. Approximately 20% of calls are presently received after regular business hours.

(\$257,004) R

-4.00

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

<p>18 Equipment, Travel and Supplies Reduces funding for equipment, travel, and supplies within the Division of Central Management and Support. This reduction was also taken on a non-recurring basis during FY 2009-10 to meet the projected revenue shortfall.</p>	<p>(\$263,581) R</p>
<p>19 Position Eliminations Eliminates positions within the Division of Central Management.</p>	<p>(\$1,228,875) R -20.00</p>
<p>20 Pesticide Task Force Eliminates funding for the Pesticide Task Force activities. These activities are paid for through the federal NC Farmworker Health Program.</p>	<p>(\$39,430) R</p>
<p>21 Community Care of NC Grants Eliminates State appropriation for demonstration grants for obesity prevention, stroke prevention, and emergency room diversion that test alternative methods to managing the utilization of health care services.</p>	<p>(\$183,833) R</p>
<p>22 Rural Health Loan Repayment Program Reduces funding for the Rural Health Loan Repayment Program. This reduction amount represents three contracts for health providers.</p>	<p>(\$190,749) R</p>
<p>23 Special Olympics Provides funding for a grant-in-aid to Special Olympics.</p>	<p>\$100,000 NR</p>
<p>24 Rural Hospitals Operation and Maintenance Provides funding for small rural hospitals for assistance with operations and infrastructure maintenance.</p>	<p>\$1,000,000 NR</p>
<p>25 ALS Association These funds are transferred from the Health and Wellness Trust Fund for SFY 2010-11 to provide a non-recurring grant-in-aid to the Jim "Catfish" Hunter Chapter of the ALS Association for services provided in North Carolina.</p>	<p>\$400,000 NR</p>

(4.0) Division of Public Health

<p>26 Minority Health Interpreter Services Reduces funds for local health department service contracts that meet language needs of clients.</p>	<p>(\$11,000) R</p>
<p>27 Community Focused Eliminating Health Disparities Contracts Reduces State appropriations for State and local health department contracts by less than 3 percent.</p>	<p>(\$85,895) R</p>
<p>28 Division of Public Health Contracts Reduces funds remaining in two contracts that have been eliminated: Perinatal Outreach and Family Health Resource Line.</p>	<p>(\$400,601) R</p>
<p>29 Accreditation of Local Health Programs Reduces one half of the funds available for accreditation of local health departments. Remaining funds allow the Division of Public Health to complete evaluations and accreditations of local health departments (LHDs). Centers for Communicable Disease and Prevention is scheduled to launch a nationwide effort to accredit local health departments to national standards in 2011.</p>	<p>(\$325,000) NR</p>
<p>30 Medicaid Funding for WIC Metabolic Foods Replace State appropriations with Medicaid receipts for Medicaid-eligible children requiring a diet of metabolic foods.</p>	<p>(\$283,477) R</p>
<p>31 Position Eliminations Eliminates 27 positions in Division of Public Health.</p>	<p>(\$900,000) R -27.00</p>
<p>32 Operations Reduction Reduces funds for equipment, travel, and supplies at Division offices.</p>	<p>(\$481,923) R</p>

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

<p>33 Immunization Changes Eliminates funding for the purchase of vaccines for which health care providers and local health departments should be billing health insurers for reimbursement. North Carolina health insurers reimburse for the full series of standard immunizations recommended by Centers for Disease Control and Prevention (CDC) and the American Academy of Family Physicians, as well as those required by the North Carolina Immunization Program.</p>	<p>(\$15,894,853) R</p>
<p>34 Children's Development Services Agency Reduces State appropriations and budgets anticipated over-realized receipts from Medicaid. This program has been increasing its third party collections.</p>	<p>(\$2,700,000) R (\$350,000) NR</p>
<p>35 Over-realized Receipts Reduces funds available for the Division of Public Health and budgets anticipated over-realized receipts on a non-recurring basis.</p>	<p>(\$3,000,000) NR</p>
<p>36 School Health Nurses Provides funds to hire 10 additional school nurses to bring the total number of school health nurses supported by the Division of Public Health to 255. This is in addition to the 20 school nurses provided for in SFY 2010-11 in S.L. 2009-451, Sec. 10.24.</p>	<p>\$500,000 R</p>
<p>37 Prevent Blindness Provides funds for a grant-in-aid to Prevent Blindness of North Carolina. These funds are transferred from the Health and Wellness Trust Fund for SFY 2010-11.</p>	<p>\$150,000 NR</p>
<p>38 AIDS Drug Assistance Program Provides funds to continue to serve people in the AIDS Drug Assistance Program who are enrolled as of July 1, 2010. These funds will allow eligible individuals with annual incomes of up to 125% FPL who are on the waiting list as of July 1, 2010 to be enrolled. To the degree that funds are available, additional people will be enrolled in the program.</p>	<p>\$14,177,632 R</p>

39 Improve Birth Outcomes and Reduce Infant Mortality

Provides funding to educate women on the benefits of 17-p Progesterone, to purchase medication for eligible women at risk of pre-term births, and for continued development and implementation of safe sleep public awareness campaign. These funds are transferred from the Health and Wellness Trust Fund.

\$247,000 NR

40 NC Folic Acid Campaign

Provides funding for the March of Dimes to continue to provide outreach, educational materials, and vitamins through the NC Folic Acid Campaign to reduce the occurrence of neural tube defects. These funds are transferred from the Health and Wellness Trust Fund for SFY 2010-11.

\$350,000 NR

41 High Risk Pregnancy Program At East Carolina School of Medicine

Provides funding for continued operation of a high-risk maternity clinic to improve the birth outcomes of women in 29 eastern counties.

\$325,000 NR

42 Poison Control Center

Provides funds to increase the State contract with the Poison Control Center operated by Carolinas Medical Center.

\$500,000 NR

43 Stroke Prevention

Provides funding for the operation of the Stroke Advisory Council, the continued implementation of the public awareness campaign, and identification of stroke rehabilitation services throughout the State. These funds are transferred from the Health and Wellness Trust Fund for SFY 2010-11.

\$450,000 NR

44 Adolescent and Teen Pregnancy Prevention

Provides \$400,000 in non-recurring funding for the adolescent pregnancy prevention, teen parenting, and school dropout prevention program, and \$250,000 in non-recurring for a grant-in-aid to the Adolescent Pregnancy Prevention Campaign of North Carolina. These funds are transferred from the Health and Wellness Trust Fund for SFY 2010-11.

\$650,000 NR

45 North Carolina Arthritis Patient Services

Provides funding for a non-recurring grant-in-aid to North Carolina Arthritis Patient Services. These funds are transferred from the Health and Wellness Trust Fund for SFY 2010-11.

\$50,000 NR

46 Healthy Carolinians

Provides funding for local health departments to establish and maintain infrastructure to reduce rates of diabetes, cancer, heart disease, obesity, injury, and infant mortality. These funds are transferred from the Health and Wellness Trust Fund for SFY 2010-11.

\$100,000 NR

47 Immunizations

Provides funds for the initial stocking of required vaccines for the 2010-2011 school year. These funds are transferred from the Health and Wellness Trust Fund for SFY 2010-11 on a one-time basis.

\$3,000,000 NR

(5.0) NC Health Choice

48 Optical Supplies

Reduces funds available for optical supplies and directs the Health Choice Program to contract with Department of Correction for the purchase of optical supplies.

(\$114,550) R

49 NC Health Choice Transition Staff

Provides funds for three staff to transition the administration of NC Health Choice from the State Health Plan to the Division of Medical Assistance. The staff includes two time-limited employees for clinical policy and provider enrollment and one permanent employee for program integrity activities.

\$59,475 R

50 NC Health Choice Enrollment

Provides funds to increase enrollment in the Health Choice program by 2% or 2,750 children for a total of 137,789 children served by the program.

\$6,500,000 R

(6.0) Division of Medical Assistance

51 CCNC Savings

Provides savings in overall Medicaid expenditures through the expanded efforts of the Community Care Network of North Carolina (CCNC). DHHS contracts with CCNC to manage utilization of Medicaid services. Savings will be generated by expanding CCNC's care management programs in hospital discharge, mental health; palliative care, and pharmacy. The improved Informatics system will enhance data integration, analytics, and reporting, increasing performance and cost savings.

(\$45,000,000) R

<p>52 Maternal Outreach Workers (MOW) Transitions pregnant women receiving services through Local Health Departments from Maternal Outreach Workers (MOW) to services provided by Maternal Care Coordinators (MCC) and Children Services Coordinators (CSC). MCC and CSC personnel are required to have a Bachelor's Degree or be licensed registered nurse.</p>	<p>(\$292,974) R</p>
<p>53 Pharmacy Program Improvements Generates savings by implementing various pharmacy program improvements, including collecting drug rebates on certain prescription drug claims (\$3.6 million); stopping reimbursement for lost prescriptions (\$252,000); requiring prior approval on brand drugs when 'medically necessary' is written on the prescription (\$938,700); creating a specialty drug network for dispensers of certain high cost drugs (\$316,040); requiring prior approval on all requests for the drug Synagis (\$376,253); and eliminating the ineffective FORM pharmacy program (\$83,103).</p>	<p>(\$5,566,096) R</p>
<p>54 Prescription Vitamins Eliminates Medicaid coverage of prescriptions for vitamins and minerals, except for reimbursement for multi-vitamin prescriptions for pregnant women.</p>	<p>(\$777,138) R</p>
<p>55 Narcotic Prescriptions Reduces General Fund appropriations for Medicaid pharmacy by locking Medicaid enrollees with a narcotic prescription (e.g. Vicodin, Benzodiazipine) into a single pharmacy and single doctor to prevent pharmacy and doctor shopping and narcotics abuse.</p>	<p>(\$603,000) R</p>
<p>56 Mental Health Drug Savings Generates savings by adding mental health drugs to the Preferred Drug List (PDL), which were previously not part of the PDL savings, and also requires prior authorization but only for off-label prescribing of mental health drugs.</p>	<p>(\$10,000,000) R</p>
<p>57 Capitated Behavior Health Pilot Programs Expands the capitated behavioral health pilot program to two additional local management entities (LMEs), effective January 1, 2011. Effort is based on the Piedmont Behavioral Health pilot.</p>	<p>(\$1,560,600) R</p>

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

<p>58 Prior Authorization for Children's Outpatient Mental Health Services Establishes Prior Authorization for Children's Outpatient Mental Health Services at 16 visits versus the current 26 visits.</p>	<p>(\$933,547) R</p>
<p>59 Enhanced Mental Health Changes The Department shall manage enhanced services through rate and utilization management to secure a savings of forty-one million dollars (\$41,000,000).</p>	<p>(\$41,000,000) R</p>
<p>60 Independent Assessments on Mental Health Services Implements independent assessments on various mental health services in the Medicaid program. Prior to the service being delivered, an independent assessment will be conducted to ensure the proper utilization of services.</p>	<p>(\$7,730,207) R</p>
<p>61 In-Home Personal Care Services Reforms the In-Home Personal Care Services program to provide care to those individuals at greatest risk of needing institutional care. Reform transitions eligible recipients into a new program for adults with the most intense needs - those needing extensive assistance with two or more activities of daily living (ADLs).</p>	<p>(\$50,714,943) R</p>
<p>62 Dental Program Improvements Generates savings by implementing policy improvements in the dental program for children, including implementing limits on imaging for children under the age of 6 years of age; limiting three film radiographs to children aged 13 and older; and limiting the reimbursement for primary teeth composites.</p>	<p>(\$16,982) R</p>
<p>63 Durable Medical Equipment Program Improvements Generates savings through bulk purchasing of incontinence supplies by selecting one provider through a competitive bidding process (\$1,654,714). Also eliminates coverage for high-tech adult orthotics and prosthetics when lower-tech alternatives exist or when medical necessity does not demand the higher-tech device (\$204,716). S.L. 2010-123 clarifies that DMA may select one or more providers through a competitive bidding process for the bulk purchasing of incontinence supplies.</p>	<p>(\$1,859,430) R</p>

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

<p>64 Health Insurance Premium Payment Program (HIPPP) Expands the HIPPP Program, in which Medicaid pays for employer-based health insurance costs on behalf of Medicaid-eligible individuals when it is less expensive than Medicaid coverage.</p>	<p>(\$3,000,000) R</p>
<p>65 Reimbursement of 'Never Events' Eliminates Medicaid reimbursement of 'never events' in hospital inpatient settings. 'Never events' are certain types of medical issues that develop or are acquired while a person is in a hospital, but should have been prevented. The policy change brings Medicaid in line with Medicare reimbursement.</p>	<p>(\$5,000,000) R</p>
<p>66 Improved Utilization Management for Optional Services Generates savings through limits and prior approval policies on outpatient optional services, including chiropractic, optical, and podiatry services.</p>	<p>(\$2,065,647) R</p>
<p>67 Private Duty Nursing Changes Transitions adult private nursing recipients to a new Community Alternatives Program (CAP) technology waiver upon approval by the federal government. Children would continue to receive private duty nursing services after an independent assessment.</p>	<p>(\$1,298,058) R</p>
<p>68 Coverage of Certain Types of Surgery Eliminates coverage of certain types of surgery, including breast reduction and mastopexy (breast lift) surgery (\$23,420); panniculectomy surgery (\$12,328); and surgery for severe obesity (\$89,400).</p>	<p>(\$125,148) R</p>
<p>69 Medical Assistance Copayments Increases current copayment amounts to a maximum of \$3, and expands collection of copayments to local health departments and outpatient behavioral health services. In addition, implements a \$6 copayment for nonemergency hospital emergency room (ER) visits.</p>	<p>(\$2,630,404) R</p>
<p>70 Program Integrity Savings Generates savings through new Program Integrity initiatives, including Medicaid SWAT teams for on-site investigations, strengthening Medicaid fraud laws, innovative technology to detect fraud and abuse, and prepayment reviews for questionable providers.</p>	<p>(\$40,000,000) R</p>

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

<p>71 Attorney General's Office (AGO) Medicaid Investigative Unit Staff Savings Generates savings by doubling the Medicaid Investigative Unit staff at the AGO to expand the prosecution of Medicaid fraud and abuse. Additional staff will ensure increased prosecution and additional Medicaid funds recovered from fraudulent providers.</p>	<p>(\$1,000,000) R</p>
<p>72 Contract Reductions Reduces payment for duplicative or unnecessary administrative functions performed under the Medicaid contract with HP, including eliminating the processing of duplicative claims and processing prior approval (PA) on claims that do not require PA.</p>	<p>(\$180,250) R</p>
<p>73 ARRA Federal Enhanced Matching Funds Extension Reduces General Fund appropriations anticipating that Congress will pass a law extending by six months the enhanced federal matching funds provided under the American Recovery and Reinvestment Act (ARRA) through June 2011.</p>	<p>(\$481,621,383) NR</p>
<p>74 ARRA Medicare Part D Clawback Savings Reduces General Fund appropriations based on savings from enhanced federal matching funds provided by the American Recovery and Reinvestment Act (ARRA). The enhanced federal funds offset State funding for Medicaid paid to cover a portion of prescription drug costs paid by Medicare Part D for dually-eligible (Medicaid/Medicare) individuals. Savings also anticipate that Congress will pass legislation extending the enhanced rate for six months, through June 2011.</p>	<p>(\$79,419,834) NR</p>
<p>75 Medicaid Rebase Increases State appropriations to the FY 2010-11 Medicaid budget to account for 5.6% growth in eligibles above current levels (\$5,054,765); consumption (\$121,867,913); inflation for cost-settled providers (\$5,568,149); new services and mix of services (\$16,094,752); anticipated cost of flu (\$7,985,000); reductions not achieved in the previous fiscal year (\$225,537,633); and increased appropriations due to the change in the Federal Medical Assistance Percentage (FMAP) (\$48,456,502).</p>	<p>\$430,564,713 R</p>

(7.0) Division of Health Service Regulation

<p>76 Medicaid Funding for Home Care Licensure and Certification Generates savings by collecting federal Medicaid receipts to support licensure and certification activities for home care agencies. Since home care agencies are Medicaid providers, this will allow DHSR to collect federal Medicaid receipts.</p>	<p>(\$104,739) R</p>
<p>77 Fee for Assisted Living Medication Aide Testing Establishes a \$25 fee for the testing and materials provided to assisted living medication aides to help defray the costs of administering the tests.</p>	<p>(\$110,575) R</p>
<p>78 Fees for Assisted Living Administrator Testing and Certificates Establishes a \$50 assisted living administrator test fee and a \$30 assisted living administrator certificate renewal fee. Certificate renewals occur every two years.</p>	<p>(\$35,240) R</p>
<p>79 Home Base Licensure and Certification Staff/Lexington Office Closes Lexington office and home-bases licensure and certification staff, eliminating operating costs and two administrative positions.</p>	<p>(\$92,038) R \$22,797 NR -2.00</p>
<p>80 Nursing Home Licensure and Certification Funds Replaces General Fund appropriations with federal receipts in the Nursing Home Licensure and Certification Section on a nonrecurring basis. The receipts come from civil monetary penalties assessed against nursing homes.</p>	<p>(\$1,741,551) NR</p>
<p>(8.0) Division of Social Services</p>	
<p>81 Equipment, Travel, and Supplies Reduces funding for equipment, travel, and supplies within the Division of Social Services.</p>	<p>(\$120,000) R</p>
<p>82 Adult Care Home Case Management Reduces over-budgeted funds for adult care home case management services, per historical reversions.</p>	<p>(\$150,000) R</p>

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

<p>83 Position Eliminations Eliminates positions within the Division of Social Services.</p>	<p>(\$959,632) R -15.00</p>
<p>84 Economic Services Contract Eliminates funding for contracted installation and support for Supplemental Nutrition Assistance Program (SNAP) Electronic Benefit Transfer (EBT) infrastructure at Farmers Markets. Federal funds are available to support this initiative, and there has been limited vendor activity to date.</p>	<p>(\$192,166) R</p>
<p>85 Child Support Enforcement Consolidation Streamlines functions within the Child Support Enforcement Section and reduces operating funds to coincide with the elimination of sixteen state-operated child support enforcement offices. Effective July 1, 2010, S.L. 2009-451 transitions financial and administrative responsibilities for local child support enforcement to twenty-eight counties presently served by the state offices. Under this proposal, approximately twenty filled and thirteen vacant positions within the Child Support Enforcement Section are eliminated.</p>	<p>(\$1,282,777) R -33.00</p>
<p>86 Children's Advocacy Centers Replaces recurring grants-in-aid for the twenty-two accredited Children's Advocacy Centers statewide. This reduction is offset by a non-recurring allocation of Social Services Block Grant receipts for services provided by the Children's Advocacy Centers during FY 2010-11.</p>	<p>(\$375,000) R</p>
<p>87 NC REACH Post-Secondary Scholarship Program Reduces funding for NC REACH scholarships per projected growth in awards during FY 2010-11. This non-recurring reduction leaves \$1,584,125 available to support scholarships in FY 2010-11. In addition, funding for contractual case management services is reduced commensurate with actual FY 2009-10 obligations.</p>	<p>(\$160,507) R (\$1,584,125) NR</p>

<p>88 Child Welfare Contracts Eliminates funding for 1) Multiple Response (\$229,086) and Adoption Programs (\$459,156); 2) Grants-in-Aid (\$413,044) for child placement services; and 3) Methamphetamine Training (\$137,535). This reduction eliminates funding for non-mandated services, conferences, and trainings. Additionally, because placement agencies receive standardized rates (standardization effective January 2009), supplementary grants-in-aid are no longer necessary. Prior Methamphetamine training and support has also led to the creation of community protocols, thereby reducing the need for ongoing training.</p>	<p>(\$1,238,821) R</p>
<p>89 Electing Counties' Work First State Funds Replaces funding for Electing Counties' Work First programs with Temporary Assistance for Needy Families (TANF) funds. This reduction does not reduce budgeted funds for Electing Counties' Work First County Block Grants or Work First Family Assistance.</p>	<p>(\$2,378,213) R</p>
<p>90 State-County Special Assistance Reduces funding in accordance with projected FY 2010-11 assistance levels. Counties' requirements are likewise reduced, due to equal financial participation for State-County Special Assistance. Projected savings are the result of the Special Assistance rate reduction that took effect October 1, 2009.</p>	<p>(\$3,388,044) R</p>
<p>91 FMAP Extension - Foster Care & Adoption Assistance Reduces funding for foster care and adoption assistance payments per extension of the ARRA enhanced federal medical assistance percentage (FMAP) rate - a base 6.2 percentage point increase from January 2011 through June 2011.</p>	<p>(\$1,421,552) NR</p>
<p>92 Over-Realized Receipts Budgets prior year earned revenue on a non-recurring basis to offset an equivalent reduction in General Fund appropriations.</p>	<p>(\$450,000) NR</p>
<p>93 Permanency Planning State Match Transfers the twenty-five percent state match requirement for federal IV-B1 funding to county departments of social services. These receipts support permanency planning services for children, including activities to support foster care, adoption, and child protective services.</p>	<p>(\$682,512) R</p>

<p>94 State Adult Care Home Specialist Fund Adjusts the current non-federal financial participation rates for the state and counties, evenly distributing the non-federal share at twenty-five percent. Currently, the state contributes forty percent of the non-federal share and counties contribute ten percent. Adult Care Home Specialist funds are allocated to counties based on the number of licensed adult care homes. Funds support monitoring and inspection activities by county departments of social services.</p>	<p>(\$525,000) R</p>
<p>95 State Funding Authorizations for Counties Continues a reduction in state funding authorizations for counties for Foster Care/Adoption Title IV-E, Child Protective Services-State, and Child Protective Services Title IV-E. These reductions were implemented during FY 2009-10 to cover the projected revenue shortfall.</p>	<p>(\$2,390,896) R</p>
<p>96 Food Banks Provides a non-recurring grant-in-aid to be equally distributed to the six regional food banks within North Carolina.</p>	<p>\$1,000,000 NR</p>
<p>97 Child Welfare Education Collaborative Continues support of the Child Welfare Education Collaborative educational assistance program for social work students who commit to working in child protective services in county departments of social services.</p>	<p>\$239,453 R</p>
<p>98 Children's Home Society Provides a non-recurring grant-in-aid to the Children's Home Society for FY 2010-11.</p>	<p>\$200,000 NR</p>
<p>(9.0) Office of Education Services</p>	
<p>99 Position Eliminations Eliminates positions within the Office of Education Services.</p>	<p>(\$2,127,065) R -50.00</p>

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

<p>100 Food Service Staffing</p> <p>Eliminates ten filled food service positions within the residential schools for the blind and deaf, per evaluation of food service operations by the Department of Public Instruction's Child Nutrition Section, using the USDA meal per labor hour (MPLH) efficiency standard. Present ratios of approximately 1.7 MPLH are significantly lower than the USDA recommended minimum of 15 - 20 MPLH for Child Nutrition Programs.</p>	<p>(\$282,991) R</p> <p>-10.00</p>
<p>101 Temporary Staffing</p> <p>Reduces funding for temporary wages within the Office of Education Services.</p>	<p>(\$58,500) R</p>
<p>102 Residential School Administrative Staffing</p> <p>Consolidates functions among residential school administrative positions, requiring the directors of the residential schools to assume full oversight of academic and business operations.</p> <p>Eliminates two filled and one vacant position within the North Carolina School for the Deaf: School Principal, #60039101 - \$101,516 School Assistant Principal, #60039082 - \$88,786 School Assistant Principal, #60039080 - \$88,804</p> <p>Eliminates two filled positions within the Eastern North Carolina School for the Deaf: School Principal, #60039225 - \$108,563 School Assistant Principal, #60039138 - \$85,317</p> <p>Eliminates one filled and one vacant position within the Governor Morehead School for the Blind: School Administrator, #60039380 - \$71,636 School Assistant Principal, #60039392 - \$60,764</p>	<p>(\$605,386) R</p> <p>-7.00</p>
<p>103 Beginnings, Inc. Contract</p> <p>Reduces funding for training of early intervention and public school professionals. This is a 4.8% reduction in total funding for contractual services provided by Beginnings, Inc, leaving \$919,730 in recurring funding.</p>	<p>(\$46,459) R</p>

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

<p>104 Office of Education Services Central Office Eliminates the Office of Education Services Central Administration and DHHS Exceptional Children Support programs, effective October 1, 2010. Non-recurring funds are appropriated to support the activities of the interim Superintendent.</p>	<p>(\$1,103,070) R \$130,211 NR -15.00</p>
<p>(10.0) Division of Aging and Adult Services</p>	
<p>105 Project C.A.R.E. Provides funds for Project C.A.R.E.</p>	<p>\$100,000 R</p>
<p>(11.0) Divisions of Services for the Blind and Services for the Deaf and Hard of Hearing</p>	
<p>106 Special Assistance for the Blind Consolidation Merges the Special Assistance for the Blind sub-program presently administered by the Division of Services for the Blind with the State-County Special Assistance program within the Division of Aging and Adult Services.</p>	<p>(\$287,807) R -1.00</p>
<p>107 Over-Realized Receipts Budgets receipts within the Division of Services for the Blind as follows: 1) Social Security Administration receipts (\$150,428) per successful vocational rehabilitation client employment outcomes on a non-recurring basis; and 2) Other vending receipts (\$155,829) for independent living services. In addition, \$20,417 in Telecommunications Relay Trust Fund receipts are budgeted within the Division of Services for the Deaf and Hard of Hearing for general administration. These additional receipts were identified during FY 2009-10 through updates to DHHS cost allocation plans. These cumulative receipts offset equivalent reductions in General Fund appropriations.</p>	<p>(\$176,256) R (\$150,428) NR</p>
<p>108 Position Eliminations Eliminates positions within the Divisions of Services for the Blind, Deaf and Hard of Hearing.</p>	<p>(\$93,421) R -2.00</p>

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

109 Accessible Electronic Information for Blind and Disabled Persons

Funds contracted electronic information services, which allow visually-impaired persons to access print media through telephone systems.

\$75,000 NR

(12.0) Division of Vocational Rehabilitation

110 Position Eliminations

Eliminates vacant positions within the Division of Vocational Rehabilitation Services Independent Living program.

(\$252,067) R

-5.00

111 Aid & Public Assistance - Vocational Rehabilitation Basic Support

Reduces funding for vocational rehabilitation (VR) services. This reduction reflects projected match requirements for the VR Basic Support Grant, and leaves \$24,254,076 in appropriations for case services. DHHS implemented a non-recurring reduction of \$5,513,648 during FY 2009-10 to manage the projected revenue shortfall. DVRS will budget federal funds matched in prior years to partially offset this non-recurring reduction in FY 2010-11 appropriations.

(\$1,288,915) NR

Budget Changes

\$182,409,745 R

(\$553,519,916) NR

Total Position Changes

-194.00

Revised Total Budget

\$3,949,918,671

**NATURAL
&
ECONOMIC
RESOURCES
Section H**

Agriculture and Consumer Services

GENERAL FUND

Total Budget Approved 2009 Session	FY 10-11
	\$60,559,608

Budget Changes

Department-wide

- | | | |
|---|-----------------|-------|
| 1 Vacant Positions | (\$440,218) | R |
| Eliminates 9.0 vacant positions across the Department. Eliminated positions include: | | |
| | -9.00 | |
| <ul style="list-style-type: none"> #60012677 Research Technician #60011868 Technology Support Analyst #60011886 Processing Assistant III #60011902 Processing Assistant III #60011965 Food Inspector #65006175 Quality Assurance Manager #60012160 Vet Lab Assistant I #60012115 Livestock Compliance Officer #60095971 Processing Assistant III | | |
|
2 IT Budget Reductions |
(\$84,036) |
R |
| Reduces the Department's non-salary IT budget by 3%. This reduction is based on the average difference between budgeted and actual expenditures for the past four fiscal years. | | |
|
3 Travel Budget Reductions |
(\$70,995) |
R |
| Reduces the budget for payments to the Motor Fleet Management (MFM) Division by 7.5%. This decrease reflects the recent rate reduction implemented by MFM. | | |
|
4 Equipment Budget Reductions |
(\$223,520) |
R |
| Reduces the equipment budget in the Department by \$447,039; half of this reduction is taken on a recurring basis and half is nonrecurring. This represents approximately a 9.0% reduction to the Department's equipment budget in FY 2010-11. | | |
| | (\$223,519) | NR |
|
Ag Statistics | | |
| 5 Operating Expense Reduction | (\$55,000) | R |
| Reduces the operating budget within the Ag Statistics Division by approximately 16%. | | |

Emergency Programs

6 Contracts Funds (\$15,000) R
 Reduces funds for contracts within the Emergency Programs Division by \$15,000, approximately 12% of total funds for miscellaneous contractual services.

Food and Drug Protection

7 Spay/ Neuter Funds
 Requires the Animal Feed & Pet Food Branch within the Food and Drug Protection Division to transfer \$250,000 in receipts to the Spay/ Neuter Account annually. This branch has over realized receipts by at least \$250,000 each year since FY 2006-07.

8 NC Egg Law Program (\$151,481) R
 Reduces the Egg Law Program by eliminating 3.0 positions and associated operating. One position will remain and will focus on investigations and consumer complaints. Other inspectors within the Food and Drug Protection Division will assume Egg Law inspection duties where possible. The eliminated positions include:
 -3.00
 #60011637 Egg Law Inspector
 #60011638 Egg Law Inspector
 #60011639 Egg Law Inspector

Food Distribution

9 Fuel Budget to Federal Receipts (\$50,000) R
 Fund shifts a portion of the diesel fuel budget within the Food Distribution division to Federal receipts. Federal receipts fund approximately 45% of the Division's operations.

General Administration

10 Agricultural Development and Farmland Preservation Trust Fund \$2,000,000 R
 Provides \$2 million for the Agricultural Development and Farmland Preservation Trust Fund.

11 FFA Foundation, Inc (\$2,376) R
 Reduces the recurring pass-through appropriation for the FFA Foundation, Inc by 5%, leaving \$45,144 recurring.

Markets

12 Got to Be NC

Provides funds for "Got to Be NC" marketing. This program promotes North Carolina's farmers by helping to develop markets for North Carolina produce and products in grocery stores, restaurants, farmers markets, and other establishments.

\$250,000 NR

13 International Trade

Provides funds to support international trade initiatives.

\$200,000 NR

14 Farmers Markets

Reduces operating funds for the Farmers Markets operated by the Department.

(\$90,000) R

Plant Industry

15 Phytosanitary Fees

Increases phytosanitary fees within the Plant Industry Division. Subchapter 48A of North Carolina Administrative Code, Export Certification Inspection Fee, directly ties the Division's fee structure for phytosanitary inspections to the federal phytosanitary fee structure. This fee increase brings the Department's fee structure in line with USDA.

(\$20,000) R

Public Affairs

16 Operating Budget

Reduces General Fund support for the Public Affairs Division by approximately 6%.

(\$25,000) R

17 Ag in the Classroom

Reduces the recurring pass-through appropriation for Ag in the Classroom by 5%, leaving \$22,572 recurring.

(\$1,188) R

Structural Pest and Pesticides

18 Pesticide Section

Reduces General Fund support for the Pesticide Section by requiring the Section to budget over realized receipts and increase fees. This change requires that 12.68 positions be transferred to receipt support

(\$629,944) R

-12.68

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

19 Structural Pest Section Fees	(\$100,000)	R
Increases fees for certified applicator and license exams, structural licenses, structural certified applicator cards, and registered technician cards.		
Veterinary Services		
20 Online Reporting of Lab Results	(\$15,000)	R
Directs the Veterinary Services Division to increase the use of online reporting of vet lab results. The Division shall default to online reporting of vet results but will provide printed results upon request.		
21 Rose Hill Vet Lab	(\$431,798)	R
Eliminates the Rose Hill Vet Lab. The Rose Hill Lab is the least active and oldest of the Division's five veterinary labs. Elimination of this lab will streamline laboratory processes and eliminate an underperforming facility. This will eliminate 7.0 positions, including:		
-7.00		
<ul style="list-style-type: none"> #60012203 Veterinarian #60012204 Veterinarian #60012205 Processing Assistant III #60012206 Processing Assistant III #60012208 Vet Lab Assistant I #60012209 Medical Lab Technologist I #60012214 Medical Lab Assistant II 		

Budget Changes	(\$405,556)	R
	\$226,481	NR
Total Position Changes	-31.68	
Revised Total Budget	\$60,380,533	

Labor

GENERAL FUND

Total Budget Approved 2009 Session	FY 10-11
	\$17,400,863

Budget Changes

Department-wide

- | | | |
|--|-------------|---|
| 22 Salary Reserve | (\$280,280) | R |
| Reduces salary reserve across the Department by \$280,280. Salary Reserve is the difference between the budgeted amount for a position and the actual salary paid. | | |
|
 | | |
| 23 Travel Budget Reductions | (\$32,778) | R |
| Reduces the budget for payments to the Motor Fleet Management (MFM) Division by 7.5%. This decrease reflects the recent rate reduction implemented by MFM. | | |
|
 | | |
| 24 Operating Expense Reduction | (\$38,295) | R |
| Reduces the operating budget across the Department by \$38,295. | | |
|
 | | |
| 25 Vacant Positions | (\$157,234) | R |
| Eliminates 3.5 vacant positions in the Department. Positions include: | | |
| | -3.50 | |
| #60012895 Accounting Clerk IV | | |
| #60013222 Processing Assistant IV | | |
| #60013055 Admin Services Assistant | | |
| #60012877 Physical Facilities Manager | | |
|
 | | |
| Commissioner's Office | | |
| 26 Administrative Position to Fee Support | (\$52,784) | R |
| Fund shifts an administrative position within the Commissioner's Office to fees generated by the Elevator and Amusement Device and Boiler Inspection Bureaus. | | |
| | -1.00 | |

Occupational Safety & Health

27 Operating Expenses to Federal Receipts (\$341,184) R
 Replaces General Fund appropriations for the Occupational Safety & Health Division with federal receipts. In FY 2008-09, federal receipts accounted for approximately 35.5% of the budget for Occupational Safety & Health.

Standards and Inspections

28 Apprenticeship Program (\$200,000) R
 Reduces General Fund appropriation for the Apprenticeship Program and fund shifts 3.0 positions to receipts. If sufficient receipts are not realized to support these positions, the positions shall be eliminated. The Department is encouraged to promote this program to maximize participation and enrollment. -3.00

Budget Changes	(\$1,102,555)	R
Total Position Changes	-7.50	
Revised Total Budget	\$16,298,308	

Environment & Natural Resources

GENERAL FUND

Total Budget Approved 2009 Session	FY 10-11
	\$190,399,356

Budget Changes

(1.0) Department-wide

29 IT Budget Reductions (\$750,000) R

Reduces the Department's non-salary IT budget based on the average difference between budgeted and actual expenditures for the past four fiscal years.

30 Travel Budget Reductions (\$120,432) R

Reduces the budget for payments to the Motor Fleet Management (MFM) Division by 7.5%. This decrease reflects the recent rate reduction implemented by MFM.

31 Division of Environmental Assistance and Outreach (\$230,000) R

Consolidates the Division of Pollution Prevention and Environmental Assistance, the Customer Service Center, and the Small Business Ombudsman into one Division, the Division of Environmental Assistance and Outreach. This consolidation eliminates 4.0 positions:

- #60035073 Environmental Program Supervisor II
- #60035069 Administrative Secretary II
- #60035079 Info & Comm Spec II
- #60035068 Accounting Tech

32 Special Fund Closure

Directs the Department to transfer the operating budgets, positions, and remaining cash balance from the Lab Certification Fees fund (24300-2335) into the Division of Water Quality (14300-1635).

(2.0) Administration

33 Chief Technology Officer (\$99,578) R

Eliminates funding for the Chief Technology Officer. This position is currently vacant. -1.00

(2.0) Secretary's Office

34 Sustainable Communities Task Force

Provides funding for the Sustainable Communities Task Force to make North Carolina competitive to leverage federal Sustainable Communities Program funds. Housing and Urban Development has \$150,000,000 available in grant funding for this program this fiscal year. These funds will be used to provide grants to regional sustainable development partnerships.

\$250,000 NR

35 Office of Conservation, Planning, and Community Affairs

Consolidates the Office of Conservation and Community Affairs and the Natural Resources Planning and Conservation Division into the Office of Conservation, Planning, and Community Affairs. The new Office will be housed in the Secretary's Office.

36 Office of Environmental Education and Public Affairs

Consolidates the Office of Environmental Education and the Office of Public Affairs into the Office of Environmental Education and Public Affairs. The new Office will be housed in the Secretary's Office.

(3.0) Coastal Management

37 Position to Receipt Support

Fund shifts 0.5 of a district manager position to express permit receipts.

(\$48,788) R
-0.50

(3.0) Environmental Assistance and Outreach

38 Positions to Receipts

Fund shifts 3.37 positions to the Solid Waste Management Trust Fund.

(\$250,000) R
-3.37

(3.0) Environmental Health

39 Bedding Program

Fund shifts a portion of rent for the Division to receipts collected from bedding inspections.

(\$17,008) R

40 Childhood Lead Poisoning Prevention Program

This reduction eliminates 1.0 vacant position (\$71,562, #60034294) and funding for reimbursements to counties (\$70,168).

(\$141,730) R
-1.00

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

<p>41 Food and Lodging Program Reduces aid to counties for food and lodging programs by 33%. Each county's share will be reduced from \$6,000 to \$4,000.</p>	<p>(\$200,000) R</p>
<p>42 Shellfish Sanitation Eliminates 1.0 vacant shellfish sanitation position (#60034496) for a savings of \$77,713; this position has been vacant since February 10, 2010. In addition, fund shifts 1/2 of 2.0 shellfish sanitation positions (#60034517 and #60034516) to receipt support for a savings of \$43,990. Reduces operating budget for scientific supplies by \$2,932.</p>	<p>(\$124,635) R -2.00</p>
<p>43 Water Supply Section Eliminates 1.0 vacant Business Officer position (#60034259) in the Water Supply Section. This position has been vacant since July 10, 2009.</p>	<p>(\$55,540) R -1.00</p>
<p>44 Public Health Pest Management Reduces grants-in-aid for mosquito pest management by \$100,000, leaving \$186,191 for this purpose.</p>	<p>(\$100,000) R</p>
<p>(3.0) Land Resources</p>	
<p>45 Position to Receipt-Support Fund shifts 1.083 Environmental Technician positions to receipts.</p>	<p>(\$44,431) R -1.08</p>
<p>46 Sediment and Erosion Control Eliminates aid to local governments for the establishment of sediment and erosion control programs.</p>	<p>(\$101,357) R</p>
<p>47 Workshops and Educational Materials Reduces funding for workshops and educational outreach materials related to erosion and sedimentation control. After this reduction, \$100,000 will remain for these purposes.</p>	<p>(\$66,700) R</p>
<p>48 Natural Gas and Petroleum Potential Provides funding for 1.0 new position and associated operating expenses to work on the characterization of natural gas and petroleum potential in the Mesozoic Deep River basin in North Carolina.</p>	<p>\$135,000 R 1.00</p>

49 Dam Safety Fee

Provides for a one-time assessment on utilities to pay for 1.0 two-year time-limited Environmental Engineer position to manage and conduct dam safety inspections. This position will be wholly receipt supported by this assessment. The \$1,100 per dam equivalent fee is expected to generate approximately \$170,120.

(3.0) Waste Management

50 Hazardous Waste Fees

(\$325,000) R

Raises fees on hazardous waste generators, transporters, as well as storage, treatment, and disposal facilities. Some fees were last raised in 2003. Others have not been raised since their inception in 1987.

51 Positions & Operating to Receipts

(\$165,405) R

Fund shifts 1.1 positions and associated operating costs to EPA grant funding and 1.0 position and associated operating costs to hazardous waste receipts.

-2.10

(3.0) Water Quality

52 Positions to Federal Support

(\$442,875) R

Fund shifts positions within the Division of Water Quality to federal support.

-7.50

53 Neuse River Rapid Response Team

(\$113,498) R

Eliminates funding for one filled and one vacant position associated with the Neuse River Rapid Response Team. The eliminated positions are

-2.00

- #60035508 Environmental Senior Technician
- #60035507 Environmental Supervisor

54 Water Quality Monitoring on Ferry Vessels

\$250,000 NR

Provides funds for the FerryMon Program, which evaluates water quality in the Pamlico Sound and its tributary rivers using equipment attached to ferry vessels.

(3.0) Water Resources

- 55 River Basin Commissions** (\$35,000) R
 Reduces funding for the river basin commissions. \$5,000 will remain to support the work of these commissions.

- 56 Vacant Position and Operating Budget** (\$252,134) R
 Eliminates 1.0 vacant Environmental Supervisor III position (\$104,750) and reduces the Division's operating budget for streamflow gages (\$73,692) and well drilling and repair (\$73,692). -1.00

(4.0) Aquariums

- 57 Operating Budget** (\$714,297) R
 Eliminates the General Fund appropriation that supports special activities and events (\$410,000). Funds for special events and activities are replaced by increased rental fees at the three Aquariums. 3.0 positions are fund shifted to these increased receipts. General Fund appropriations used for daily operations are reduced by \$304,297. Gate admissions budgeted in the North Carolina Aquariums special fund shall be used to offset this reduction. -3.00

This item was amended in the budget technical corrections bill (SB 1202). The Division must still manage this reduction through increased rental fees and budgeted gate admissions but the specific amount of fees to be raised and gate admissions to be budgeted was removed.

(4.0) Forest Resources

- 58 Aircraft Operations** (\$469,817) R
 Reduces personnel and operating expenses for aircraft operations by \$469,817, partially implementing the recommendations included in the Program Evaluation Division's Study of State Aircraft. This reduction eliminates 4.0 pilot positions and 2.0 mechanic positions. The Division is sell not less than 10 aircraft, resulting in \$1.5 million in one-time funds. If the sale of the aircraft does not bring in \$1.5 million, the Division is to manage this nonrecurring reduction. (\$1,500,000) NR
-6.00

This item was amended in the budget technical corrections bill (SB 1202) to clarify that the Division shall reduce its fleet by not less than 10 aircraft and that State owned aircraft are to be sold and federally owned aircraft are to be returned to the federal government.

- 59 Aircraft Hangars** (\$13,060) R
 Directs the Division to consolidate the location of aircraft and terminate the leases of two unnecessary hangars.

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

<p>60 Liability Insurance Reduces funding for liability insurance in the Division of Forest Resources by 4.6%, leaving over \$280,000 for this purpose.</p>	<p>(\$14,900) R</p>
<p>61 Principal Payments for Equipment Reduces funding for principal payments for new equipment. On average over the last four fiscal years, over a million dollars in funds have not been expended from this line item.</p>	<p>(\$1,260,686) R</p>
<p>62 Temporary Wages Reduces temporary wages within the Division by approximately 20%, leaving \$867,175 in appropriation for temporary wages. The Division also budgets over \$411,000 in receipts for temporary wages.</p>	<p>(\$249,189) R</p>
<p>63 Young Offenders Forest Conservation Program (BRIDGE) Restores 95% of the funding for the BRIDGE program, which was subject to Continuation Review in FY 2009-10.</p>	<p>\$991,648 R 10.00</p>
(4.0) Marine Fisheries	
<p>64 Helicopter Operations Eliminates the Division's 3 helicopters and associated operating expenses in accordance with the recommendations from the Program Evaluation Division's Study of State Aircraft. The aircraft will be sold, generating one time revenue of \$35,000.</p>	<p>(\$25,218) R (\$35,000) NR</p>
<p>65 Communication Equipment Reduces funding for communication equipment in the Division of Marine Fisheries by approximately 29.5%, or \$32,322.</p>	<p>(\$32,322) R</p>
<p>66 Positions to Receipt Support Fund shifts 3.0 positions to receipt support (#60032528 - Public Information Asst IV, #60032665 - Info & Communication Spec I, and #60032536 - Info & Communication Spec).</p>	<p>(\$132,836) R -3.00</p>

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

<p>67 At-Sea Observer Program Reduces funding for the Fisheries Resource Grant Program run through Sea Grant by \$300,000 to provide recurring appropriation for the At-Sea Observer program. The At-Sea Observer program will monitor gill net fisheries and record sea turtle and other endangered and threatened species interactions. This leaves \$300,000 for the Fisheries Resource Grant Program.</p>	<p>(\$300,000) R</p>
<p>68 At-Sea Observer Program Uses the \$300,000 from the Fisheries Resource grant program to establish the At-Sea Observer program. This program is necessary to meet federal requirements to monitor gill net fisheries and record sea turtle and other endangered and threatened species interactions.</p>	<p>\$300,000 R 3.00</p>
<p>(4.0) Museum of Natural Sciences</p>	
<p>69 Academic Services Reduces funding for Academic Services within the Public Programs and Exhibits Sections of the Museum of Natural Sciences. The academic services line item is used to purchase services from independent contractors and/or external organizations for contracted professional and consultative personal services.</p>	<p>(\$67,851) R</p>
<p>70 Operating Budget Reduces various operating expenses within the Museum of Natural Sciences by approximately 14%.</p>	<p>(\$280,688) R</p>
<p>71 Temporary Wages Reduces funds for temporary wages within the Museum of Natural Sciences by approximately 10%, leaving approximately \$450,000 for this purpose.</p>	<p>(\$45,000) R</p>
<p>(4.0) Natural Resource Planning and Conservation</p>	
<p>72 Conservation Information and Incentives Program Replaces General Fund support for the Conservation Information and Incentives program with receipts from the Natural Heritage Trust Fund. This change shifts 5.48 positions to receipts.</p>	<p>(\$401,658) R -5.48</p>

(4.0) Parks and Recreation

73 State Park Parking Fees

In lieu of charging for parking as directed in S.L. 2009-451, the Division is directed to manage the \$2,237,963 recurring reduction through decreased operating expenditures in line items 532XXX through 535XXX.

(4.0) Soil and Water Conservation

74 Agriculture Cost Share Financial Assistance Program

(\$212,153) R

Reduces funding for the financial assistance portion of the Agriculture Cost Share Program by 5%, leaving approximately \$4 million in matching funds for implementing agricultural best management practices.

75 Conservation Reserve Enhancement Program

(\$289,640) R

Reduces funding for the Conservation Reserve Enhancement Program (CREP) by 50%, leaving \$289,640 for this program.

76 Community Conservation Assistance Program

(\$6,903) R

Reduces funding for the Community Conservation Assistance Program (CCAP) by approximately 5%, leaving \$131,155 for this program.

(4.0) Zoological Park

77 Vehicle Replacement Funds

(\$500,000) NR

Reduces funding for the replacement of vehicles and trams for one year.

78 Tort Claims

(\$40,000) R

Reduces funds available for tort claims by 80%, leaving \$10,000 for this purpose.

(5.0) Reserves and Transfers

79 Partnership for the Sounds

(\$25,345) R

Reduces the recurring pass-through appropriation for the Partnership for the Sounds by 5%, leaving \$481,560 in funding.

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

80 Clean Water State Revolving Fund

Provides funding to meet the 20% State match requirement for drawing down the maximum available federal funds for the Clean Water (Wastewater Treatment Plant) State Revolving Fund. In addition to the amount appropriated, \$935,271 in interest earned on the Clean Water State Revolving Fund will be used to reach the full match amount of \$7,333,399.

\$6,398,128 NR

81 Drinking Water State Revolving Fund

Provides fund to meet the 20% State match requirement for drawing down the maximum available federal funds for the Drinking Water State Revolving Fund.

\$6,201,872 NR

Budget Changes	(\$6,839,026)	R
	\$11,065,000	NR
Total Position Changes	-30.03	
Revised Total Budget	\$194,625,330	

DENR-Clean Water Management Trust Fund

GENERAL FUND

Total Budget Approved 2009 Session	FY 10-11
	\$50,000,000

Budget Changes

Clean Water Management Trust Fund

82 No Change

Receives appropriation per S.L. 2009-451.

Budget Changes

Total Position Changes

Revised Total Budget **\$50,000,000**

Commerce

GENERAL FUND

Total Budget Approved 2009 Session	FY 10-11
	\$40,915,209

Budget Changes

Department-wide

83 Vacant Positions (\$220,649) R

Eliminates 4.0 vacant positions in the Department: 1.0 position in Policy, Research, and Planning; 2.0 positions in Business and Industry; and 1.0 position in the Secretary's Office. The positions are:

- #60077154 Administrative Assistant
- #60080971 Administrative Assistant
- #60080963 Program Assistant IV
- #60081030 Economist

84 IT Budget Reduction (\$755,242) R

Reduces the Department of Commerce's non-salary IT budget by 7.9%. This reduction is based on the average difference between budgeted and actual expenditures for the past four fiscal years.

85 Travel Budget Reductions (\$36,284) R

Reduces the budget for payments to the Motor Fleet Management (MFM) Division by 7.5%. This decrease reflects the recent rate reduction implemented by MFM.

Administration

86 Operating Budget Reduction (\$20,000) R

Reduces the operating budget for administration by \$20,000

Business and Industry

87 Business Recruitment and Product Marketing \$875,000 NR

Provides funding to attract businesses to locate operations in North Carolina and to increase the sale of North Carolina exports, including agricultural commodities.

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

<p>88 Operating Budget Reduction Reduces the operating budget for the Division of Business and Industry Development by \$30,000.</p>	<p>(\$30,000) R</p>
Commerce Finance	
<p>89 Jobs Maintenance and Capital Development Fund (JMAC) Appropriates \$6 million for Bridgestone/Firestone and Goodyear agreements for the 2009 Grant Year.</p>	<p>\$6,000,000 NR</p>
<p>90 Jobs Maintenance and Capital Development Fund (JMAC) Appropriates \$500,000 for a pending agreement with Domtar for the 2010 Grant Year.</p>	<p>\$500,000 NR</p>
<p>91 One NC Fund Provides additional funding for the One NC Fund to enhance the competitive position of North Carolina when recruiting national and international business and industry projects. Three percent of these funds shall be used for small business expansion.</p>	<p>\$12,500,000 NR</p>
<p>92 One NC Small Business Fund Funds the One NC Small Business Fund program, which provides matching grants to businesses that qualify for federal SBIR/STTR Incentives funds.</p>	<p>\$1,500,000 NR</p>
<p>93 In-Source NC Network Provides funding to develop university-based buyer-supplier networks within emerging and established industry clusters inside the State. These buyer-supplier networks would be modeled on an existing network developed and operated through the NCSU College of Textiles.</p>	<p>\$150,000 NR</p>

Community Assistance

94 Main Street Solutions

Provides funding for the Main Street Solutions Program and the creation of one two-year time limited position to administer the program. This program provides grants to active Main Street Communities and designated micropolitans with populations between 10,000 and 50,000 people. Grants are to be used to support downtown economic development, historic preservation initiatives, and other public and private improvement projects that will support small businesses and job creation.

\$1,500,000 NR
1.00

Executive Aircraft

95 Aircraft to DOT

Eliminates the Executive Aircraft Division within the Department of Commerce, including 1.0 pilot position, 1.0 mechanic position, and \$300,000 in associated position and operating expenses. 3.0 pilots, 1.0 mechanic, \$500,000, and Commerce's two aircraft and their associated receipts will be transferred to the Aviation Division within the Department of Transportation (DOT). Commerce will retain \$127,315 for expenses related to using DOT's aircraft. This reduction reflects recommendations from the Program Evaluation Division's Study of State Aircraft.

(\$800,000) R
-6.00

Industrial Commission

96 Over Realized Receipts

Requires the Industrial Commission to budget over realized receipts.

(\$429,863) R

International Trade

97 International Trade

Provides funds to help create additional export opportunities for NC companies in Asian and South American markets and to increase North Carolina investment interest from Asian and South American companies.

\$200,000 NR

Policy, Research, and Strategic Planning

98 Operating Budget Reduction

Reduces the operating budget for the Policy, Research, and Strategic Planning Division by \$20,000

(\$20,000) R

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

Science and Technology

99 Energy Research Grants

Appropriates \$1 million to Commerce for matching funds for US Department of Energy grants to support energy research and green jobs.

\$1,000,000 NR

100 Operating Budget Reduction

Reduces the Board of Science and Technology's budget by approximately 5%.

(\$18,000) R

State Energy Office

101 Utility Training Sessions

Reduces funding for training sessions offered by the Utility Savings Initiative Program in the State Energy Office. These sessions are offered to representatives of State agencies on various energy efficiency topics. Approximately 35 fewer sessions will be held as a result of this reduction.

(\$127,657) R

Tourism, Film, and Sports Development

102 Tourism Marketing Funds

Provides funding for marketing North Carolina as a tourist destination. The Department is encouraged to use historically underutilized businesses and to support supplier diversity when expending these funds.

\$1,000,000 NR

103 Tourism Matching Grants

Eliminates 100% of funds for small matching grants for local tourism projects.

(\$129,976) R

Wanchese Seafood Industrial Park

104 Oregon Inlet Project

Eliminates funding for the Oregon Inlet Project for FY 2010-11.

(\$248,327) NR

105 Operating Budget Reduction

Reduces the Wanchese Seafood Industrial Park's operating budget by approximately 5%.

(\$10,000) R

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

Wine & Grape Growers Council

106 Operating Budget Reduction

Reduces the Wine & Grape Growers Council operating budget by approximately 13%.

(\$108,357) R

Budget Changes	(\$2,706,028)	R
	\$24,976,673	NR
Total Position Changes		-9.00
Revised Total Budget	\$63,185,854	

Commerce - State Aid

GENERAL FUND

	FY 10-11
Total Budget Approved 2009 Session	\$15,388,725

Budget Changes

107 Land Loss Prevention	(\$37,235)	R
Reduces the recurring pass-through appropriation for Land Loss Prevention by 5%, leaving \$707,465 recurring.		
108 Institute of Minority Economic Development	(\$132,495)	R
Reduces the recurring pass-through appropriation for the Institute of Minority Economic Development by 5%, leaving \$2,517,405 recurring.		
109 Association of Community Development Corporations (CDCs)	(\$51,615)	R
Reduces the recurring pass-through appropriation for the Association of CDCs by 5%, leaving \$980,685 recurring.		
110 Minority Support Center	(\$164,670)	R
Reduces the recurring pass-through appropriation for the Minority Support Center by 5%, leaving \$3,128,730 recurring.		
111 Community Development Initiative	(\$246,460)	R
Reduces the recurring pass-through appropriation for the Community Development Initiative by 5%, leaving \$4,682,740 recurring.		
112 e-NC Authority	(\$23,265)	R
Reduces the recurring pass-through appropriation for the e-NC Authority by 5%, leaving \$442,035 recurring.		
113 Councils of Government (COGs)	(\$21,250)	R
Reduces the recurring pass-through appropriation for the COGs by 5%, leaving \$403,750 recurring.		

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

<p>114 High Point Furniture Market Reduces the recurring pass-through appropriation for the High Point Furniture Market by 5%, leaving \$806,479 recurring.</p>	<p>(\$42,446) R</p>
<p>115 Defense and Security Technology Accelerator Reduces the non-recurring pass-through appropriation for the Defense and Security Technology Accelerator by 5%, leaving \$950,000 non-recurring.</p>	<p>(\$50,000) NR</p>
<p>116 Minority Support Center Provides \$750,000 for funds for small business loans for those that have limited access to credit.</p>	<p>\$750,000 NR</p>
<p>117 Regional Economic Development Commissions Provides funding for the seven Regional Economic Development Commissions. Each Commission shall receive a combination of recurring and nonrecurring funds.</p>	<p>\$2,500,000 R \$2,500,000 NR</p>
<p>118 Biofuels Center Provides \$5 million recurring for the Biofuels Center.</p>	<p>\$5,000,000 R</p>
<p>119 Research Triangle Institute Provides \$500,000 in nonrecurring matching funds for a US Department of Energy grant for energy research and green jobs.</p>	<p>\$500,000 NR</p>
<p>120 Indian Economic Development Initiative Provides nonrecurring funding for the Indian Economic Development Initiative.</p>	<p>\$100,000 NR</p>
<p>121 Institute for Regenerative Medicine Provides funding for the Institute for Regenerative Medicine.</p>	<p>\$10,000,000 R</p>

Budget Changes	\$16,780,564	R
	\$3,800,000	NR
Total Position Changes		
Revised Total Budget	\$35,969,289	

N.C. Biotechnology Center

GENERAL FUND

Total Budget Approved 2009 Session	FY 10-11	
	\$14,501,900	

Budget Changes		
122 Operating Funds	\$5,000,000	R
Provides additional funding for the Biotechnology Center.		

Budget Changes	\$5,000,000	R
Total Position Changes		
Revised Total Budget	\$19,501,900	

Rural Economic Development Center

GENERAL FUND

	FY 10-11	
Total Budget Approved 2009 Session	\$23,832,436	
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Budget Changes		
123 Operating Reductions	(\$1,191,622)	R
<p style="margin-left: 20px;">Reduces the recurring pass-through appropriation for the Rural Center by 5%, leaving \$22,640,814 recurring.</p>		
124 Home Grown Jobs	\$3,125,000	NR
<p style="margin-left: 20px;">Provides additional funding for the Rural Center's Building Reuse and Restoration Program to strengthen the capacity of rural communities to compete for and attract new and expanding businesses. Funding for small-scale regional community development projects is also included.</p>		
125 Small Business Assistance Fund	\$1,000,000	NR
<p style="margin-left: 20px;">Provides funding to the Rural Center to continue the Small Business Assistance Fund.</p>		
126 Family Farm Opportunity and Innovation Fund	\$1,000,000	NR
<p style="margin-left: 20px;">Provides funding for the Rural Center to provide assistance to farmers via grants up to \$20,000 in three areas:</p> <ol style="list-style-type: none"> 1. Improving energy efficiency on the farm 2. Developing new markets 3. Developing new products 		
<hr/>		
Budget Changes	(\$1,191,622)	R
	\$5,125,000	NR
Total Position Changes		
Revised Total Budget	\$27,765,814	
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North Carolina State Fair

Budget Code: 53750

	FY 2010-11
Beginning Unreserved Fund Balance	\$2,262,050
Total Budget Approved 2009 Session	
Requirements	\$15,738,702
Receipts	\$14,768,425
Positions	67.00

Legislative Changes

Requirements:

Cash Balance	\$0	R
Transfers \$1,000,000 of the June 30th, 2010 cash balance in the NC State Fair enterprise funds to the General Fund for general availability. This change is estimated to leave a cash balance of over \$685,000.	\$1,000,000	NR
	0.00	
Subtotal Legislative Changes	\$0	R
	\$1,000,000	NR
	0.00	

Receipts:

Cash Balance	\$0	R
	\$0	NR
Contingency and Emergency Fund Transfer	\$0	R
SB 1202, the budget technical corrections bill, transfers \$1 million from the Contingency and Emergency Fund to the NC State Fair.	\$1,000,000	NR
Subtotal Legislative Changes	\$0	R
	\$1,000,000	NR

FY 2010-11

Revised Total Requirements	\$16,738,702
Revised Total Receipts	\$15,768,425
Change in Fund Balance	(\$970,277)
Total Positions	67.00

Unappropriated Balance Remaining	\$1,291,773
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DENR - Special

Budget Code: 24300

	FY 2010-11
Beginning Unreserved Fund Balance	\$20,914,606
Total Budget Approved 2009 Session	
Requirements	\$63,100,266
Receipts	\$48,337,247
Positions	368.99

Legislative Changes

Requirements:

2335 - Lab Certification Fee	\$847,515	R
Transfers the Lab Certification fee operating budget from a special fund code to General Fund code 1635.	\$0	NR
	0.00	
2221 - Bladen Lakes Cash Balance	\$0	R
Transfers \$150,000 of the June 30th, 2010 cash balance in the Bladen Lakes fund to the General Fund for general availability.	\$150,000	NR
	0.00	
2119 - Mercury Pollution Prevention Fund	\$0	R
Transfers \$2.25 million from the cash balance of the Mercury Pollution Prevention Fund to the General Fund for general availability.	\$2,250,000	NR
	0.00	
2335 - Lab Certification Fees	\$0	R
Transfers the cash balance from the Lab Certification Fees fund to the appropriate General Fund code for the Division of Water Quality.	\$459,830	NR
	0.00	
Subtotal Legislative Changes	\$847,515	R
	\$2,859,830	NR
	0.00	

Receipts:

	FY 2010-11
2335 - Lab Certification Fees	(\$733,983) R
Transfers the Lab Certification fee operating budget from a special fund code to General Fund code 1635.	\$0 NR
Subtotal Legislative Changes	(\$733,983) R
	\$0 NR
<hr/>	
Revised Total Requirements	\$66,807,611
Revised Total Receipts	\$47,603,264
Change in Fund Balance	(\$19,204,347)
Total Positions	368.99
<hr/>	
Unappropriated Balance Remaining	\$1,710,259

Solid Waste Management Trust Fund

Budget Code: 64303

	FY 2010-11
Beginning Unreserved Fund Balance	\$6,798,949
Total Budget Approved 2009 Session	
Requirements	\$7,383,604
Receipts	\$7,361,604
Positions	9.31

Legislative Changes

Requirements:

6770 - Scrap Tire Disposal Account	\$0	R
	\$0	NR
	0.00	
6780 - White Goods	\$0	R
	\$0	NR
	0.00	
Subtotal Legislative Changes	\$0	R
	\$0	NR
	0.00	

Receipts:

6770 - Scrap Tire Disposal	\$0	R
Diverts \$2.5 million from the Scrap Tire Disposal Account to the General Fund for FY 2010-11.	(\$2,500,000)	NR
6780 - White Goods	\$0	R
Diverts \$1,200,000 from the White Goods Fund to the General Fund for FY 2010-11.	(\$1,200,000)	NR
Subtotal Legislative Changes	\$0	R
	(\$3,700,000)	NR

FY 2010-11

Revised Total Requirements	\$7,383,604
Revised Total Receipts	\$3,661,604
Change in Fund Balance	(\$3,722,000)
Total Positions	9.31

Unappropriated Balance Remaining	\$3,076,949
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Wildlife Resources - Special

Budget Code: 24350

	FY 2010-11
Beginning Unreserved Fund Balance	\$923,486
Total Budget Approved 2009 Session	
Requirements	\$62,615,438
Receipts	\$62,615,438
Positions	652.50

Legislative Changes

Requirements:

Transfer to General Fund	\$0	R
Budgets the Wildlife Resources Commission (WRC) \$3 million transfer to the General Fund for general availability. WRC shall transfer \$750,000 to the General Fund at the beginning of each quarter.	\$3,000,000	NR
	0.00	
Subtotal Legislative Changes	\$0	R
	\$3,000,000	NR
	0.00	

Receipts:

Transfer to General Fund	\$0	R
	\$0	NR
Subtotal Legislative Changes	\$0	R
	\$0	NR

FY 2010-11

Revised Total Requirements	\$65,615,438
Revised Total Receipts	\$62,615,438
Change in Fund Balance	(\$3,000,000)
Total Positions	652.50

Unappropriated Balance Remaining	(\$2,076,514)
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**JUSTICE
&
PUBLIC SAFETY
Section I**

Judicial

GENERAL FUND

	FY 10-11	
Total Budget Approved 2009 Session		\$463,753,479

Budget Changes

- | | | |
|--|---|-------------------------------------|
| <p>1 Establish a Management Flexibility Reserve
 Establishes a Management Reserve to provide the Administrative Office of the Courts the flexibility to determine where reductions can be made.</p> | <p>(\$3,400,000)
 (\$3,300,000)</p> | <p>R
 NR</p> |
| <p>2 Reduce Technology Services Program
 Reduces the budget for the Administrative Office of the Courts' Technology Services Program by 8%. The AOC is authorized to delay or cancel technology projects in its discretion to achieve this reduction.</p> | <p>(\$2,616,294)</p> | <p>NR</p> |
| <p>3 Eliminate Vacant Central Office Positions
 Eliminates vacant positions in the Central Administration of the Administrative Office of the Courts.</p> | <p>(\$1,082,420)</p> | <p>R
 -18.75</p> |
| <p>4 Eliminate Vacant Field Positions
 Eliminates vacant positions statewide.</p> | <p>(\$1,769,574)</p> | <p>R
 -39.00</p> |
| <p>5 Reduce Operating Accounts to FY 2008-09 Levels
 Reduces various operating budgets throughout the Department to FY 2008-09 actual expenditure levels.</p> | <p>(\$1,164,843)</p> | <p>R</p> |
| <p>6 Reduce Dispute Settlement Center Pass Through
 Reduces the pass-through appropriation to the Dispute Settlement Centers by 5%.</p> | <p>(\$59,974)</p> | <p>R</p> |
| <p>7 Reduce NC Bar-Civil Justice Funds
 Reduces the pass-through appropriation to the NC State Bar for Access to Civil Justice by 5%.</p> | <p>(\$37,500)</p> | <p>R</p> |

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

8 Reduce Financial Protection Law Center

(\$3,750) R

Reduces the pass-through appropriation to the Financial Protection Law Center by 5%.

Budget Changes	(\$7,518,061)	R
	(\$5,916,294)	NR
Total Position Changes		-57.75
Revised Total Budget	\$450,319,124	

Judicial - Indigent Defense

GENERAL FUND

	FY 10-11
Total Budget Approved 2009 Session	\$120,132,010

Budget Changes

Department-wide

9 Reduce Various Operating Accounts (\$264,200) R

Reduces the operating budget in temporary personnel, registration fees, travel, communications, books and publications, and other operating expenses.

Indigent Person Attorney

10 Reduce PAC Continuation Budget (\$5,875,000) NR

Reduces the Private Assigned Counsel (PAC) Continuation Budget. The Office of Indigent Defense Services expects to end the fiscal year without carrying forward any unpaid PAC bills.

11 Reduce NC Prisoner Legal Services Program budget (\$142,031) NR

Reduces the NC Prisoner Legal Services Program (PLS) budget by 5% nonrecurring, leaving \$2.7 million recurring.

12 Reduce Center for Death Penalty Litigation Funding (\$23,821) R

Reduces Center for Death Penalty Litigation appropriation by 5%, leaving \$452,604.

13 Increase the Attorney Appointment Fee (\$250,000) R

Increases the Attorney Appointment Fee by \$10 to \$60.

Sentencing Services

14 Restore Sentencing Services Program \$2,123,426 R

Restores the Sentencing Services Program and adds a 5% reduction.

11.50

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

Budget Changes	\$1,585,405	R
	(\$6,017,031)	NR
Total Position Changes		11.50
Revised Total Budget	\$115,700,384	

Justice

GENERAL FUND

	FY 10-11	
Total Budget Approved 2009 Session		\$88,652,538

Budget Changes

A. Department-wide

- | | | | |
|--------------------------------------|--|---------------|----|
| 15 Eliminate Vacant Positions | | (\$501,600) | R |
| | Eliminates vacant positions throughout the agency. | | |
| | | -7.50 | |
|
 | | | |
| 16 Operating Reductions | | (\$1,237,000) | R |
| | Reduces various operating budgets throughout the Department to FY 2008-09 actual expenditure levels. | (\$1,325,000) | NR |
|
 | | | |
| 17 Reduce Salary Reserve | | (\$175,000) | R |
| | Reduces various personal services line items throughout the Department to reflect actual salaries. | | |

B. Legal Services

- | | | | |
|--|---|-------------|---|
| 18 Increase Medicaid Fraud Recovery Receipts | | (\$168,566) | R |
| | Adjusts the budgeted receipts for Medicaid Fraud Recovery to reflect twelve months of collections. This reduction was implemented in the FY 2009-10 budget, but the reduction only accounted for six months of collections. | | |
|
 | | | |
| 19 Medicaid Fraud Criminal Investigation Team | | \$600,000 | R |
| | Provides funds to expand the Medicaid Fraud Criminal Investigation Team. The expanded unit will consist of sworn investigators, attorneys, program assistants, financial investigators, and administrative support personnel. This investigative unit is responsible for obtaining convictions of community service providers that commit fraud, recovering restitution and civil penalties for the benefit of the Medicaid Program and the Civil Forfeiture Fund, and deterring fraud. | 25.00 | |
|
 | | | |
| 20 NC LEAF Funds | | (\$18,750) | R |
| | Reduces the pass-through appropriation for the NC Legal Education Assistance Fund (NC LEAF) by 5%. The FY 2010-11 appropriation for this non-profit will be \$356,250. | | |

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

C. State Bureau of Investigation (SBI)

21 SBI Equipment Reduction	(\$400,000)	R
Reduces the budget for equipment purchases in the State Bureau of Investigation.		
22 Crime Laboratory DNA Capacity	\$221,156	R
Provides the SBI Crime Lab with additional professional staff to analyze DNA samples.		
		4.00

Budget Changes	(\$1,679,760)	R
	(\$1,325,000)	NR
Total Position Changes		21.50
Revised Total Budget	\$85,647,778	

Juvenile Justice & Delinquency Prevention

GENERAL FUND

	FY 10-11
Total Budget Approved 2009 Session	\$147,183,945

Budget Changes

Community Services

23 Reduce Project Challenge Funding	(\$6,400)	R
Reduces the Project Challenge appropriation by 5%, leaving \$121,600. Project Challenge continues to receive \$1.4 million from county Juvenile Crime Prevention Councils.		

Department-wide

24 Establish a Management Flexibility Reserve	(\$3,872,171)	R
Establishes a Management Reserve to provide the Department the flexibility to determine where reductions can be made. In addition to the original \$2,713,342 reduction, S.L. 2010-123 (SB 1202) restored an elimination of 31.5 vacant positions, and increased the Management Flexibility reduction by \$1,158,829.		

25 Reduce Continuation Budget Increases	(\$546,521)	R
Reduces Continuation Budget increases to a level at or below the FY 2008-09 Authorized Budget.		

Youth Development Centers

26 Restore Samarkand YDC	\$3,521,954	R
Restores the Samarkand YDC in Moore County.		
	62.00	

Budget Changes	(\$903,138)	R
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Total Position Changes	62.00	
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Revised Total Budget	\$146,280,807	
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Correction

GENERAL FUND

FY 10-11

Total Budget Approved 2009 Session

\$1,326,492,230

Budget Changes

27 Reduce Continuation Budget for Lower Population

Reduces continuation budget increases from FY 2009-10 to account for a lower-than-projected inmate population. Although the Division of Prisons remains overcrowded, new admissions have leveled following a surge in 2008 and 2009, resulting in a lower inmate count than previously expected as of June 30, 2010.

(\$22,000,000) NR

28 Budget Alien Assistance Receipts

Reduces General Fund appropriations to the Department of Correction by \$872,000 to account for receipts from the federal State Criminal Alien Assistance Program.

(\$872,000) NR

29 ITS Billing Reduction

Reduces the appropriation to the Department of Correction for communications and other data processing to account for lower rates charged by the Office of Information Technology Services.

(\$200,000) R

30 Transfer Four Positions to Receipt Support

Transfers four positions in the DOC Controller's Office that handle Inmate Welfare Fund accounting to receipt support from the Welfare Fund, and eliminates the General Fund appropriation for those positions.

(\$182,500) R
-4.00

31 Reduce Vehicle Replacement Budget

Reduces the Vehicle Replacement line item on a non-recurring basis.

(\$1,500,000) NR

32 Reduce Fuel Oil Budget

Reduces the Fuel Oil line item on a recurring basis.

(\$500,000) R

33 Reduce PC Equipment

Reduces the Personal Computer Equipment line item on a non-recurring basis.

(\$300,000) NR

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

34 Reduce Equipment Accounts

Reduces various equipment accounts on a non-recurring basis.

(\$800,000) NR

35 Reduce Supply Accounts

Reduces various supply accounts on a non-recurring basis.

(\$800,000) NR

36 Eliminate .223 Rifle Training

Eliminates a component of rifle training and reduces annual costs for ammunition and targets.

(\$54,757) R

37 Reduce Our Children's Place Funds

Reduces the pass-through appropriation for Our Children's Place by 5%, leaving \$104,025.

(\$5,475) R

Alcoholism and Chemical Dependency Programs

38 Eliminate Four Program Positions

Eliminates four DACDP positions that work in the In-Prison Out Patient Services at South Piedmont, Western Youth and North Piedmont.

(\$211,060) R

-4.00

Community Corrections

39 Reduce Criminal Justice Partnership Program

Reduces the Criminal Justice Partnership Program by \$1.1 million nonrecurring, which leaves \$8.3 million for allocations for county programs. This reduction will not affect the core operations of the program.

(\$1,100,000) NR

40 Reduce Contractual Services

Reduces the Contractual Services budget in the Division of Community Corrections.

(\$50,000) R

41 Eliminate Community Corrections Positions

Eliminates two Division of Community Corrections positions and their associated costs. These positions are duplicative due to the automation of the parole/post-release violation process.

(\$142,910) R

-2.00

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

<p>42 Reduce Harriet's House Funds Reduces the pass-through appropriation to Passage Home for Harriet's House by 5%, leaving \$195,938.</p>	<p>(\$10,313) R</p>
<p>43 Reduce Summit House Funding Reduces the pass-through appropriation to Summit House by 5%, leaving \$1,052,756.</p>	<p>(\$55,408) R</p>
<p>44 Reduce Women At Risk Funding Reduces the pass-through appropriation to Women At Risk by 5%, leaving \$249,375.</p>	<p>(\$13,125) R</p>
Prisons	
<p>45 Reduce Inmate Medical Costs Reduces the appropriation for medical services for inmates based on capping fees paid as a percentage of billed charges. This reduction applies to inpatient and outpatient hospital services as well as professional services.</p>	<p>(\$20,500,000) R</p>
<p>46 Eliminate Seven DOP Administrative Positions Eliminates seven positions in the central office of the Division of Prisons. The Department has discretion to identify the positions to reach the cut level of \$359,384.</p>	<p>(\$359,384) R -7.00</p>
<p>47 Consolidate Administrative Positions at Prisons Consolidates administrative functions between Brown Creek Correctional Center and Piedmont Correctional Institution and eliminates four duplicative positions.</p>	<p>(\$149,038) R -4.00</p>
<p>48 Modify Close Custody Inmate Transfers Reduces the transportation budget based on reducing the frequency of inter-facility transfers of close custody inmates from every week to every other week.</p>	<p>(\$74,150) R</p>
<p>49 Reduce Drug Testing Frequency Changes the drug testing policy to 10% instead of 15% frequency and reduces appropriations to pay for analysis.</p>	<p>(\$130,000) R</p>
<p>50 Reduction in Clothing Budgets Reduces funding for inmate clothing and officer uniforms within the Division of Prisons.</p>	<p>(\$862,913) NR</p>

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

51 Operating Reserves for Central Prison Hospital	\$4,551,375	R
Establishes an operating reserve and creates positions to staff the Central Prison Hospital and Mental Health Facility. This facility is scheduled for completion in August 2011, and occupancy in October 2011. This reserve will allow positions to be established so staff can be recruited and trained prior to the projected occupancy date.	\$774,843	NR
	554.00	
52 Operating Reserve for Women's Prison Hospital	\$1,980,317	R
Establishes an operating reserve and creates positions to staff the hospital and mental health facility at NC Correctional Institution for Women, scheduled for completion in August 2011, and occupancy in October 2011. This fund will allow recruitment and training to be completed prior to occupancy.	\$725,157	NR
	227.00	
53 Establish Community Work Crews	\$1,602,094	R
Provides funds for community work crews at prisons throughout the State. These crews provide labor services for local governmental entities.		39.00
54 Prisoner Education Program		
The Prisoner Education Program is partially restored in the Community College System. Under this partial restoration, educational services will be provided to inmates in the areas of basic skills, general education, and vocational training. No services are provided for degree programs, nor for county jail or federal inmates. The funding is found in the Education section of the budget.		
<hr/>		
Budget Changes	(\$14,504,334)	R
	(\$26,734,913)	NR
Total Position Changes		799.00
Revised Total Budget	\$1,285,252,983	
<hr/>		

Crime Control and Public Safety

GENERAL FUND

Total Budget Approved 2009 Session **FY 10-11**
\$33,718,963

Budget Changes

A. Department-wide

55 Eliminate Vacant Positions (\$442,304) R
 Eliminates vacant positions throughout the Department. -7.69

B. Administration

56 Law Enforcement Support Services (LESS) \$300,000 R
 Partially restores a reduction to the LESS budget. In the 2009 Budget, LESS was directed to establish a fee schedule to become 100% receipt supported. They have been unable to find sufficient fees to sustain their operations. This item provides continued General Fund support to them while a fee schedule is developed. LESS coordinates the distribution of excess federal property for local law enforcement agencies, provides evidence and DNA storage, and administers a program to provide lower-cost vehicles and other equipment to law enforcement. 5.00

C. National Guard

57 National Guard Armory Maintenance \$1,000,000 R
 Provides funds for maintenance and operation of plant for the National Guard's 97 armories.

58 Transfer TAP to SEAA (\$1,514,288) R
 Transfers the Tuition Assistance Program (TAP) for the National Guard to the State Education Assistance Authority (SEAA). The Education Section of the Budget shows a corresponding item, and also includes additional funding for the program. The total amount available for TAP for FY 2010-11 will be \$1,862,815.

D. Alcohol Law Enforcement (ALE)

59 ALE Equipment Reduction (\$200,000) R
 Reduces the appropriation for equipment for Alcohol Law Enforcement. (\$200,000) NR

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

E. Victim's Compensation Services

60 Victim's Compensation Fund

Reduces the Victim's Compensation Fund budget on a nonrecurring basis.

(\$700,000) NR

F. Governor's Crime Commission

61 Sheriff's Association Funds

Provides funds to the NC Sheriff's Association for training for sheriffs and other law enforcement agencies across the State on methods to improve the inmate booking process.

\$100,000 NR

Budget Changes

(\$856,592) R

(\$800,000) NR

Total Position Changes

-2.69

Revised Total Budget

\$32,062,371

**GENERAL
GOVERNMENT
Section J**

Administration

GENERAL FUND

FY 10-11

Total Budget Approved 2009 Session

\$67,446,884

Budget Changes

1111 Office of the Secretary

1 Reduce Various Operating Expenses

(\$164,089) R

Reduces miscellaneous operating expenses.

Temporary services (\$104,089)
Contracted services (\$60,000)

1121 Fiscal Management

2 Transfer 1.5 FTE to Receipt Support

(\$83,250) R

Transfers salaries and benefits for 1.5 FTE to receipt support:

-1.50

60014102: Accountant (0.50 FTE)
60014119: Accountant (0.25 FTE)
60014118: Accountant (0.50 FTE)
60014107: Accounting Clerk (0.13 FTE)
60014114: Accounting Technician (0.12 FTE)

531211 Salaries (\$64,103)
531511 Social Security (\$4,995)
531521 Retirement (\$6,660)
531561 Medical Insurance (\$7,493)

1122 Human Resources Management

3 Transfer 1.2 FTE to Receipt Support

(\$71,271) R

Transfers salaries and benefits for 1.2 FTE to receipt support:

-1.20

60014092: Staff Development Specialist III (0.20 FTE)
60014094: Safety Officer III (0.20 FTE)
60014098: Personnel Technician I (0.20 FTE)
60014096: Personnel Technician II (0.20 FTE)
60014093: Personnel Analyst II (0.20 FTE)
60014097: Personnel Analyst II (0.20 FTE)

531211 Salaries (\$55,311)
531511 Social Security (\$4,231)
531521 Retirement (\$5,813)
531561 Medical Insurance (\$5,915)

1123 Historically Underutilized Businesses

4 Reduce Operating Expenses

(\$37,740) R

Reduces operating expenses, including travel, conference fees, and contracted services.

1241 Management Info. Systems

5 Reduce LAN Serv Chg

(\$56,521) R

Reduces LAN Service Charge:

532822: (\$56,521)

1264 Agency for Public Telecommunications

6 Transfer 1.0 FTE to Receipt Support

(\$67,442) R

Transfers salary and benefits for 1.0 FTE to receipt support:

60014549: TV Producer/Director II

-1.00

531211 Salaries (\$52,905)
 531511 Social Security (\$4,047)
 531521 Retirement (\$5,560)
 531561 Medical Insurance (\$4,929)

1311 Office of State Personnel

7 Provide Funding for SB 1213 (Amend State Purchases and Contracts Laws)

\$88,756 R

Assuming the adoption of SB 1213, "Amend State Purchases and Contracts Laws," provides funding for 0.75 FTE and associated costs. SB 1213 expands the contracting responsibilities of the Office of State Personnel (OSP) to work with the Department of Administration and the University of North Carolina School of Government to develop a Contract Management Training and Certification Program for State employees. In order to perform the work required by SB 1213, OSP requires an additional 0.75 FTE position (Human Resource Consultant) in FY 2010-11 and associated operating costs. Salaries and benefits are budgeted for 10 months for FY 2010-11 with a start date of October 1, 2010:

0.75

531211 Salaries \$40,250
 531511 Social Security \$3,079
 531521 Retirement \$4,230
 531561 Medical Insurance \$3,697
 5331xx General Admin. Supplies \$37,500

8 Reduce Various Operating Accounts

(\$365,336) R

Reduces various operating accounts:

532821 Computer/Data Processing Services	(\$185,395)
532170 Temporary Employees	(\$50,000)
532700 Travel	(\$15,000)
533110 Supplies - General Office	(\$15,000)
534511 Supplies - Office Furniture	(\$10,000)
535830 Membership & Dues	(\$15,000)
536905 Employer OJT Incentive	(\$15,941)
532143 LAN Support Serv.	(\$10,000)
532144 PC Printer Support Serv.	(\$20,000)
532812 Telecomm. Data Charge	(\$12,000)
532822 Managed LAN Services	(\$7,000)
532930 Registration Fees	(\$10,000)

9 Eliminate Filled Position

(\$82,039) R

Eliminates salaries and benefits for 1.0 filled position:

-1.00

60013771: HR Partner

531211 Salary	(\$65,259)
531511 Social Security	(\$4,992)
531521 Retirement	(\$6,859)
531561 Medical Insurance	(\$4,929)

1411 State Construction Office

10 Eliminate 2.0 Filled and 1.0 Vacant Positions

(\$233,914) R

Eliminates salaries and benefits of two filled positions and one vacant position. Specific positions for elimination have not yet been identified; the Department has flexibility to consolidate and/or eliminate positions in order to meet this reduction.

-3.00

1412 State Property Office

11 Eliminate 1.0 Vacant Position

(\$57,967) R

Eliminates salary and benefits for 1.0 vacant position:

-1.00

60014649: Administrative Assistant II

531211 Salaries	(\$44,886)
531511 Social Security	(\$3,434)
531521 Retirement	(\$4,718)
531561 Medical Insurance	(\$4,929)

1421 Facilities Management

12 Reduce Operating Expenses (\$211,849) R

Reduces operating expenses:

534500 Equipment	(\$100,000)
532500 Equipment rental	(\$50,000)
533300 Vehicle Operating Costs	(\$50,000)
532300 Repairs	(\$11,849)

13 Shift Recycling Costs to Receipt Support (\$29,503) R

Shifts recycling costs to receipt support. Receipts are from other state agencies whose recycling services are provided by DOA in buildings that are not owned by DOA.

14 Provide Funding to Support the New North Carolina Museum of Art Building \$1,310,260 R

Adds 8.0 FTEs, increases budgeted utility costs, and increases various operating expenses. Salaries and benefits are budgeted for 10 months for FY 2010-11 with a start date of September 1, 2010:

8.00

531211 Salary	\$387,143
531511 Social Security	\$29,617
531521 Retirement	\$40,688
531561 Hospitalization	\$32,860
531631 Worker's Compensation	\$5,777
532210 Engr Serv - Electrical	\$302,462
532220 Engr Serv - Nat Gas/Propane	\$163,979
532230 Engr Serv - Water & Sewer	\$23,126
532911 Property Insurance	\$72,155
533510 Uniforms	\$2,454
532199 Misc. Contractual Services	\$250,000

15 Reduce Janitorial Services (\$291,775) R

Reduces janitorial services.

16 Eliminate 2.0 Vacant Positions (\$89,038) R

Eliminates salaries and benefits for two vacant positions:

-2.00

60014806: Building & Environmental Supervisor	(\$29,575)
60014846: Facilities Maintenance Tech. - Building Trades	(\$37,436)

531211 Salaries	(\$67,011)
531511 Social Security	(\$5,126)
531521 Retirement	(\$7,043)
531561 Medical Insurance	(\$4,929)

17 Eliminate 4.0 Filled Positions

(\$194,831) R

Eliminates salaries and benefits of four filled positions:

-4.00

- 60014738 Construction & Renovation Design Tech I
- 60014742 Electronics Technician III
- 60014769 Administrative Assistant III
- 60014777 Processing Assistant IV

- 531211 Salaries (\$148,202)
- 531511 Social Security (\$11,337)
- 531521 Retirement (\$15,576)
- 531561 Medical Insurance (\$19,716)

1511 Purchase and Contracts

18 Provide Funding for SB 1213 (Amend State Purchases and Contracts Laws)

\$818,272 R

Assuming the adoption of SB 1213, "Amend State Purchases and Contracts Laws," provides funding for 8.0 FTE and associated costs. SB 1213 expands the contracting responsibilities of the Department of Administration to provide oversight of the review and award of contracts. In order to perform the work required by SB 1213, the Department requires an additional eight positions (4 Compliance Monitors, 2 Procurement Training Specialists, 1 Compliance Monitor, and 1 Procurement Standards position) and associated operating costs:

8.00

- 531211 Salaries \$426,987
- 531511 Social Security \$32,665
- 531521 Retirement \$44,876
- 531561 Medical Insurance \$39,432
- 53121xx Contractual Services \$207,432
- 5323xx Repair Services \$480
- 5324xx Maintenance Agreements \$1,600
- 5327xx Travel \$19,200
- 5328xx Communications/Data Proc. \$12,000
- 5329xx Other Services \$1,600
- 5331xx General Admin. Supplies \$4,000
- 5345xx Equipment \$28,000

19 Reduce Various Operating Expenses

(\$12,500) R

Reduces budget for repairs to building.

20 Transfer 2.9 FTE to Receipt Support

(\$225,268) R

Transfers salaries and benefits of 2.9 FTE to receipt support:

-2.90

- 60013901: State Procurement Specialist III (1.0 FTE)
- 60013860: State Procurement Specialist III (1.0 FTE)
- 60013899: State Purchase Administrator (0.9 FTE)

1731 NC Council for Women/DV Commission

21 Transfer 1.5 FTE to Receipt Support

(\$91,979) **R**

Transfers salaries and benefits for 1.5 FTE to receipt support:

-1.50

60014074: Community Development Specialist I (0.50 FTE)
 60019848: Community Development Specialist I (1.0 FTE)

531211 Salaries (\$71,585)
 531511 Social Security (\$5,476)
 531521 Retirement (\$7,524)
 531561 Medical Insurance (\$7,394)

1734 Rape Crisis Program

22 Fund Grants at FY 2009-10 Level

Funds Rape Crisis grants at FY 2009-10 level.

(\$151,119) **NR**

1741 Human Relations Commission

23 Reduce Rent

(\$24,455) **R**

Reduces budgeted rent due to move to DOA-owned space:

532512 Rent (\$24,455)

1761 Youth Advocacy & Involvement

24 Reduce Rent

(\$22,205) **R**

Reduces rent due to move to DOA-owned space:

532512 (\$22,205)

1771 Veterans Affairs

25 Reduce Operating Expenses

(\$51,453) **R**

Reduces operating expenses:

533700 Travel (\$20,000)
 532100 Supplies (\$10,000)
 534500 Equipment (\$21,453)

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

26 Shifts 2.0 Positions to Receipt Support

(\$73,286) R

Shifts salaries and benefits of 2.0 FTEs to receipt support:

-2.00

60014225: Processing Assistant III (\$27,100)
60014232: Processing Assistant III (\$26,580)

531211 Salaries (\$53,680)
531511 Social Security (\$4,107)
531521 Retirement (\$5,642)
531561 Medical Insurance (\$9,858)

1781 Domestic Violence Program

27 Fund Grants at FY 2009-10 Level

(\$243,115) NR

Funds Domestic Violence grants at FY 2009-10 level.

28 Eliminate 1.0 Filled Position

(\$58,299) R

Eliminates salary and benefits for one filled position:

-1.00

60014567 Administrative Officer I

531211 Salaries (\$45,168)
531511 Social Security (\$3,455)
531521 Retirement (\$4,747)
531561 Health Insurance (\$4,929)

1810 State Ethics Commission

29 Provide Funding for HB 961 (Government Ethics and Campaign Reform Act)

\$272,602 R
 \$220,100 NR
 4.00

Assuming the adoption of HB 961, the "Government Ethics and Campaign Reform Act," provides funding for four positions (Attorney II, Paralegal III, and two Paralegal IIIs) and operating expenses. This appropriation is to ensure that the State Ethics Commission has resources to respond to customer service queries regarding ethics law compliance and any additional ethics rules or standards implemented by the Governor. Salaries and benefits are budgeted for 10 months for FY 2010-11 with a start date of September 1, 2010:

531211 Salaries	\$173,601	R		
531511 Social Security	\$13,281	R		
531521 Retirement	\$18,246	R		
531561 Medical Insurance	\$16,430	R		
532144 PC/Printer	\$1,680	R		
5327xx Travel	\$1,500	R		
532811 Telephone	\$1,500	R		
532815 Email & Calendaring	\$156	R		
5329xx Registration & Ed Expenses	\$300	R		
533xxx Supplies	\$2,000	R		
532535 Lease Server Equip	\$13,817	R		
532542 Lease Software	\$3,691	R		
535830 Subscriptions	\$6,000	R		
532140 Other ITS	\$10,000	R	\$100,000	NR
532140 Other ITS	\$5,400	R	\$600	NR
532140 Other ITS	\$5,000	R	\$15,000	NR
534511 Office Furniture			\$2,000	NR
534521 Office Equipment			\$2,000	NR
534713 PC Software			\$500	NR
532199 Contractual Legal Services			\$100,000	NR

This item was changed in the Budget Technical Corrections Bill to reflect the requirements of HB 961 as it was ratified. The funding for this item is as follows:

Provide Funding for Online Filing of Statements of Economic Interest and Online Education
 \$181,061 R
 \$217,850 NR
 2.0 FTE

Provides funding for one Attorney II and one Paralegal III position and operating expenses to develop an online system for the filing of Statements of Economic Interest (SEIs), an online education program, all information technology related to online education and online filing of SEIs, and legal research tools:

531211 Salaries	\$106,102	R		
531511 Social Security	\$8,117	R		
531521 Retirement	\$11,151	R		
531561 Medical Insurance	\$8,215	R		
532144 PC/Printer	\$840	R		
5327xx Travel	\$750	R		
532811 Telephone	\$750	R		
532815 Email & Calendaring	\$78	R		
5329xx Registration & Ed Expenses	\$150	R		
533xxx Supplies	\$1,000	R		
532535 Lease Server Equip	\$13,817	R		

Administration

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

532542 Lease Software	\$3,691	R		
535830 Subscriptions	\$6,000	R		
534511 Office Furniture			\$1,000	NR
534521 Office Equipment			\$1,000	NR
534713 PC Software			\$250	NR
532140 Other ITS	\$10,000	R	\$100,000	NR
532140 Other ITS	\$5,000	R	\$15,000	NR
532140 Other ITS	\$5,400	R	\$600	NR
532199 Contractual Legal Services			\$100,000	NR

Provide Funding for HB 961 (Government Ethics and Campaign Reform Act)
 \$91,541 R
 \$2,250 NR
 2.0 FTE

In order to fulfill the requirements of HB 961, the Government Ethics and Campaign Reform Act, provides funding for two Paralegal III positions and operating expenses to respond to customer service queries regarding State ethics law compliance and any additional ethics rules or standards implemented by the

531211 Salaries	\$67,500	R		
531511 Social Security	\$5,164	R		
531521 Retirement	\$7,094	R		
531561 Medical Insurance	\$8,215	R		
532144 PC/Printer	\$840	R		
5327xx Travel	\$750	R		
532811 Telephone	\$750	R		
532815 Email & Calendaring	\$78	R		
5329xx Registration & Ed Expenses	\$150	R		
533xxx Supplies	\$1,000	R		
534511 Office Furniture			\$1,000	NR
534521 Office Equipment			\$1,000	NR
534713 PC Software			\$250	NR

(S.L. 2010-123, Senate Bill 1202, Sec. 11.11)

30 Operating Budget Adjustment to Rent

(\$60,000) R

Eliminates funds for office rent as Commission is now housed in State office space.

532512 Rent (\$60,000)

1861 Commission on Indian Affairs

31 Reduce Rent

(\$29,985) R

Reduces budgeted rent due to move to DOA-owned space:

532512 Rent (\$29,985)

Department-Wide

32 Eliminate 8.0 Vacant Positions	(\$356,715)	R
Eliminates salaries and benefits for eight vacant positions department-wide:		
		-7.75
60013887: State Purchase Administrator		
60013965: Summer Intern		
60014664: Administrative Assistant III		
60013878: Processing Assistant V		
60014215: Accounting Technician		
65009979: Accountant		
60014716: Building & Environmental Technician		
60014836: Building & Environmental Technician		
531211 Salaries	(\$272,999)	
531511 Social Security	(\$20,731)	
531521 Retirement	(\$28,482)	
531561 Medical Insurance	(\$34,503)	

This item was changed in the Budget Technical Corrections Bill to reflect that the Accountant position (65009979) should be 0.75 FTE and the total reduction for this item should be (7.75) FTE. (S.L. 2010-123, Senate Bill 1202, Sec. 11.12)

33 Reduce Travel Expenditures	(\$15,000)	R
Reduces travel expenditures across the agency.		
5327xx (\$15,000)		

34 Adjust ITS Rate	(\$3,172)	R
Reduces line item for ITS based on reduction in ITS rates.		
532140 (\$3,172)		

Budget Changes	(\$570,992)	R
	(\$174,134)	NR
Total Position Changes		-9.10
Revised Total Budget	\$66,701,758	

Total Budget Approved 2009 Session

\$13,255,123

Budget Changes

1120

35 Reduce Various Operating Accounts

(\$80,000) R

Reduces various operating accounts:

- 532942 Other Employee Educational Expense (\$12,000)
- 533110 General Office Supplies (\$10,000)
- 532430 Maint Agreement - Equipment (\$6,000)
- 532441 Maint Agreement - Other Software (\$24,000)
- 532332 Repairs - Other Computer Equip (\$8,000)
- 532811 Telephone Service (\$20,000)

1210 Field Audit

36 Shift 1.0 Position to Receipt Support

(\$60,033) R

Shifts salary and benefits of 1.0 FTE to receipt support due to creation of billing for Battleship/State Ports Authority audits.

-1.00

60008998: Assistant State Auditor (\$46,635)

- 531211 Salaries (\$46,635)
- 531511 Social Security (\$3,568)
- 531521 Retirement (\$4,901)
- 531561 Medical Insurance (\$4,929)

37 Reduce Various Operating Accounts

(\$197,000) R

Reduces various operating accounts:

- 532714 Transp-Ground - In-state (\$10,400)
- 532721 Lodging - In-state (\$19,600)
- 532724 Meals - In-state (\$12,700)
- 532725 Meals - Out-of-state (\$1,500)
- 532715 Trans-Ground - Out-of-state (\$800)
- 532722 Lodging - Out-of-state (\$300)
- 532723 Misc. Travel (\$900)
- 532726 Misc. Travel (\$250)
- 5345xx Equipment/Computers (\$149,550)

Budget Changes	(\$337,033)	R
Total Position Changes	-1.00	
Revised Total Budget	\$12,918,090	

Cultural Resources

GENERAL FUND

FY 10-11

Total Budget Approved 2009 Session

\$73,249,990

Budget Changes

1110 Office of the Secretary

38 Operating Budget Adjustment

(\$169,749) R

Reduces funding for Misc Contractual Services.

532199 Misc Contractual Services (\$169,749)

39 Expand Heritage Tourism

\$300,593 R

Restores funding for seven Heritage Tourism positions to help rural communities enhance tourism economy, and funds positions effective September 1, 2010.

7.00

1120 Administrative Services

40 Personnel and Operating Budget Adjustments

(\$130,792) R

Eliminates salary and benefits of a vacant Purchasing Agent II position (#60083290), and reduces funding for IT and office furniture.

-1.00

531211 Salaries (\$21,471)
 531511 Social Security (\$1,643)
 531521 Retirement (\$2,257)
 531561 Medical Insurance (\$4,929)
 532490 Maint Agreement (\$48,382)
 534511 Furniture (\$52,110)

1210 Archives & History - Admin

41 Eliminate Personnel Costs and Adjust Expenditure Accounts

(\$82,262) R

Eliminates salary and benefits, but not FTE, for Administrative Officer position (#60083312), and reduces expenditure accounts.

531211 Salaries (\$63,157)
 531511 Social Security (\$4,832)
 531521 Retirement (\$6,638)
 531561 Medical Insurance (\$4,929)
 532722 Lodging-out of state (\$490)
 534511 Furniture (\$1,416)
 534521 Office Equipment (\$800)

42 Freedom Monument Project, Inc. Funding

Restores funding for the Freedom Monument Project, Inc. Additionally, the Budget Technical Corrections Bill provides \$75,000 in non-recurring funds to support the three monuments on Capitol grounds. (S.L. 2010-123, Senate Bill 1202, Sec. 11.13) \$175,000 NR

43 African American Heritage Commission

Appropriates non-recurring funding for the Commission in FY 2010-11. \$100,000 NR

1220 Historical Publications

44 Eliminate Filled Positions and Reduce Operating Budget

Eliminates salaries and benefits of three filled positions: Historic Pub Editor III (#60083317) at \$53,023; Historic Pub Editor II (#60083319) at \$43,296; and Historic Pub Editor I (#60083323) at \$31,622; and transfers split-funding of \$22,227 (0.69 FTE) for Info & Comm Specialist position (#60083321) including benefits. Also reduces expenses for various expenditure accounts. (\$210,495) R

531211 Salaries	(\$150,168)
531460 EPA & SPA Longevity Pay	(2,586)
531511 Social Security	(\$11,408)
531521 Retirement	(\$15,783)
531561 Medical Insurance	(\$14,787)
532199 Misc Contractual Svs	(\$262)
532333 Repairs	(\$700)
532490 Maint Agreement	(\$590)
532714 Transp- Grd-In State	(\$653)
532800 Communication	(\$10,948)
533110 Gen Office Supplies	(\$2,260)
533900 Oth materials & Supplies	(\$200)
535800 Oth Admin Expenses	(\$150)

1230 Archives and Records

45 Transfer Personnel to Receipt Support and Adjust Operating Budget (\$609,548) R

Transfers salaries and benefits of seven positions to receipt-support from the Archives & Records Management (ARM) Fee: Processing Asst IV (#60083347) at \$28,336; Processing Asst IV (#60083363) at \$27,879; Archives & Records Mgr (#60083364) at \$62,792; Archives & Records Prof (#60083368) at \$32,796; Processing Asst IV (#60083377) at \$28,500; Processing Asst IV (#60083378) at \$28,503; and Processing Asst IV (#60083392) at \$25,778. -7.00

531211 Salaries	(\$234,584)
531511 Social Security	(\$17,946)
531521 Retirement	(\$24,655)
531561 Medical Insurance	(\$34,503)
532490 Maint Agreement	(\$47,515)
532512 Rent/Lease - Bldgs/Office	(\$142,765)
533900 Oth Materials & Supplies	(\$48,505)
534534 Personal Computers & Printers	(\$12,689)
534539 Other Equipment	(\$46,386)

1241 State Historic Sites

46 Operating Budget Adjustments (\$452,827) R

Reduces division expenditure accounts.

532188 Lawns & Grounds Svs Agreement	(\$12,459)
532199 Misc Contractual Services	(\$105,883)
532390 Repairs	(\$250,000)
532714 Transp-Grd-In State	(\$69,412)
533900 Oth Materials & Supplies	(\$15,073)

1243 State Capitol

47 Transfer Personnel to Receipt Support (\$63,133) R

Transfers salary and benefits of Administrative Officer position (#60083604) to receipt-support. -1.00

531211 Salaries	(\$49,259)
531511 Social Security	(\$3,768)
531521 Retirement	(\$5,177)
531561 Medical Insurance	(\$4,929)

48 State Capitol Foundation Funding

Appropriates non-recurring funding in FY 2010-11 for the Capitol Foundation (\$100,000), and to support the three monuments in Capitol Square (\$75,000). \$100,000 NR

Per the Budget Technical Corrections Bill, the \$75,000 to support the three monuments was eliminated. (S.L. 2010-123, Senate Bill 1202, Sec. 11.14)

1250 Historic Preservation

49 Personnel Costs and Operating Budget Adjustments

(\$110,086) R

Transfers salaries and benefits of two filled positions to receipt-support:
 Architect (#60083621) at \$37,473 and Hist Pres/Restoration Specialist II
 (#60083623) at \$44,050, and reduces travel expenses.

-2.00

531211 Salaries	(\$81,523)
531511 Social Security	(\$6,237)
531521 Retirement	(\$8,568)
531561 Medical Insurance	(\$9,858)
532714 Transp-Grd-In State	(\$3,900)

1260 Office of State Archeology

50 Operating Budget Reductions

(\$26,444) R

Reduces division expenditure accounts.

532199 Misc Contractual Svs	(\$490)
532714 Transp- Grd-In State	(\$13,000)
532721 Lodging-In State	(\$3,954)
532724 Meals - In State	(\$9,000)

1290 Western Office

51 Transfer Personnel Expense

(\$52,947) R

Transfers salary and benefits of Archives & Records Specialist position
 (#60083647) to receipt-support.

-1.00

531211 Salaries	(\$40,638)
531511 Social Security	(\$3,109)
531521 Retirement	(\$4,271)
531561 Medical Insurance	(\$4,929)

1320 Museum of Art

52 Eliminate Personnel Expense and Adjust Operating Budget

(\$257,007) R

Eliminates salaries and benefits of three new positions: Admin Officer III (#65010906) at \$41,173; Art Handler (#65010907) at \$25,705; and Processing Asst III at \$24,092. Also reduces various expenditure accounts.

531211 Salaries	(\$90,970)
531511 Social Security	(\$6,959)
531521 Retirement	(\$9,561)
531561 Medical Insurance	(\$14,787)
532199 Misc Contractual Services	(\$50,000)
532390 Repairs	(\$75,000)
534610 Art & Artifacts	(\$9,730)

Per the Budget Technical Corrections Bill, the reductions were revised to eliminate salaries and benefits of the following new positions: an Admin Officer III; Art Handler; and Processing Asst III and reduces various expenditure accounts; it does not eliminate the three FTEs for these positions. (S.L. 2010-123, Senate Bill 1202, Sec. 11.15)

1340 NC Symphony

53 Grant for NC Symphony

\$500,000 NR

Appropriates non-recurring funding as grant to the Symphony.

1410 State Library Services

54 Eliminate Personnel Costs and Reduce Operating Budget

(\$165,521) R

Eliminates salaries and benefits of 2.50 vacant positions: W/A Processing Asst IV (#60083860) at \$33,676; Library Clerk III (#60083854) at \$29,079 and Processing Asst III (#60083866) at \$12,905; and transfers Library Technician position (#60083851) at \$36,281 to receipt-support. Also reduces various expenditure accounts.

-3.50

531211 Salaries	(\$111,941)
531511 Social Security	(\$8,563)
531521 Retirement	(\$11,765)
531561 Medical Insurance	(\$17,252)
532199 Misc Contractual Services	(\$1,000)
534630 Library & Lrning Res Coll	(\$15,000)

Per the Budget Technical Corrections Bill, the reductions were revised to eliminate salaries and benefits of one filled position - W/A Processing Assistant IV, 1.50 vacant positions - Library Clerk III and Processing Asst III, transfers Library Technician position to receipt-support, and reduces various expenditure accounts. (S.L. 2010-123, Senate Bill 1202, Sec. 11.16)

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

1500 Museum of History

55 Operating Budget Adjustments

Reduces division expenditure accounts.

(\$72,928) R

(\$25,000) NR

532199 Misc Contractual Services (\$25,000)

532512 Rent/Lease - Bldgs/Office (\$24,978)

534549 Oth Motorized Vehicles (\$47,950)

Budget Changes	(\$2,103,146)	R
	\$850,000	NR
Total Position Changes	-12.19	
Revised Total Budget	\$71,996,844	

Cultural Resources - Roanoke Island Commission

GENERAL FUND

	FY 10-11
Total Budget Approved 2009 Session	\$1,990,632

Budget Changes	
1584 Roanoke Island Commission	
56 Operating Budget Reduction	(\$115,926) R
Reduces funds transferred to support the Roanoke Island Commission's operating budget.	

Budget Changes	(\$115,926) R
Total Position Changes	
Revised Total Budget	\$1,874,706

General Assembly

GENERAL FUND

FY 10-11

Total Budget Approved 2009 Session

\$56,584,484

Budget Changes

1110 Senate

57 Operating Budget Adjustments

(\$609,201) R

Reduces budgeted days during the interim and budgeted weeks of session for the Senate.

531311 REG(NS) Temp Wages	(\$375,644)
531461 EPA& SPA-Longevity Pay	(\$15,062)
531511 Social Sec Contrib	(\$29,891)
531521 Retirement	(\$38,698)
532714 Travel/Other Employee	(\$33,002)
532727002 Travel/Other Employee	(\$115,492)
533110 Office Supplies	(\$1,412)

1120 House

58 Reductions to Operating Budget

(\$1,590,353) R

Reduces budgeted days during the interim and budgeted weeks of session for the House.

531311 REG(NS) Temp Wages	(\$1,020,501)
531461 EPA& SPA-Longevity Pay	(\$29,567)
531511 Social Sec Contrib	(\$80,330)
531521 Retirement	(\$107,998)
532714 Travel/Other Employee	(\$79,945)
532727002 Travel/Other Employee	(\$272,012)

1211 Administration

59 Adjust Expenditure Accounts

(\$56,992) R

Reduces budgeted days during the interim and budgeted weeks of session in Administration - Financial Services.

531311 REG(NS) Temp Wages	(\$46,977)
531461 EPA& SPA-Longevity Pay	(\$1,045)
531511 Social Sec Contrib	(\$3,673)
531521 Retirement	(\$5,297)

1212 Bill Drafting

60 Operating Budget Adjustments

(\$61,018) R

Reduces budgeted weeks of session for Bill Drafting.

531311 REG(NS) Temp Wages	(\$51,032)
531461 EPA& SPA-Longevity Pay	(\$609)
531511 Social Sec Contrib	(\$3,950)
531521 Retirement	(\$5,427)

1213 General Research

61 Adjust Operating Budget

(\$10,779) R

Reduces budgeted weeks of session for General Research.

531311 REG(NS) Temp Wages	(\$9,122)
531511 Social Sec Contrib	(\$698)
531521 Retirement	(\$959)

1214 Fiscal Research

62 Reduce Expenditure Accounts

(\$9,388) R

Reduces budgeted weeks of session for Fiscal Research.

531311 REG(NS) Temp Wages	(\$7,945)
531511 Social Sec Contrib	(\$608)
531521 Retirement	(\$835)

1215 Building Maintenance

63 Operating Budget Reductions

(\$38,441) R

Reduces budgeted days during the interim and budgeted weeks of session in Building Maintenance.

531311 REG(NS) Temp Wages	(\$32,533)
531511 Social Sec Contrib	(\$2,489)
531521 Retirement	(\$3,419)

1216 Food Service

64 Reductions to Operating Budget

(\$18,594) R

Reduces budgeted weeks of session for Food Service.

531311 REG(NS) Temp Wages	(\$15,737)
531511 Social Sec Contrib	(\$1,203)
531521 Retirement	(\$1,654)

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

1217 Information System

65 Operating Budget Adjustments		(\$101,802)	R
Reduces various expenditure accounts.			
532140 Misc Contractual Services	(\$86,614)		
532448 Maintenance Agreement	(\$1,637)		
532449 Maintenance Agreement	(\$13,551)		

1219 Program Evaluation

66 Reduce Expenditure Accounts		(\$139,417)	R
Reduces budgeted weeks of session for Program Evaluation and funding for contractual services.			
531311 REG(NS) Temp Wages	(\$12,498)		
531511 Social Sec Contrib	(\$956)		
531521 Retirement	(\$1,314)		
532199 Misc Contractual Services	(\$124,649)		

1230 Institute of Government

67 Operating Budget Adjustments		(\$11,053)	R
Reduces budgeted weeks of session for the Institute of Government.			
531311 REG(NS) Temp Wages	(\$9,354)		
531511 Social Sec Contribution	(\$716)		
531521 Retirement	(\$983)		

1900 Contingency Reserves

68 Reduce Contingency Reserves		(\$267,888)	R
Reduces funding for the Legislative Study Commission.			
537195 Contingency Reserves	(\$267,888)		

Budget Changes	(\$2,914,926)	R
Total Position Changes		
Revised Total Budget	\$53,669,558	

Total Budget Approved 2009 Session

\$6,067,739

Budget Changes

1100 Administration

69 Eliminate Personnel Costs and Reduce Operating Budget

(\$353,359) R

Eliminates salaries and benefits of three vacant positions: Administrative Asst (#60008533) - \$28,400; Asst Press Secretary (#60008523) - \$50,732; and Communications Technology Specialist (#60008481) - \$30,000. Also reduces expenditure accounts.

-3.00

531211 Salaries	(\$109,132)
531511 Social Security	(\$8,349)
531521 Retirement	(\$11,470)
535461 Med Insurance	(\$14,787)
532145 Server Support Svs	(\$17,200)
532199 Misc Contractual Services	(\$27,163)
532140 Oth Information Tech	(\$5,258)
535830 Membership Dues and Subscriptions	(\$160,000)

Budget Changes

(\$353,359) R

Total Position Changes

-3.00

Revised Total Budget

\$5,714,380

Housing Finance Agency

GENERAL FUND

	FY 10-11	
Total Budget Approved 2009 Session	\$14,608,417	
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Budget Changes		
1100 HFA - Appropriation		
70 Home Protection Program Reduction	(\$730,421)	R
Reduces General Fund appropriation in anticipation of federal funding from the US Treasury that will assist states with the hardest hit unemployment rates. The reduction includes recurring and non-recurring adjustments.	(\$1,769,579)	NR
538104 Home Protection Program (\$2,500,000)		
<hr/>		
Budget Changes	(\$730,421)	R
	(\$1,769,579)	NR
Total Position Changes		
Revised Total Budget	\$12,108,417	
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Insurance

GENERAL FUND

FY 10-11

Total Budget Approved 2009 Session

\$32,242,706

Budget Changes

1100 Administration

71 Reduce Misc. Operating Accounts

(\$35,515) R

Reduce misc. operating accounts:

532430 Maint Agreement-Equipment	(\$5,962)
532712 Trans Air-Out State, In US	(\$15,709)
532840 Postage, Freight & Deliveries	(\$7,854)
532942 Other Employee Educational Expense	(\$5,990)

1200 Company Services

72 Provide Funding for CCRC Oversight Staffing

\$107,823 R

Assuming the adoption of Senate Bill 354 ("Continuing Care Retire. Community/Home Care"), position #60013545 within the Office of the State Fire Marshal Division (Fund 1500) is transferred to the Financial Evaluation Division as an Insurance Company Manager Position at the budgeted amount of \$111,623 (\$107,823 recurring \$3,800 non-recurring). The transferred position shall assist the Department in administering Articles 64 and 89A of Chapter 58 of the General Statutes. This position shall be supported by funds appropriated to the Department of Insurance. See Item 76.

\$3,800 NR
1.00

531211 Salaries	\$83,500
531511 Social Security	\$6,388
531521 Retirement	\$8,776
531561 Medical Insurance	\$4,929
532512 Rent/Lease-Buildings/Office	\$1,200
532712 Transp Air-Out State, In US	\$300
532714 Transp-Grnd-In State	\$300
532715 Trans-Grnd-Out State, In US	\$50
532722 Lodging-Out State, In US	\$300
532725 Meals - Out of State, in US	\$200
532811 Telephone Service	\$400
532817 Internet Serv Prov Charge	\$480
533110 Office Supplies	\$500
533120 Data Processing Supplies	\$500
534511 Furniture-Office	\$2,400
534534 PC/Printer Equipment	\$1,400

73 Reduce Misc. Operating Accounts

(\$144,203) R

Reduce misc. operating accounts:

532310 Repairs-Buildings	(\$10,708)
532332 Repairs-Computer Equip	(\$471)
532333 Repairs-Other Equipment	(\$1,330)
532390 Repairs-Other	(\$148)
532430 Maintenance Agreement-Equip	(\$1,080)
532441 Maintenance Agreement-Software	(\$437)
532443 Maintenance-Agree/Non-Wan DP Equipment	(\$393)
532714 Transportation-Ground - In State	(\$31,902)
532715 Transportation Ground-Out Of State, In Us	(\$802)
532721 Lodging - In State	(\$3,825)
532722 Lodging-Out Of State, In US	(\$3,751)
532724 Meals - In State	(\$2,513)
532725 Meals-Out Of State, In US	(\$1,137)
532727 Misc. - In State	(\$13)
532728 Misc. - Out Of State, In US	(\$328)
532731 Board/Non-Employee Transportation	(\$1,100)
532811 Telephone Service	(\$10,611)
532812 Telecommunication WAN	(\$138)
532814 Cellular Phone Services	(\$45)
532817 Internet Svc Provider	(\$295)
532840 Postage, Freight & Deliveries	(\$1,020)
532850 Print, Bind, Duplicating	(\$4,166)
532860 Advertising	(\$884)
532911 Property-Insurance	(\$159)
532913 Liability Insurance	(\$39)
532930 Registration Fees	(\$7,123)
532941 Employee Education Assist Program	(\$109)
532942 Other Employee Educational Expense	(\$14,949)
533120 Data Processing Supplies	(\$3,223)
533190 Other Admin Supplies	(\$324)
533240 Carpentry & Hardware Supplies	(\$118)
534511 Furniture-Office	(\$7,992)
534521 Office Equipment	(\$5,723)
534534 Personal Comp & Printer	(\$8,934)
534713 PC Software	(\$1,104)
535830 Membership Dues & Subscriptions	(\$3,985)
535840 Employee Awards Payment	(\$27)
535890 Other Administrative Expenses	(\$13,297)

1300 Technical Services

74 Reduce Misc. Operating Accounts

(\$244,550) R

Reduce misc. operating accounts:

532133	Employ/Employment Physicals	(\$23,747)
532310	Repairs-Buildings	(\$181)
532332	Repairs-Computer Equipment	(\$132)
532712	Transportation Air-Out Of State, In US	(\$26,111)
532714	Transportation-Ground - In State	(\$21,634)
532715	Trans Ground-Out Of State, In US	(\$10,135)
532721	Lodging - In State	(\$5,006)
532722	Lodging-Out Of State, In US	(\$15,780)
532724	Meals - In State	(\$1,689)
532725	Meals-Out Of State, In US	(\$4,403)
532727	Misc. - In State	(\$95)
532728	Misc. - Out Of State, In US	(\$375)
532840	Postage, Freight & Deliveries	(\$49,159)
532850	Print, Bind, Duplicating	(\$23,352)
532860	Advertising	(\$3,690)
532930	Registration Fees	(\$3,105)
532942	Other Employee Educational Expense	(\$301)
533110	General Office Supplies	(\$10,465)
533120	Data Processing Supplies	(\$2,457)
533190	Other Admin Supplies	(\$3)
533240	Carpentry & Hardware Supplies	(\$153)
534511	Furniture-Office	(\$3,927)
534521	Office Equipment	(\$785)
534534	Personal Comp & Printer	(\$28,710)
534539	Other Equipment	(\$6,284)
535830	Membership Dues	(\$2,871)

1400 Public Service

75 Reduce Misc. Operating Accounts

(\$279,487) R

Reduce misc. operating accounts:

532143	LAN Support Services	(\$55,000)
532170	Administrative Services	(\$18,851)
532712	Transportation-Out-Of-State	(\$2,799)
532714	Trans-Ground - In State	(\$874)
532715	Trans Air-Out Of State, In US	(\$1,728)
532721	Lodging - In State	(\$833)
532722	Lodging-Out Of State, In US	(\$2,758)
532724	Meals - In State	(\$408)
532725	Meals - Out-Of-State	(\$473)
532728	Misc.- Out Of State, In Us	(\$123)
532811	Telephone Services	(\$61,000)
532840	Postage, Freight & Deliveries	(\$7,888)
532840001	Post, Fr & Del Mailing Services	(\$58,908)
532850	Print, Bind, And Duplicating	(\$48,006)
532860	Advertising	(\$393)
532930	Registration Fees	(\$1,700)
532942	Other Employee Education Expense	(\$5,124)
533110	General Office Supplies	(\$6,284)
533120	Data Processing Supplies	(\$2,337)
534534	PC/Printer Equipment	(\$4,000)

1500 Office of the State Fire Marshal

76 Reduce Appropriation to Offset Available Receipts from Position Transfer

(\$74,457) R

Assuming the adoption of Senate Bill 354 ("Continuing Care Retire. Community/Home Care"), reduces appropriation to offset receipts made available by transferring position #60013545 to the Financial Evaluation Division: \$74,457 (salary and benefits). The Department has the flexibility to use these receipts to fund existing continuation budget expenditures.

See item 73.

77 Reduce Misc. Operating Accounts

(\$509,865) R

Reduce misc. operating accounts:

532170	Admin Services	(\$14,273)
532199	Misc Contractual Services	(\$12,726)
532850	Printing, Binding, Duplicating	(\$482,866)

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

6110 NC Auto Retrospective Insurance Fund

78 Reduce NC Auto Retrospective Insurance Fund

Reduces the NC Auto Retrospective Insurance Fund by \$1,000,000.

(\$1,000,000) NR

Budget Changes	(\$1,180,254)	R
	(\$996,200)	NR
Total Position Changes		1.00
Revised Total Budget	\$30,066,252	

Insurance - Volunteer Safety Workers' Compensation

GENERAL FUND

Total Budget Approved 2009 Session	FY 10-11
	\$1,561,846

Budget Changes

79 NO LEGISLATIVE ACTION REPORTED

Budget Changes

Total Position Changes

Revised Total Budget **\$1,561,846**

Lieutenant Governor

GENERAL FUND

	FY 10-11
Total Budget Approved 2009 Session	\$931,703

Budget Changes	
80 Eliminate 0.5 Vacant Positions	(\$33,539) R
Eliminates salaries and benefits for 0.5 vacant positions:	
60008618: Information & Comm. Spec. II (0.5 FTE)	-0.50

Budget Changes	(\$33,539) R
Total Position Changes	-0.50
Revised Total Budget	\$898,164

Office of Administrative Hearings

GENERAL FUND

	FY 10-11
Total Budget Approved 2009 Session	\$4,111,476

Budget Changes	
81 Reduce Operating Expenses	(\$30,000) R
Reduces various operating expenses across the department:	
534700 Intangible Assets	(\$10,000)
5324xx Software Maintenance	(\$20,000)

Budget Changes	(\$30,000) R
Total Position Changes	
Revised Total Budget	\$4,081,476

Revenue

GENERAL FUND

	FY 10-11	
Total Budget Approved 2009 Session	\$87,790,970	

Budget Changes

1605 Information Technology

82 Provide Funding for Imaging System Licenses	\$613,440	R
Provides funding for additional licenses for the Department's imaging system in order to view taxpayer returns.		

1629 Property Tax Division

83 Convert Property Tax Division to Receipt Support	(\$1,467,305)	R
Converts the Property Tax Division to receipt support, including 17.0 positions. This requires an amendment to GS 105-501.		
	-17.00	

24708 Revenue IT Projects

84 Provide Funding for IRS-Mandated Modernization of 1040 e-File Platform	\$47,600	R
Provides funding for the IRS-mandated modernization of the e-File platform.		
	\$1,457,118	NR

2479 Revenue IT Projects

85 Eliminates Funding for Call Recording Program	(\$700,000)	NR
Eliminates funding for Call Recording Program Budget Code 24708. The Department was authorized to spend up to \$700,000 of sales tax collections to implement a call recording program at the Taxpayer Assistance Call Center. The system was not implemented because cost estimates exceeded the availability of funds.		

Department-Wide

86 Provide Funding for Resolution Initiative II	\$846,909	R
Provides funding for the Resolution Initiative II, which is estimated to collect an additional \$110 million in revenue for FY 2010-11. The Department has flexibility to apply these funds towards positions and/or operating expenses.		

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

87 Reduce Travel Reimbursement	(\$39,000)	R
Reduces budgeted travel reimbursement:		
5327xx Travel (\$39,000)		
88 Reduce ITS Rate	(\$158,647)	R
Reduces budgeted ITS costs due to reduction in ITS rate:		
532140 Information Technology Services (\$158,647)		
89 Eliminate 8.0 Vacant Positions	(\$429,831)	R
Eliminates salaries and benefits for 8.0 vacant positions:		
		-8.00
60081419: Tax Research Assistant Director	(Fund 1607)	
60081345: Technology Support Analyst	(Fund 1605)	
60082659: Processing Assistant IV	(Fund 1685)	
60082992: Processing Assistant IV	(Fund 1685)	
60082679: Data Entry Specialist	(Fund 1660)	
60082667: Data Entry Specialist	(Fund 1685)	
60082621: Information Processing Technician	(Fund 1685)	
60081281: Information & Communication Specialist II	(Fund 1600)	
531211 Salaries	(\$330,399)	
531511 Social Security	(\$25,276)	
531521 Retirement	(\$34,725)	
531561 Med Insurance	(\$39,432)	
90 Eliminate 9.0 Vacant Positions	(\$371,467)	R
Eliminates salaries and benefits for 9.0 vacant positions:		
		-9.00
60081530 Revenue Officer I	(\$39,649)	
60081617 Processing Assistant III	(\$27,253)	
60081638 Revenue Officer I	(\$39,649)	
60082561 Processing Assistant IV	(\$31,007)	
60082572 Processing Assistant IV	(\$31,430)	
60082633 Data Entry Specialist	(\$26,695)	
60082675 Data Entry Specialist	(\$25,711)	
60082757 Processing Assistant III	(\$29,628)	
60082979 Processing Assistant III	(\$25,811)	
531211 Salaries	(\$276,833)	
531511 Social Security	(\$21,178)	
531521 Retirement	(\$29,095)	
531561 Med Insurance	(\$44,361)	

Revenue

Budget Changes	(\$958,301)	R
	\$757,118	NR
Total Position Changes	-34.00	
Revised Total Budget	\$87,589,787	

Secretary of State

GENERAL FUND

FY 10-11

Total Budget Approved 2009 Session

\$11,451,488

Budget Changes

1110 General Administration

91 Eliminate Personnel Costs and Reduce Operating Budget

(\$174,041) R

Eliminates salary and benefits of vacant Processing Assistant IV position (#60094554) and transfers Paralegal (#60094563) and Agency Legal Specialist (#60008627) positions to Auction Rate Securities Time Limited receipts. Also, reduces expenditure accounts.

-3.00

531211 Salaries (\$128,540)
531511 Social Security (\$9,833)
531521 Retirement (\$13,510)
531561 Med Insurance (\$14,787)
534534 Computer/Printers (\$7,371)

92 Operating Budget Adjustment

(\$100,000) R

Budgets over-realized receipts from Business License Fees in the amount of \$100,000. The fees are from the Solicitation of Contributions Fund and are to be used in the General Administration Fund to cover administrative costs related to administering and enforcing Chapter 131F of the General Statutes.

435100 Business License Fees \$100,000

1120 Publications

93 Eliminate Filled Position

(\$58,995) R

Eliminates filled position - Division Director (#60008652).

-1.00

531211 Salaries (\$45,757)
531511 Social Security (\$3,500)
531521 Retirement (\$4,809)
531561 Med Insurance (\$4,929)

1210 Corporations

94 Eliminate Vacant Position		(\$35,302)	R
Eliminates filled Processing Assistant IV position (#60008683). This position is temporarily filled through June 30, 2010.			
			-1.00
531211 Salaries	(\$25,705)		
531511 Social Security	(\$1,966)		
531521 Retirement	(\$2,702)		
531561 Med Insurance	(\$4,929)		

1220 Certification & Filing

95 Adjustments to Personnel and Operating Budget		(\$236,916)	R
Eliminates vacant Processing Assistant IV (#60094577) and Notary Investigator (#60008748); reduces expenditure accounts, including rent that is transferred to the Auction Rate Securities Time Limited receipts. The FTE for the Notary Investigator position (#60008748) is not eliminated per the Budget Technical Corrections Bill (S.L. 2010-123, Senate Bill 1202, Sec. 11.17).			
			-1.00
531211 Salaries	(\$60,917)		
531511 Social Security	(\$4,660)		
531521 Retirement	(\$6,402)		
531561 Med Insurance	(\$9,858)		
532199 Misc Contractual Svs	(\$50,303)		
532512 Office Rent	(\$104,776)		

1230 Securities

96 Transfer Personnel Expense		(\$61,632)	R
Transfers Financial Investigator position (#60008782) to Auction Rate Securities Time Limited receipt.			
			-1.00
531211 Salaries	(\$47,988)		
531511 Social Security	(\$3,671)		
531521 Retirement	(\$5,044)		
531561 Med Insurance	(\$4,929)		

Budget Changes		(\$666,886)	R
Total Position Changes			-7.00
Revised Total Budget		\$10,784,602	

State Board of Elections

GENERAL FUND

FY 10-11

Total Budget Approved 2009 Session

\$6,221,208

Budget Changes

97 Provide Funding for HB 961 (Government Ethics and Campaign Reform Act)

\$100,000 R

Assuming the adoption of HB 961, the "Government Ethics and Campaign Reform Act," provides funding for 1.0 FTE and operating costs. HB 961 makes various changes to public records laws, ethics laws, and lobbying laws. In order to perform the work required by HB 961, the State Board of Elections requires an additional Governmental Accounts Auditor position in FY 2010-11 and software development costs. Salaries and benefits are budgeted for 10 months for FY 2010-11 with a start date of September 1, 2010:

\$350,000 NR

1.00

531211	Salary	\$45,000	R	
531511	Social Security	\$3,443	R	
531521	Retirement	\$4,730	R	
531561	Medical Insurance	\$4,108	R	
5327xx	Travel	\$1,500	R	
532815	Email & Calendaring	\$156	R	
5329xx	Registration & Ed Expenses	\$300	R	
533xxx	Supplies	\$2,000	R	
532811	Telephone			\$1,500 NR
532144	PC/Printer			\$1,680 NR
534511	Office Furniture			\$2,000 NR
534521	Office Equipment			\$2,000 NR
534713	PC Software			\$500 NR
	Software Development			\$350,000 NR
	Meeting Costs	\$2,102	R	

This item was changed in the Budget Technical Corrections Bill to reflect the requirements of HB 961 as it was ratified. The bill appropriates an additional \$28,982 in order to provide funding for this item as follows:

Attorney	\$100,000	R
Software Development	\$350,000	NR

(S.L. 2010-123, Senate Bill 1202, Sec. 11.18)

98 Provide Maintenance of Effort for HAVA Funds

Provides Maintenance of Effort funding in order to receive \$2,035,430 of Federal HAVA funds.

\$107,129 NR

1100 Administrative Division

99 Reduce Various Operating Accounts

(\$114,632) R

Reduces various operating accounts:

532811 Telephone Services	(\$5,363)
532812 Telecommunications Data Charge	(\$20,122)
532143 LAN Supply Services	(\$28,387)
533150 Security & Safety	(\$12,100)
532100 Legal Services	(\$5,800)
532700 Travel	(\$12,860)
532181 Workshop/Conf Food Exp	(\$30,000)

1200 Campaign Finance Division

100 Reduce Various Operating Accounts

(\$61,909) R

Reduces various operating accounts:

532811 Telephone Services	(\$14,909)
532812 Telecommunications Data Charge	(\$37,000)
532199 Misc. Contractual Services	(\$10,000)

101 Eliminate 2.0 Filled Positions

(\$166,708) R

Eliminates salaries and benefits for 2.0 filled positions:

60088208: Special Projects Coordinator
60088198: General Counsel

-2.00

531211	(\$132,744)
531511	(\$10,155)
531521	(\$13,951)
531561	(\$9,858)

This item was changed in the Budget Technical Corrections Bill to allow the State Board of Elections to retain these positions and fund them with Maintenance of Effort funds that qualify the Board to receive federal HAVA funds. (S.L. 2010-123, Senate Bill 1202, Sec. 11.19)

Department-Wide

102 Reduce ITS Rate

(\$29) R

Reduces budgeted ITS costs due to reduction in ITS rate:

532140:	(\$29)
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Budget Changes	(\$243,278)	R
	\$457,129	NR
Total Position Changes	-1.00	
Revised Total Budget	\$6,435,059	

State Budget & Management

GENERAL FUND

		FY 10-11	
Total Budget Approved 2009 Session		\$6,407,809	
<hr/>			
Budget Changes			
1310 State Budget, Management			
103 Eliminate Personnel Expense and reduce Operating Budget		(\$373,164)	R
Eliminates salaries and benefits of three vacant positions: Deputy State Budget Officer (#60008561) - \$123,095; Auditor (#60008882) - \$73,885; and Asst St Budget Officer/Gov Evaluation & Review (#60008591) - \$50,000. Also reduces expenditure accounts.			
531211 Salaries	(\$246,980)		
531514 Social Security	(\$18,894)		
531516 Retirement	(\$25,958)		
535417 Med Insurance	(\$14,787)		
532145 Server Support Svs	(\$15,000)		
532199 Misc Contract Services	(\$46,545)		
532448 Maint Agreement Personal Computer	(\$5,000)		
<hr/>			
Budget Changes		(\$373,164)	R
Total Position Changes		-3.00	
Revised Total Budget		\$6,034,645	

State Budget and Management - Special

GENERAL FUND

Total Budget Approved 2009 Session	FY 10-11
	\$4,161,125

Budget Changes

1900 Reserves and Transfers

104 Establish Reserve for Software Development for the State Board of Elections

\$671,893 R

Appropriates funds to be placed in reserve in the Office of State Budget and Management - Special Appropriations, for the development of software to provide campaign committee treasurers the ability to comply with existing campaign laws and provide a searchable database as required by HB 961, the Government Ethics and Campaign Reform Act. Appropriation for this item was added via the Budget Technical Corrections Bill (S.L. 2010-123, Senate Bill 1202, Sec. 1.2.(e)).

105 Department of Insurance Health Care Reform Funds

\$1,101,293 R
 \$49,400 NR
 13.00

Appropriates funds to be placed in reserve at the Office of State Budget and Management – Special Appropriations. If the Department is unsuccessful in obtaining federal funds and after prior consultation with the Joint Legislative Commission on Governmental Operations, funds are to be allocated from State Budget & Management to the Department to initiate support of 13 positions to implement section 24.2.(a) of Senate Bill 897. Funds shall revert if the Department is successful in its efforts to obtain federal funds.

- (1) Attorney III.
- (2) Health Actuary.
- (3) Examiner III.
- (4) Insurance Regulatory Analysts I, II (two positions), and III.
- (5) Office Assistant, and Program Assistant.
- (6) Insurance Investigator.
- (7) Insurance Complaint Analyst (two positions).
- (8) Complaint Analyst Supervisor.

531211 Salaries	\$791,133
531511 Social Security	\$60,522
531521 Retirement	\$64,398
531561 Medical Insurance	\$64,077
532512 Rent	\$23,400
532712 Transp-Air-Out of State, in US	\$2,400
532714 Transp-Grd-In State	\$18,900
532715 Transp-Grd-Out of State, in US	\$500
532721 Lodging-In State	\$24,000
532722 Lodging-Out of State, in US	\$13,498
532724 Meals In-State	\$12,000
532725 Meals Out of State, in US	\$2,025
532811 Telephone Svc	\$5,200
532817 Internet Svc Prov Charge	\$6,240
533110 Office Supplies	\$6,500
533120 Data Processing Supplies	\$6,500
534511 Furniture	\$31,200
534534 PC/Printer Equipment	\$18,200

Reserves & Transfers

106 Military Morale and Welfare Fund

Appropriates funding to sustain historical grants to military installations in order to provide community service and quality-of-life programs for military members and their families.

\$500,000 NR

Reserves and Transfers

107 NC Symphony

Appropriates funding for the NC Symphony to leverage match to support the operation.

\$1,500,000 NR

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

Budget Changes	\$1,773,186	R
	\$2,049,400	NR
Total Position Changes		13.00
Revised Total Budget	\$7,983,711	

Total Budget Approved 2009 Session	FY 10-11
	\$23,188,207

Budget Changes

1000 Department-Wide

108 Transfer Personnel Costs and Adjust Operating Budget

(\$300,000) R

Transfers three vacant technical positions to receipt-support at a cost of \$260,000 to use as resources for implementing the Payment Card Rebate Program; and transfers \$10,000 to receipts for operating costs related to the positions. Also reduces expenditure accounts. -3.00

- 531211 Salaries (\$207,527)
- 531511 Social Security (\$15,875)
- 531521 Retirement (\$21,811)
- 531561 Medical Insurance (\$14,787)
- 532120 Financial Audit Svs (\$15,000)
- 532815 IT:E-mail and Calendaring (\$15,000)

109 Close Cash Balance Accounts

(\$1,124,677) NR

Eliminates remaining cash balances of four funds in Budget Code 24160:Business Infrastructure Study; Financials Planning Fund that provided the Feasibility Report on new financial systems completed in compliance with S.L. 2007-323 (HB 1473); Escheats funds collected by OSC that have been unclaimed by State agencies; and Foreign Nationals funding that supported the purchase of the last statewide license to access software for the program.

- 2400 Business Infrastructure Study (\$137)
- 2403 Financials Planning Fund (\$605,000)
- 2500 Escheats (\$442,460)
- 2600 Foreign Nationals (\$77,080)

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

110 CJLEADS

\$8,360,088 R
 \$500,000 NR
 30.50

Appropriates funding for CJLEADS, which is a statewide information technology project designed to merge state criminal data records into one streamlined, comprehensive system. It will assist law enforcement and the courts by providing necessary information. Funding is provided to complete implementation of the Wake County pilot program, to begin expansion statewide, and for operational support and maintenance. Ten of the 30.50 positions will begin on April 1, 2011, and 10.50 of the positions are effective September 1, 2010.

Operating

531211 Personnel Salaries	\$ 1,355,750 R
531511 Social Security	\$ 102,495 R
531521 Retirement	\$ 142,489 R
531561 Health Insurance	\$ 100,449 R
532140 Contracted Services - Hardware and Technical Support	\$ 1,938,991 R
532140 Contracted Services - Application Development/Support	\$ 2,225,814 R
532140 Judicial SAS Lic--paid directly to SAS	\$ 2,000,000 R
532140 Contracted Personnel Resources	\$ 270,000 R
534713 Software/Training Licenses/3rd Party Svcs	\$ 142,500 R
532XXX-535XXX Equipment-Workstations/Phones	\$ 81,600 R
532140 Contracted Services - Hardware and Technical Support	\$ 500,000 NR
538141 Software - Executive Branch SAS ELA	\$ 3,000,000 NR
Total	\$11,860,088

Receipts

24160 Cash Balance	
Unexpended Data Integration Funds	(\$3,000,000)NR

Appropriation

\$ 8,360,088 R
\$ 500,000 NR

Positions

FTE	Title	Start Date
1.0	Operations and Systems Specialist	4/01/2011
.5	Business & Tech Applic Spec (DBA)	9/01/2011
1.0	Business & Tech Applic Spec (Dev)	9/01/2011
1.0	Operations and Systems Specialist	7/01/2010
1.0	Business & Tech Applic Analyst (Testers)	4/01/2011
1.0	Network Analyst	9/01/2010
4.0	Business & Tech Appl Analyst (Agency FTE)	9/01/2010
1.0	Executive Director	9/01/2010
3.0	Technical Support Analyst (Help Desk)	9/01/2010
3.0	Technical Support Analyst (Help Desk)	4/01/2011
1.0	Technical Support Specialist (Bus Ops Lead)	7/01/2010
3.0	Business & Tech Appl Analyst (BA's)	7/01/2010
2.0	Technical Support Analysts (Trainers)	7/01/2010
2.0	Technical Support Analysts (Trainers)	7/01/2010
4.0	Operations and Systems Analyst (Sys Aud)	4/01/2011
1.0	Technical Support Technician (User Admin)	7/01/2010
1.0	Technical Support Technician (User Admin)	4/01/2011

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

Budget Changes	\$8,060,088	R
	(\$624,677)	NR
Total Position Changes		27.50
Revised Total Budget	\$30,623,618	

Total Budget Approved 2009 Session

\$17,565,400

Budget Changes

1110 General Administration

111 Internal Auditor Positions

\$74,692 R
 \$2,685 NR
 3.00

Provides an appropriation of \$77,377 and receipts of \$181,930 that total \$259,307 for the Department to employ three Internal Auditor positions. The positions were recommended by the Council of Internal Auditing in keeping with G.S. 143-746. The Internal Auditors will be responsible for developing and administering a comprehensive internal audit function for the Department. The three positions will include a Director of Internal Audit, and two additional internal auditors. The positions are supported by receipts.

\$250,307 Recurring
 \$ 9,000 Non-recurring

531211 Salaries	\$196,293 R
531511 Social Security	\$ 15,016 R
531521 Retirement	\$ 20,611 R
531561 Medical Insurance	\$ 14,787 R
532811 Telephone Service	\$ 1,800 R
533110 General Office Supplies	\$ 1,800 R
534511 Furniture - Office	\$ 4,500 NR
534521 Office Equipment	\$ 4,500 NR

1210 Investment Management

112 Operating Budget Reductions

(\$210,234) R

Reduces division's operating budget.

532120 Finan/Audit Services	(\$143,163)
532199 Misc Contractual Services	(\$32,071)
532712 Air - Out of State	(\$10,000)
532714 Transp - Ground - In State	(\$2,000)
532715 Transp - Ground - Out of State	(\$1,000)
532721 Lodging - In State	(\$3,000)
532722 Lodging - Out of State	(\$10,000)
532724 Meals - In State	(\$3,000)
532725 Meals - Out of State	(\$6,000)

1310 Local Government Operations

113 Operating Budget Reductions

(\$61,539) R

Reduces expenditure accounts.

532199 Misc Contractual Svs	(\$1,451)
32840 Postage	(\$53,088)
533110 General Office Supplies	(\$7,000)

1410 Retirement Operations

114 Service Credit Audit Team (SAT)

Allows Department to increase receipts by \$1,192,164 to provide the final year of funding for the Service Audit Team (SAT) in FY 2010-2011. For the past four years, SAT has worked to correct service data transferred from the legacy system. This funding completes work on all remaining unaudited pre-1997 active accounts that were targeted by the original RFP that had a five year plan. Funding is provided by receipts in expenditure account 538320 to support the following expenses:

532120 Financial Audit Svs	\$1,011,916
532140 Oth Information Tech Svs	\$ 5,833
532184 Janitorial Svs Agreement	\$ 7,583
532199 Misc Contractual Svs	\$ 5,833
532210 Enrg Ser - Electrical	\$ 16,333
532230 Enrg Ser - Water & Sewer	\$ 1,400
532513 Rent/Lease - Oth Fac	\$ 89,600
532811 Telephone Ser	\$ 49,000
533110 General Office Supplies	\$ 2,333
534511 Furn - Office	\$ 2,333

1510 Financial Operations - Banking

115 Operating Budget Reductions

(\$8,313) R

Reduces expenditure accounts.

532811 Telephone Service	(\$5,313)
532840 Postage	(\$3,000)

Budget Changes	(\$205,394)	R
	\$2,685	NR
Total Position Changes	3.00	
Revised Total Budget	\$17,362,691	

Treasurer - Retirement for Fire and Rescue

GENERAL FUND

Total Budget Approved 2009 Session	FY 10-11
	\$10,804,671

Budget Changes

116 NO LEGISLATIVE ACTION REPORTED

Budget Changes

Total Position Changes

Revised Total Budget

	\$10,804,671
--	---------------------

TRANSPORTATION

Section K

Highway Fund

HIGHWAY FUND

Total Budget Approved 2009 Session **FY 10-11**
\$1,739,650,000

Budget Changes

Administration

- | | | |
|---|-------------|----|
| 1 IT Budget Reductions | (\$207,933) | R |
| Reduces the Department's IT budget to reflect FY 2010-11 rate changes from the Office of Information Technology Services. | | |
| 2 IT Payment Card Industry Data Security Standard Compliance | \$254,406 | R |
| Provides funds to upgrade DOT's computer applications and supporting infrastructure that process payment cards to become compliant with new standards imposed by MasterCard. One Business and Technology Specialist position (\$95,344) is funded and will serve as the compliance officer for the program. | | |
| | \$350,000 | NR |
| | 1.00 | |
| 3 IT - Enterprise IP Telephone System | \$544,289 | R |
| Provides funds to replace the existing DMV Interactive Voice Response hardware and applications and includes annual operating funds required for related IT expenses. The current telephone system is no longer supported and is critical to the Division's ability to respond effectively to citizens' needs and deliver a high level of customer service via its call center. | | |
| | \$515,000 | NR |

Aviation Division

- | | | |
|---|-----------|---|
| 4 Transfer of Department of Commerce Executive Aircraft Division | \$500,000 | R |
| Transfers 3.0 pilots and 1.0 mechanic as well as the Department of Commerce's two aircraft to DOT's Aviation Division. This reduction reflects recommendations from the Program Evaluation Division Study of State Aircraft. The total amount transferred is \$989,658, including \$500,000 in General Fund appropriations and \$489,658 in receipts. The DOT Aviation budget will have additional receipts of \$127,315 from billing the Department of Commerce for use of the DOT aircraft. | | |
| | 4.00 | |
| The positions transferred include: | | |
| 60080839 Executive Pilot II | | |
| 60080840 Executive Pilot II | | |
| 60080842 Aircraft Mechanic | | |
| 60080838 Executive Pilot II | | |

Department-wide

5 Vacant Positions

(\$1,902,004) R

Eliminates 30 DOT positions vacant prior to January 1, 2010 that are supported by the Highway Fund and eliminates 400 vacant DOT positions funded through projects, receipts, or through federal funds.

-30.00

The total cut to DMV for the salary and benefits for the vacant Highway Fund supported positions is \$416,898. The total cut to the DOT administrative budget for the salary and benefits for the vacant Highway Fund supported positions is \$1,485,106.

Division of Motor Vehicles

6 Medical Certification Compliance

\$264,951 R

Provides funds to allow DMV to become compliant with new federal requirements for medical certification as part of the Commercial Driver License (CDL) process. Medical certificates for all CDL holders must be reviewed by January 30, 2012 and every two years afterward to ensure they meet the medical requirements of the Federal Motor Carrier Safety Administration. In order to comply with these new federal requirements, funds are provided for additional personnel and for operating support.

\$7,550 NR
5.00

Positions include four Processing Assistant V positions (\$27,544 each) and one Administrative Assistant 1 (\$29,502) for a total of five positions costing \$139,678 in salaries and \$52,673 in benefits. Additional recurring costs of \$72,600 for mailing and \$7,550 in nonrecurring costs for computers and office equipment are incurred.

7 DMV Security Measures

\$344,722 NR

Provides funds to enhance building security at the Charlotte and Raleigh Registration and Renewals, Titles, and Plate offices. Security cameras, panic buttons, and door swipe card access systems are needed to secure State funds and equipment and limit access into secure areas.

Ferry Division

8 Maintain Current Level of Service

\$11,349,869 R

Provides operating funds to maintain the current level of services for FY 2010-11.

Maintenance

9 Maintenance Funds

(\$4,693,213) R

Decreases funds for maintenance of the State's highway infrastructure. The total budget for maintenance is \$933,872,428 in FY 2010-11. Changes include:

	Adj (R)	Total
Primary System	\$0	\$186,055,224
Secondary System	\$0	\$269,153,619
Contract Resurfacing	\$0	\$300,000,000
System Preservation	\$0	\$100,000,000
General Maintenance Reserve	\$-4,693,213	\$ 78,343,585

The reduction in funds for General Maintenance Reserve was increased from -\$4,373,213 to -\$4,693,213 as a result of Sections 3.1 and Section 11.20 in SB 1202, the Budget Technical Corrections bill. The total budget for maintenance is \$933,552,428.

Rail Division

10 Grants to Short Line Railroads

\$2,000,000 NR

Provides funds to the Rail Division for grants to short line railroad companies for rehabilitation projects that strengthen North Carolina's short line rail infrastructure.

11 Pembroke Northeast Bypass Connector

\$4,325,000 NR

Provides funds for construction of the Pembroke Northeast Bypass project, which will provide improved multi-modal access to southeast North Carolina, linking the state's military bases and State ports.

Statutory Adjustments

12 Leaking Underground Storage Tank (LUST) Fund

(\$40,000) R

Adjusts budget for the LUST fund by -1.5 percent based on projections for the motor fuels inspection fee in accordance with G.S. 119-18.

13 Secondary Road Improvement Program Funds

\$3,840,718 R

Adjusts funding in FY 2010-11 for the secondary road improvement program based on revised projections for motor fuels tax revenue in accordance with G.S. 136-44.2A.

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

14 Aid to Municipalities	(\$785,319)	R
<p>Adjusts funding for aid to municipalities by -0.9 percent based on revised projections for motor fuels tax revenue in accordance with G.S. 136-41.1</p>		
Transfers		
15 DPI - Driver Education Program	\$32,021,964	R
<p>Partially restores funding to the Driver Education program. Funding was eliminated in FY2010-11 pending a Continuation Review.</p>		
16 CCPS - VIPER matching funds	\$4,700,000	NR
<p>Provides funds to the Highway Patrol for matching funds for the Public Safety Interoperability Communications grant from the US Department of Commerce. The grant will assist in the further development of the Voice Interoperability Project for Emergency Responders (VIPER) network.</p>		
17 Reduce Transfer to General Fund - Dept of State Treasurer	(\$500,000)	R
<p>Reduces the transfer to the General Fund by \$500,000 to account for the transfer of the Department of Commerce Executive Aircraft Division.</p>		

Budget Changes	\$40,647,728	R
	\$12,242,272	NR
Total Position Changes	-20.00	
Revised Total Budget	\$1,792,540,000	

Highway Trust Fund

HIGHWAY TRUST FUND

Total Budget Approved 2009 Session	FY 10-11
	\$920,990,000

Budget Changes

Highway Trust Fund

- | | | |
|--|-------------|---|
| 18 Administration | \$371,520 | R |
| Increases appropriation for administration for FY 2010-11 consistent with new revenue estimates and G.S. 136-176(b). | | |
| 19 Aid to Municipalities | \$524,109 | R |
| Increases appropriation for Aid to Municipalities for FY 2010-11 consistent with new revenue estimates and G.S. 136-176(b)(3). | | |
| 20 Intrastate System | \$4,995,162 | R |
| Increases appropriation for the Intrastate System for FY 2010-11 consistent with new revenue estimates and G.S. 136-176(b)(1). | | |
| 21 Secondary Road Construction | (\$170,627) | R |
| Reduces appropriation for the Secondary Road construction program for FY 2010-11 consistent with new revenue estimates and G.S. 136-176(b)(4). | | |
| 22 Urban Loops | \$2,019,836 | R |
| Increases appropriation for the Urban Loops for FY 2010-11 consistent with new revenue estimates and G.S. 136-176(b)(2). | | |

Budget Changes	\$7,740,000	R
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Total Position Changes

Revised Total Budget	\$928,730,000
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**RESERVES/
DEBT SERVICE/
ADJUSTMENTS
Section L**

Statewide Reserves

GENERAL FUND

	FY 10-11	
Total Budget Approved 2009 Session	\$1,176,309,585	
<hr/>		
Budget Changes		
B. Other Reserves		
1 Job Development Incentive Grants Reserve		
Reduces the continuation budget based on projected payment schedule.	(\$6,600,000)	NR
C. Debt Service		
2 Increase Debt Service	\$14,177,072	R
Increases debt service in anticipation of an additional \$175 million issuance of COPs for Repairs and Renovations and equipment for Universities and Community Colleges.		
3 Adjust Debt Service Payments	(\$15,845,385)	R
Modifies budgeted debt service payments to correspond to projected payment schedules.		
<hr/>		
Budget Changes	(\$1,668,313)	R
	(\$6,600,000)	NR
Total Position Changes		
Revised Total Budget	\$1,168,041,272	

CAPITAL

Section M

Capital

GENERAL FUND

A. Department of Environment and Natural Resources

1 Water Resources Development Projects

Provides funds to allow the State to match \$27.3 million in federal funding for Water Resources Development Projects and provides the State match to local grant projects. Projects are specified in a special provision.

\$9,130,000 NR

B. Department of Crime Control and Public Safety

2 Phase I of State Highway Patrol Training Facility - Planning

Provides full capital planning funds for Phase I of the State Highway Patrol Training Facility in Wake County. Phase I shall include an armory, medical office, dorm facilities, and facilities for computer security purposes. The total cost of Phase I is \$25,543,000. The total square footage of the facility shall be no more than 94,800 square feet.

\$2,043,440 NR

C. State Facilities Special Indebtedness

3 Repair and Renovations Reserve

Authorizes issuance of certificates of participation to be allocated to the Reserve for Repairs and Renovation. The University of North Carolina System will receive 50 percent of the allocation. The Office of State Management and Budget will receive 50 percent of the allocation to be distributed to the various State agencies. The Office of State Management and Budget is directed to allocate \$500,000 to the Department of Crime Control and Public Safety to repair and renovate National Guard Armories. The total debt authorized is \$120,000,000.

D. Equipment Special Indebtedness

4 Education Equipment Special Indebtedness

Authorizes the issuance of certificates of participation to be allocated to the University of North Carolina System and the North Carolina Community College System for the purpose of acquiring equipment for education and research in fields related to health, science, engineering and technology programs. The total debt authorized is \$55,000,000. The North Carolina Community College System shall receive \$33,000,000 and the University of North Carolina System shall receive \$22,000,000.

Total Appropriation to Capital

\$11,173,440 NR

NUMERICAL INDEX TO HOUSE AND SENATE BILLS

2009 GENERAL ASSEMBLY 2010 REGULAR SESSION

"Ratified Number" refers to the Session Law number except when preceded by an R, in which case it refers to the Resolution number.

HOUSE BILLS

<i>H.B.</i>	<i>Ratified Number</i>	<i>H.B.</i>	<i>Ratified Number</i>	<i>H.B.</i>	<i>Ratified Number</i>
76	191	1251	6	1714	145
80	103	1260	108	1716	19
144	138	1292	196	1717	122
213	139	1307	49	1722	R6
337	28	1377	163	1726	117
357	112	1398	105	1729	132
382	70	1403	94	1734	165
455	153	1407	R28	1736	59
466	173	1412	193	1741	127
565	84	1429	40	1743	143
589	2	1463	116	1744	151
593	114	1664	18	1746	144
614	192	1666	42	1747	150
617	146	1669	110	1748	149
620	181	1670	87	1753	20
636	10	1673	24	1754	44
664	51	1675	R2	1757	161
666	99	1676	71	1762	106
683	177	1678	R5	1765	155
710	85	1682	159	1766	180
713	89	1683	36	1772	45
726	174	1685	133	1789	R10
748	170	1687	29	1802	142
766	11	1691	158	1812	135
859	104	1692	88	1814	63
901	35	1693	92	1821	46
961	169	1694	12	1824	156
972	176	1695	43	1829	167
1035	148	1698	66	1841	64
1099	188	1703	93	1864	33
1115	107	1705	121	1869	R7
1136	100	1707	3	1893	82
1143	39	1710	15	1900	R18
1249	140	1713	13	1905	101

<i>H.B.</i>	<i>Ratified Number</i>	<i>H.B.</i>	<i>Ratified Number</i>	<i>H.B.</i>	<i>Ratified Number</i>
1907	R15	1953	30	2071	R14
1910	47	1956	21	2074	R13
1919	52	1973	147	2076	R23
1920	65	1998	38	2077	R19
1921	83	2042	55	2078	R24
1934	7	2051	R11	2080	R26
1935	8	2052	60	2081	R27
1936	125	2054	72	2082	R29
1940	R4	2056	48		
1944	77	2066	124		

SENATE BILLS

<i>S.B.</i>	<i>Ratified Number</i>	<i>S.B.</i>	<i>Ratified Number</i>	<i>S.B.</i>	<i>Ratified Number</i>
18	102	1115	74	1298	78
35	32	1119	178	1300	R9
59	14	1120	25	1301	R17
66	34	1121	53	1302	R21
140	5	1135	26	1309	119
144	171	1136	134	1323	109
181	131	1146	17	1331	50
254	16	1151	160	1337	154
308	187	1152	115	1356	23
354	128	1154	172	1357	79
388	4	1165	96	1359	9
430	73	1171	91	1361	75
567	90	1176	126	1362	61
595	37	1177	95	1389	27
650	56	1191	69	1390	R3
655	130	1193	68	1391	R22
675	185	1198	41	1392	120
704	1	1199	183	1399	80
740	113	1201	182	1400	190
765	118	1202	123	1421	54
778	186	1210	98	1435	62
829	141	1212	175	1437	58
836	179	1213	194	1444	86
866	189	1214	129	1445	76
886	195	1215	166	1446	81
887	67	1216	168	1454	R20
897	31	1242	97	1455	R12
900	152	1244	184	1456	R16
992	22	1246	111	1460	R25
1015	164	1248	162	1462	R31
1096	R8	1251	136	1463	R30
1110	R1	1256	137		
1114	57	1259	157		

**INDEX TO SESSION LAWS
2009 GENERAL ASSEMBLY
REGULAR SESSION 2010**

Suggestions for Use: Local legislation appears under the name of the particular county or municipality. Legislation that amends or repeals another session law appears under “Laws Amended or Repealed.” General appropriations appear under “Appropriations” or the particular agency/entity following the sub-heading “appropriations.” Legislation earmarking appropriations appears under the particular agency and/or subject. Boards, commissions, and committees appear as main entries. Numbers are alphabetized as spelled (i.e. 9 is alphabetized/sorted as nine). Citation sub-sections and sub-sub-sections are shown without parenthesis: thus, the citation Chapter 212 sec. 12.6D(a) would be shown as 212(12.6Da).

A

ABC Boards (Local)

Modernize ABC system.....	122
Promote NC distilled spirits	31(14.12a)
Rowan/Kannapolis membership equal representation	122(28)

Acquired Immune Deficiency Syndrome (AIDS)—see

AIDS (Acquired Immune Deficiency Syndrome)

Acupuncture Licensing Board—appointments

and membership	87(1.1), (2.1)
----------------------	----------------

Administration, Department of

Appropriations-current operations.....	31(2.1)
Incentive Bonus Review Committee—see that heading	
Indian Affairs, State Commission of—see that heading	
Multiple award schedule contracts encouraged.....	147(8.1)–(8.3)
NC OpenBook	169(9)
NC Thinks.....	97(11)
Private motor vehicle expense reimbursement.....	31(20.2)
Review programs considering impact of climate change.....	180(13a)–(13b)
State Energy Office	
Agencies/institutions energy efficiency reporting and compliance.....	31(14.2A)
State Suggestion Review Committee—see that heading	
Technical corrections, clarifications, and conforming changes.....	96(21)

Administrative Hearings, Office of

Appropriations	
Current operations.....	31(2.1)
Medicaid recipient appeals process funds.....	31(10.30b)
Medicaid recipient appeals process	31(10.30a)– (10.30c)

Administrative Procedure Act 70; 152(9.2)

Administrative Procedure Oversight Committee,

Joint Legislative—exempt Wildlife Resources

Commission and Marine Fisheries Commission from

legislative disapproval process study.....	152(11.1)
--	-----------

Administrative Rules

Boylston Creek water quality classification	157
Contested cases study	152(9.2)
Ethics Commission rule-making	169(16)
Exempt Wildlife Resources Commission and Marine Fisheries Commission from legislative disapproval process study	152(11.1)
Furlough rules for local school boards	31(29.1f)
Suspension, revocation, reissuance of marine fishing licenses rules	145
Transfer Transportation rule-making authority	165(11), (13)
Voluntary shared leave for nonfamily members	139

Adoption

Access to information and confidential intermediaries	116
Block grants	31(10.37a)

Advertising

Campaign ads disclosure	170(8)
Promote NC distilled spirits	31(14.12a)
Subsection (h) companies exempt from robo-call restrictions	173(4)

African-American Heritage Commission—

appointments and membership	87(1.2a)–(1.2b),(2.2)
-----------------------------------	-----------------------

Aging

Adult day care/adult day health services criminal records checks study	93
Age cap for 8-year drivers license	131
Aging and disability resources centers	66
Aging and long-term care services and programs description update	66
Long-Term Care Partnership Program	68
Nursing homes—see that heading	
Person-centered services	66
Project C.A.R.E.	31(10.35B)

Aging, Study Commission On—technical corrections,

clarifications, and conforming changes	96(32)
--	--------

Agricultural Finance Authority—appointments and membership.....**Agriculture**

Agrarian zone definition technical correction	147(1.2)
Agriscience and biotechnology school plan	152(29.1)–(29.4);183
Farmers markets non-General Fund capital improvements	31(30.3a)
Fresh produce growers insurance coverage options study	152(2.15)
Water infrastructure needs and voluntary water resources protection/conservation	149

Agriculture and Consumer Services, Department of**Appropriations**

Current operations	31(2.1)
Non-General Fund capital improvements	31(30.3a)–(30.3b)
Plant conservation program	31(30.3b)
State Fair funds transfer	31(2.2a), (2.2h); 123(1.2d)

Euthanasia registration/certification for animal shelters	126
---	-----

Euthanasia registration/certification for animal shelters	127
---	-----

Agriculture and Consumer Services,**Department of—continued**

- Farm to School Program position31(11.5)
- Review programs considering impact of climate change 180(13a)–(13b)
- Spay/neuter program transfer 31(11.4a)–(11.4n)
- Water infrastructure needs and voluntary water
resources protection and conservation 149

Agriculture and Forestry Awareness, Commission**On—see Agriculture and Forestry Awareness Study Commission****Agriculture and Forestry Awareness Study Commission**

- Appointments and membership142(9)
- Name change 142(8)–(9)

Agriscience and Biotechnology Regional School**Planning Commission—created 152(29.1)–(29.4);
183****AIDS (Acquired Immune Deficiency Syndrome)**

- Block grants31(10.37a)
- Medicaid HIV waiver study.....31(10.27)
- Preferred drug list program for Medicaid.....31(10.32)

Alamance County

- Domestic violence and civil no-contact cases
electronic filing pilot program..... 31(15.13a)–(15.13b)
- Graham, City of—see that heading
- Orange County boundary 61

Alarm Systems—see Safety Equipment**Alcoholic Beverage Control Commission**

- Modernize ABC system..... 122
- Spirituous liquor tasting permits..... 31(14.12b)–(14.12d)

Alcoholic Beverages

- Modernize ABC system..... 122
- Promote NC distilled spirits 31(14.12a)–(14.12d)
- Spirituous liquor tasting permits..... 31(14.12b)–(14.12d)

Alimony—see Divorce**All Terrain Vehicles (ATVs)—see Motor Vehicles****Alternative Energy**

- Coastal demonstration wind turbines 31(9.9); 123(3.3)
- Coastal wave energy research 31(9.10a)–(9.10b); 180(21.1)
- Local authority to finance energy programs 167(4a)–(4d)
- Renewable energy
 - ARRTA grant not public funds for tax credit 4
 - Cleanfields demonstration parks authorized 195
 - Facility site lease without notice for certain
cities and counties57(2); 63
 - Fuel facility and biodiesel producer credit extended 167(1a)–(1b)
 - Property facility credit reinstated/expanded..... 167(3a)–(3b)
 - Property investment credit 167(2a)–(2d)
- Savings from energy conservation shall remain with UNC 196
- Wood and Crop Biomass Strategic Working Group
created.....152(31.1)

Animal Control—see Animals**Animals**

Colonial Spanish Mustang official state horse	6
Euthanasia registration/certification for animal shelters	127
Increase penalty animal abuse	16
Spay/neuter program transfer	31(11.4a)–(11.4n)

Annexation

Concord.....	86(1)–(5)
Deannexation	
Graham	27
High Point	75
Kannapolis.....	86(6)–(7)
Red Oak.....	26(1)
Rocky Mount.....	26(2)
Statesville	28
Greensboro.....	75
Kannapolis	86(1)–(5)

Anson County —occupancy tax	78(6)
--	-------

Apex, Town of—access to email lists held by units

of local government	83
---------------------------	----

Applied Textile Technology Center—contract review

and award oversight	194(17)
---------------------------	---------

Appointments

Chair State Board of Education's appointments

Agriscience and Biotechnology Regional School Planning Commission	183(2)
Agriscience and Biotechnology School Planning Commission.....	152(29.2)

Chief Justice's appointments

Innocence Inquiry Commission postcommission three-judge panel.....	171(1)
---	--------

Governor's appointments

Children With Special Health Care Needs, Commission on	12
Diversity in the Public Schools, Legislative Commission on.....	152(34.2)
Education Assistance Authority, State	109
Ethics standards authorized.....	169(14)
Ethics standards for Governor's appointees authorized	169(14)
Life Sciences Industry and Related Job Creation, Study Commission on the Expansion of the	152(37.2)
Sustainable Communities Task Force	31(13.5a)
Uwharrie Regional Resources Commission.....	176

President Pro Tempore's appointments

Acupuncture Licensing Board.....	87(2.1)
Arboretum, Board of Directors	87(2.4)
Broadband Task Force, Joint.....	31(6.18b)
Building Commission, State.....	87(2.31)
Cemetery Act, Legislative Study Commission on the North Carolina Cemetery Act	102:(7b)
Child Care Commission	87(2.5)
Childhood Obesity, Legislative Task Force on.....	152(26)

Appointments—continued

Chiropractic Examiners, State Board of.....	87(2.2), (2.6)
Clean Water Management Trust Fund, Board of Trustees	87(2.7)
Code Officials Qualification Board	87(2.8)
Comparative Negligence and Abrogation of Joint and Several Liability, Joint Select Committee to Study the Adoption of.....	152(35.2)
Cosmetic Art Examiners, Board of.....	87(2.9)
Disciplinary Hearing Commission of the North Carolina State Bar	87(2.10)
Diversity in the Public Schools, Legislative Commission on.....	152(34.2)
Domestic Violence Commission.....	87(2.11)
Dropout Prevention, Committee on	87(2.12)
E-NC Authority	87(2.15)
Early Childhood Education and Care, Joint Legislative Study Committee on the Consolidation of.....	152(27.1)
Economic Investment Committee	87(2.13)
Emergency Medical Services Advisory Council	87(2.14)
Environmental Review Commission.....	180(2)
Fee-Based Practicing Pastoral Counselors, Board of Examiners of.....	87(2.16)
Fire and Rescue Commission, State.....	87(2.32)
Global TransPark Authority.....	87(2.17)
Home Inspector Licensure Board.....	87(2.18)
Irrigation Contractors' Licensing Board.....	87(2.18A)
Life Sciences Industry and Related Job Creation, Study Commission on the Expansion of the	152(37.2)
Manufactured Housing Board	87(2.19)
Mental Health, Developmental Disabilities, and Substance Abuse Services, Commission for.....	87(2.20)
Natural Heritage Trust Fund Board of Trustees.....	87(2.21)
911 Board	158(2a)
On-Site Wastewater Contractors and Inspectors Certification Board.....	87(2.22)
Parks and Recreation Authority	87(2.23)
Partnership for Children, Inc., Board of Directors.....	87(2.24)
Ports Authority, State	87(2.35)
Prescription Drug Abuse, Legislative Task Force on	152(33.2)
Private Protective Services Board.....	87(2.25)
Public Funding of Council of State Elections Commission.....	169(26a)
Public Officers and Employees Liability Insurance Commission	87(2.26)
Public-Private Partnerships, Legislative Study Commission on.....	152(32.2)
Railroads Study Commission.....	152(36.2)
Recreational Therapy Licensure Board.....	87(2.27)
Respiratory Care Board.....	87(2.28)
Roanoke Island Commission.....	87(2.29)
Soil Scientists, Board for Licensing of	87(2.30)
State Health Plan for Teachers and State Employees, Board of Trustees	87(2.34)

Appointments—continued

State Personnel Commission.....	87(2.33)
Structural Pest Control Committee	87(2.36)
Substance Abuse Professionals Practice Board	87(2.37)
Supplemental Retirement Board of Trustees	87(2.38)
Sustainable Communities Task Force.....	31(13.5a)
Teachers' and State Employees' Retirement System (TSERS), Board of Trustees	87(2.39)
Turnpike Authority, North Carolina	87(2.40)
Uwharrie Regional Resources Commission.....	176
Senate Majority Leader's Recommendation	
Partnership for Children, Inc., Board of Directors.....	87(3)
Speaker's appointments	
Acupuncture Licensing Board.....	87(1.1)
African-American Heritage Commission	87(1.2a)–(1.2b)
Agricultural Finance Authority	87(1.3)
Arboretum, Board of Directors	87(1.4)
Broadband Task Force, Joint.....	31(6.18b)
Building Commission, State.....	87(1.32)
Cemetery Act, Legislative Study Commission on the North Carolina Cemetery Act	102:(7b)
Child Care Commission	87(1.5)
Childhood Obesity, Legislative Task Force on.....	152(26)
Clean Water Management Trust Fund, Board of Trustees	87(1.6)
Comparative Negligence and Abrogation of Joint and Several Liability, Joint Select Committee to Study the Adoption of.....	152(35.2)
Criminal Justice Education and Training Standards Commission.....	87(1.7)
Diversity in the Public Schools, Legislative Commission on.....	152(34.2)
Domestic Violence Commission.....	87(1.8)
Dropout Prevention, Committee on	87(1.9)
Early Childhood Education and Care, Joint Legislative Study Committee on the Consolidation of.....	152(27.1)
Economic Investment Committee	87(1.10)
Education Commission of the States.....	87(1.11)
Electrolysis Examiners, Board of.....	87(1.12)
Emergency Medical Services Advisory Council	87(1.13)
Environmental Management Commission.....	87(1.4)
Environmental Review Commission.....	180(2)
Ethics Commission, State.....	87(1.33)
Fee-Based Practicing Pastoral Counselors, Board of Examiners of.....	87(1.15)
Fire and Rescue Commission, State.....	87(1.34)
Health Insurance Risk Pool, Board of Directors	87(1.16)
Indian Affairs, State Commission of.....	87(1.17)
Judicial Council, State.....	87(1.37)
License to Give Trust Fund Commission.....	87(1.18)
Life Sciences Industry and Related Job Creation, Study Commission on the Expansion of the	152(37.2)

Appointments—continued

Locksmith Licensing Board	87(1.19)
911 Board	87(1.20); 158(2a)
Northeast Commission, North Carolina's.....	87(1.21)
On-Site Wastewater Contractors and Inspectors Certification Board.....	87(1.22)
Parks and Recreation Authority	87(1.23)
Partnership for Children, Inc., Board of Directors.....	87(1.24)
Ports Authority, State	87(1.25)
Prescription Drug Abuse, Legislative Task Force on	152(33.2)
Public Funding of Council of State Elections Commission.....	169(26a)
Public-Private Partnerships, Legislative Study Commission on.....	152(32.2)
Railroads Study Commission.....	152(36.2)
Roanoke Island Commission.....	87(1.26)
Rules Review Commission	87(1.28)
Sheriff's Education and Training Standards Commission.....	87(1.28)
Small Business Contractor Authority.....	87(1.29)
Soil Scientists, Board for Licensing of	87(1.30)
Southern Dairy Compact Commission.....	87(1.31)
State Health Plan Administrative Commission.....	87(1.35)
State Health Plan for Teachers and State Employees, Board of Trustees	87(1.36)
State Personnel Commission.....	87(1.38)
Structural Pest Control Committee	87(1.39)
Substance Abuse Professionals Practice Board	87(1.40)
Supplemental Retirement Board of Trustees	87(1.41)
Sustainable Communities Task Force	31(13.5a)
Uwharrie Regional Resources Commission.....	176
Virginia-North Carolina High-Speed Rail Compact Commission.....	87(1.42a)–(1.42b)
Well Contractors Certification Commission.....	87(1.43)
Appraisal Board —real estate appraisal management company regulation.....	141
Appropriations (see also Budgeting; particular agency)	
ARRA funds use	31(6.7)
Budget realignment.....	31(6.3)
Cash balances.....	31(5.3)
Conference committee report technical correction.....	123(11.3)–(11.21)
Current Operations and Capital Improvements Appropriations Act of 2010.....	31
Current Operations and Capital Improvements Appropriations Act Technical Corrections.....	123
DHHS block grants.....	31(10.37a)–(10.37hh)
Expenditure of funds in reserves limited	31(6.1)
FMAP funds contingency	123(1.3)
Funds and accounts—see that heading	
General Fund	
Availability.....	31(2.2a)
Capital appropriations	31(30.1)

Appropriations—continued

Current operations	31(2.1)
Measures for potential loss of federal funds	31(2.3a)–(2.3j)
Grant awards receipts	31(5.4)
Highway Fund	31(28.1a)–(28.1b)
Availability	31(3.2)
Current operations	31(3.1); 123(1.3A)
Highway Trust Fund	31(28.1a), (28.1c)
Availability	31(4.2)
Current operations	31(4.1)
Information Technology Fund	
Availability	31(5.2)
NER block grants	31(14.2a)–(14.2g)
Reallocate 2010 program year funding	31(14.2A)
Non-General Fund capital improvements	31(30.3a)–(30.3b)
Repairs and Renovations Reserve Account	
Allocations	31(30.4a)–(30.4e)
No transfers	31(2.2b)
Savings Reserve Account	
Measures for potential loss of federal funds	31(2.3g)
No transfers	31(2.2c)
State Fiscal Stabilization Fund	31(7.3)
Statutorily define 'scope'	31(30.8)
Technical corrections bill	123
Arboretum, Board of Directors—appointments and membership	87(1.4)
Archer Lodge, Town of—correct town boundaries	85
Armed Forces	
Absentee ballot application	192
Age of school entry for military dependants	111(2)
Certain armed forces plates clarification	132(7)
Foreclosures prohibited while mortgagor/trustor on active military duty	190
Honor and Remember Flag adopted	191(4)
Military Morale, Recreation, and Welfare Fund use	31(27A.1a)–(27A.1d)
Military personnel's remains	
Disposition	191(1)–(3)
Honor wishes of members of military	96(38)
National Guard	
Armory repair and renovation funds	31(30.4e)
Courts-martial changes	193
National Guard Tuition Assistance Program transferred	31(17.3a)–(17.3c)
Technical corrections, clarifications, and conforming changes	96(14)
Veterans	
Disabled veteran definition for property tax	95(16)
Military veteran contractors use study	152(2.13)
Road naming policy	31(28.4)
Wartime veterans special plates	39

Arts (see also Cultural Resources)	
Comprehensive arts education plan	34
NC Symphony funds.....	31(27A.2a)– (27A.2c)
Arts Council —A+ Schools program transfer from UNC-Greensboro	31(9.8)
Ashe County —taking of foxes.....	82(2)
Asheville, City of	
Energy efficiency pilot program bid exemption.....	57(1)
Renewable energy facility site lease without notice.....	57(2)
UNC-Asheville—see University of North Carolina	
Athletic Trainer Examiners, Board of —licensure fees	98
Attorney General	
Contract review and award oversight	194
Medicaid fraud prevention.....	31(10.26a)– (10.26e)
Restoration of firearms rights and exceptions for certain felons	108
Special prosecutor for Innocence Inquiry Commission judicial review	171(2)
Attorneys	
Attorney as beneficiary to will	181(1)–(2)
Counsel fees in alimony and support actions	14
ATVs (All Terrain Vehicles) —see Motor Vehicles	
Auditor, State	
Appropriations-current operations.....	31(2.1)
Battleship Commission to pay for audit	31(21.1)
Contract review and award oversight	194
Ports Authority to pay for audit.....	31(21.2)
Audits and Auditing	
Battleship Commission to pay for audit	31(21.1)
Ports Authority to pay for audit.....	31(21.2)
Authorities	
Agricultural Finance Authority—see that heading	
Airport authorities—see Aviation	
E-NC Authority—see that heading	
Education Assistance Authority, State—see that heading	
Global TransPark Authority—see that heading	
Parks and Recreation Authority—see that heading	
Ports Authority, State—see that heading	
Small Business Contractor Authority—see that heading	
Tourism Development Authorities—see Travel and Tourism	
Turnpike Authority, North Carolina—see that heading	
Autism Spectrum Disorder and Public Safety, Joint Study Committee On —extended.....	31(10.9)
Avery County	
Payment of delinquent taxes required before recording of deeds	51
Sugar Mountain, Village of—see that heading	

Aviation

Aircraft maintenance in DENR	31(13.16a)–(13.16b)
Combine Global TransPark, Ports Authority, and Railroad, and establish class I rail service to TransPark and ports study	152(30.1)–(30.2)
DENR aircraft flight and maintenance software	31(13.17)
Division of Aviation transfer to DOT.....	31(14.6a)–(14.6c)
Goldsboro-Wayne Municipal Airport private sale	76

B

Bail and Bail Bondsmen—see Insurance, Department
of; Surety and Fidelity

Banking Commission, State—contract review and
award oversight..... 194(2)–(5)

Battleship Commission, North Carolina

Non-General Fund capital improvements.....	31(30.3a)
Pay for audit.....	31(21.1)

Beaufort County

Belhaven, Town of—see that heading	
TANF benefit implementation.....	31(10.19)

Belhaven, Town of—harbor funds 31(30.2a)–(30.2c)

Bermuda Run, Town of

Assess and collect fees.....	77
Occupancy tax	78(3)–(3f), (11)

Bids and Bidding—see Contracts and Purchasing

Biotechnology

Agriscience and biotechnology school plan	152(29.1)–(29.4); 183
Commercialization of life sciences technologies plan	31(14.18A)
Life sciences industry and related job creation study.....	152(37.1)–(37.4)

Biotechnology Center, North Carolina

Appropriations-current operations.....	31(2.1)
Commercialization of life sciences technologies plan	31(14.18A)

Birth Certificates—see Records

Bladen County—DMV inspection call center

clarification	132(21)
---------------------	---------

Bladen Lakes—ranger residence non-General Fund

capital improvements.....	31(30.3a)
---------------------------	-----------

Board for Licensing of Geologists—see Geologists,
Board for Licensing of

Board for Licensing of Soil Scientists—see Soil
Scientists, Board for Licensing of

Board of Athletic Trainer Examiners—see Athletic
Trainer Examiners, Board of

Board of Chiropractic Examiners, State—see
Chiropractic Examiners, State Board of

Board of Cosmetic Art Examiners—see Cosmetic
Art Examiners, Board of

Board of Directors of the North Carolina Health Insurance Risk Pool —see Health Insurance Risk Pool, Board of Directors	
Board of Directors of the Partnership for Children, Inc. —see Partnership for Children, Inc., Board of Directors	
Board of Electrolysis Examiners —see Electrolysis Examiners, Board of	
Board of Examiners of Fee-Based Practicing Pastoral Counselors —see Fee-Based Practicing Pastoral Counselors, Board of Examiners of	
Board of Trustees of the Natural Heritage Trust Fund —see Natural Heritage Trust Fund Board of Trustees	
Board of Trustees of the North Carolina Teacher Academy —see Teacher Academy, Board of Trustees	
Board of Trustees of the State Health Plan for Teachers and State Employees —see State Health Plan for Teachers and State Employees, Board of Trustees	
Boards —see Committees, Commissions, Councils and Boards	
Boats and Boating —Clean Coastal Water and Vessel Act limited application.....	180(21a)–(21b)
Boone, City of	
Appalachian State University—see University of North Carolina	
Brevard, City of	
Brevard Academy participation in State Health Plan.....	137
City manager to appoint city clerk	18
Bridges —see Roads and Highways	
Broadband Task Force, Joint —created.....	31(6.18a)–(6.18e)
Brunswick County	
Caswell Beach, Town of—see that heading	
Resources Development Commission membership increased	65
Budget and Management, Office of State	
Appropriations	
Current operations.....	31(2.1)
Military Morale, Recreation, and Welfare Fund.....	31(27A.1a)–(27A.1d)
NC Symphony	31(27A.2a)–(27A.2c)
Community Care of North Carolina	31(10.15)
DENR special funds closure/transfer	31(13.21a)–(13.21f)
Driver Education Program funding and efficacy review.....	31(28.2)
Federal funds for local school units.....	31(7.31a)–(7.31b)
ITS network integration.....	31(6.11)
Location of horizontal control monument files for plat and subdivision mapping.....	180(1)
Measures for potential loss of federal funds.....	31(2.3a)–(2.3j)
Monitor compliance on salary freeze	31(29.5a)–(29.5b)
NC OpenBook	169(9)
State Fiscal Stabilization Fund	31(7.3)

Budgeting (see also Appropriations)

Budget code consolidations	31(6.2)
Community Care of North Carolina line item	31(10.15)
Community college budget flexibility	31(8.2)
Conference committee report technical correction	123(11.3)–(11.21)
Dix operations budget	31(10.10a)–(10.10b)
Legislative budget priorities	31(6.6)
Local school board flexibility in expenditure of State funds	31(7.13a)–(7.13b)
Medicaid budget reduction compliance authorizations	31(10.35)
NC OpenBook	169(9)
Statutorily define 'scope'	31(30.8)
Technical corrections, clarifications, and conforming changes	96(17), (34)
Uniform budget format for education	31(7.17a)–(7.17c); 123(3.2)
Building Codes —carbon monoxide detectors	97(6a)–(6b)
Building Commission, State —appointments and membership	87(1.32), (2.31)
Buildings	
Energy efficient commercial building federal tax deduction allocation	167(6)
Historic structure tax lien clarification	95(15), (17)
Buncombe County	
Asheville, City of—see that heading	
Burlington, City of	
Lease of city-owned property authorized	53
Residential development in municipal service districts	25
Buses —school/activity buses stopping at railroad	
crossings exemption	20

C**Cabarrus County**

Concord, City of—see that heading	
Concord streams restoration funds	31(30.2a)–(30.2c)
Fire district boundaries validated	17
Kannapolis, City of—see that heading	
Tourism Authority modified	79
Caldwell County —TANF benefit implementation	31(10.19)

Calendar

Religious holidays policies	112(1)–(3)
School calendar pilot program	31(7.10)
Significance of Memorial Day instruction	112(4a)–(4b)
Weather/emergency good cause waivers	114(1)

Campaign Finance (see also Elections)

Ads disclosure	170(6)
Board of Elections part of administrative hearings process for certain purposes	169(7)
Citizens United v. FEC conforming changes	170
Coerce political contributions or support illegal	169(1a)–(1b)

Campaign Finance —continued	
Criminal penalties	169(6a)–(6c)
Economic interest statement and regulation of campaign contributions study	169(25a)–(25b)
Electioneering communications disclosure	170(3)
Elections Board expenditure determination	170(6)
Expedited preliminary investigation of ethics complaint	169(23a)–(23h)
Independent expenditures disclosure	170(2)
Media outlet requirements	170(4)
Public access campaign contributions database	169(8)
Public funding of Council of State elections study	169(26a)–(26h)
Capital Punishment —litigation funds	31(15.4)
Carolina Beach, Town of —extraterritoriality	73(2a)–(2e)
Carolinas Partnership, Inc. —appropriations	31(14.15a)–(14.15d)
Carrboro, Town of	
Energy efficiency pilot program bid exemption	57(1)
Renewable energy facility site lease without notice	57(2)
Carteret County	
Bogue Banks shore protection study funds	31(30.2a)–(30.2c)
Morehead City, Town of—see that heading	
Oaths by public school principals	74
Cary, Town of —access to email lists held by units of local government	83
Caswell Beach, Town of —sewer treatment fee	29
Catawba County	
Energy efficiency pilot program bid exemption	63
Hickory, City of—see that heading	
Renewable energy facility site lease without notice	63
TANF benefit implementation	31(10.19)
Cellular Phones —see Telecommunications	
Cemeteries —see Funeral Services	
Cemetery Act	102
Cemetery Act, Legislative Study Commission On the North Carolina Cemetery Act —created	102:(7a)–(7f)
Cemetery Commission	
Change of control/deposits to trusts	102:(1)
Perpetual care funds	102:(2)–(3)
Center for Applied Textile Technology, Advisory Board —appointments and membership	31(8.8a)
Center for Geographic Information and Analysis	
Appropriations-availability	31(5.2)
Coordination of IT requirements and geographic information system efforts	31(6.9a)–(6.9b)
Chapel Hill, City of	
Energy efficiency pilot program bid exemption	57(1)
Renewable energy facility site lease without notice	57(2)
UNC-Chapel Hill—see University of North Carolina	
UNC Hospitals at Chapel Hill—see University of North Carolina	

Charitable Contributions (see also Corporations, Nonprofit)	
Real property donated for conservation must be used for such.....	167(5a)–(5b)
Charlotte, City of	
Firefighters' Retirement System death benefit	7
Public Library sales and use tax refund.....	95(4a)–(4b)
Regulation of towing vehicles from private lots	134
UNC-Charlotte—see University of North Carolina	
Charlotte Regional Partnership, Inc. —appointments and membership.....	184(4)
Charter Schools —see Education	
Charters	
Boundary correction for Archer Lodge	85
City manager to appoint city clerk for Brevard.....	18
Civil Service Commission membership for Wilmington.....	73(1)
Council-manager form of government for Marshville.....	21
Highlands High School scholarship program.....	9(4)
Lease of city-owned property authorized for Burlington.....	53
Mayor Pro Tempore election for Highlands.....	58
Residential development in municipal service districts for Burlington	25
Stormwater facilities assessments for Durham.....	81
Chatham County	
Education Board member term allowed and board actions validated	56
Jordan Lake water supply storage funds.....	31(30.2a)–(30.2c)
Cherokee County —Board of Education terms	45
Chief Information Officer, State —see Information Technology Services, Office of	
Child Abuse and Neglect (see also Crimes; Minors)	
Child abuse Responsible Individuals List (RIL) process	90
Child Care Commission	
Appointments and membership	87(1.5), (2.5)
Child care facilities nutrition and physical activity standards	117
Child Support —see Divorce	
Childhood Obesity, Legislative Task Force On — reestablished.....	152(26)
Children With Special Health Care Needs, Commission On —appointments and membership.....	12
Chiropractic Examiners, State Board of — appointments and membership	87(2.6)
Civil Service Boards/Commissions —Wilmington commission membership	73(1)
Clean Coastal Water and Vessel Act	180(21a)–(21b)

Clean Water Management Trust Fund, Board of Trustees

Appointments and membership	87(1.6), (2.7)
Appropriations-current operations.....	31(2.1)
Water and wastewater infrastructure needs task force	144(1a)–(1b)

Clean Water Revolving Loan and Grant Act..... 142(17)**Cleveland County**—emissions/safety inspections of

County vehicles by City of Shelby	47
---	----

Coastal Resources

Bogue Banks shore protection study funds	31(30.2a)–(30.2c)
Clean Coastal Water and Vessel Act limited application	180(21a)–(21b)
Coastal demonstration wind turbines	123(3.3)
Colonial Spanish Mustang official state horse	6
Contingency dredging funds.....	31(30.2a)–(30.2c)
Currituck Sound environmental restoration study funds	31(30.2a)–(30.2c)
Deepwater Horizon spill potential impact review	179(4)
DOT public access to coastal waters report repealed.....	165(8)
Fisheries—see that heading	
Intercoastal Water Way dredging funds	31(30.2a)–(30.2c)
Limitations on recovery for damages from oil spill review	179(5)
Offshore fossil fuel facilities review	179(2)
Oil and gas exploration in the Triassic Basin study	152(6.4)
Toll bridge authority repealed	133(1)
Wave energy research.....	31(9.10a)–(9.10b); 180(21.1)
Wind turbines demonstration.....	31(9.9)

Coastal Resources Commission

Offshore exploration and production laws and rules review.....	179(3)
Offshore fossil fuel facilities review	179(2)

Coastal Studies Institute—see University of North Carolina**Code Officials Qualification Board**

Appointments and membership	87(2.8)
Contract review and award oversight	194(25)

Colleges and Universities

Excess legislative tuition grants and state grants to private institutions transferred to State Contractual Scholarship Fund	31(9.19a)–(9.19b)
Financial aid	
Consolidation	31(9.2a)–(9.2d)
Private colleges appropriation.....	31(2.1); 123(1.1)
Higher education courses for high school students	31(7.24a)–(7.24h); 123(3.1)
Highlands High School scholarship program	9
Ready, Set, Go! initiative.....	31(7.8a)–(7.8b)
Religious holidays policies	112(2)–(3)
Success NC program.....	31(9.16)

Columbus County

Fair Bluff, Town of—see that heading

Commerce (see also Economic Development)

Appraisal management company regulation	141
Commercialization of life sciences technologies plan	31(14.18A)
Compliance with Federal Motor Vehicle Safety Act	129(1), (5)
Dealer plate changes	132(5)
Eco-industrial parks tax credit	147(5.1)–(5.4)
Inventory property tax deferral	140
Life sciences industry and related job creation study	152(37.1)–(37.4)
Logging truck registration	132(9)
Motor carriers—see Shipping	
Regulation of towing vehicles from private lots for certain cities/counties	134
Transporter plate misuse	132(16)
Wood chipper sales and use tax	147(6.1)–(6.2)

Commerce, Department of

Alternative apportionment formula time period	89(2a)–(2c)
---	-------------

Appropriations

Council of Government	31(14.18)
NC Biotechnology Center	31(2.1)
One North Carolina Fund	31(14.1)
Rural Economic Development Center	31(2.1)
Transfer aviation to Dept. of Transportation	31(2.2a)
Wanchese Seafood Industrial Park/Oregon Inlet funds	31(14.5)
Weatherization block grants	31(10.37a)

Biotechnology Center, North Carolina—see that heading

Eco-industrial parks tax credit	147(5.1)–(5.4)
---------------------------------------	----------------

Energy Policy Council—see that heading

Executive Aircraft Division

Transferred to DOT	31(14.6a)–(14.6c)
--------------------------	-------------------

Main Street Solutions Fund	31(14.6A)
----------------------------------	-----------

Review of planning and regulatory programs

considering impacts of climate change	180(13a)–(13b)
---	----------------

Rural Economic Development Center—see that heading

Technical corrections, clarifications, and conforming

changes	96(21); 142(7)
---------------	----------------

Water and wastewater infrastructure needs task force	144(1a)–(1b)
--	--------------

Commercial and Motor Carriers—see Commerce; Shipping**Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services**—see Mental Health, Developmental Disabilities, and Substance Abuse Services, Commission for**Commission for Public Health**—see Public Health, Commission for

- Commission of Indian Affairs, State**—see Indian Affairs, State Commission of
- Commission On Children With Special Health Care Needs**—
see Children With Special Health Care Needs, Commission on
- Commission On Indigent Defense Services**—see Indigent
Defense Services, Commission on
- Commission to Study the Governance and the Adequacy
of the Investment Authority of Various State-Owned
Funds for the Purposes of Enhancing the Return On
Investments**—see Governance and the Adequacy of the Investment
Authority of Various State-Owned Funds for the Purposes of
Enhancing the Return on Investments, Commission to Study the
- Commissions**—see Committees, Commissions, Councils and Boards
- Committee On Dropout Prevention**—see Dropout Prevention, Committee on
- Committees, Commissions, Councils and Boards**
- ABC Boards (Local)—see that heading
 - Acupuncture Licensing Board—see that heading
 - Administrative Procedure Oversight Committee,
Joint Legislative—see that heading
 - African-American Heritage Commission—see that heading
 - Aging, Study Commission on—see that heading
 - Agriculture and Forestry Awareness Study
Commission—see that heading
 - Agriscience and Biotechnology Regional School
Planning Commission—see that heading
 - Alcoholic Beverage Control Commission—see that heading
 - Arboretum, Board of Directors—see that heading
 - Arts Council—see that heading
 - Athletic Trainer Examiners, Board of—see that heading
 - Battleship Commission, North Carolina—see that heading
 - Building Commission, State—see that heading
 - Child Care Commission—see that heading
 - Childhood Obesity, Legislative Task Force on—see that heading
 - Children With Special Health Care Needs,
Commission on—see that heading
 - Chiropractic Examiners, State Board of—see that heading
 - Chiropractic Examiners, State Board of87(2.3)
 - Clean Water Management Trust Fund, Board of
Trustees—see that heading
 - Coastal Resources Commission—see that heading
 - Community Colleges, State Board of—see that heading
 - Comparative Negligence and Abrogation of Joint
and Several Liability, Joint Select Committee to
Study the Adoption of—see that heading
 - Cosmetic Art Examiners, Board of—see that heading
 - Criminal Justice Education and Training Standards
Commission—see that heading
 - Disciplinary Hearing Commission of the North Carolina
State Bar—see that heading
 - Diversity in the Public Schools, Legislative Commission on—see that heading

Committees, Commissions, Councils and Boards—continued

- Domestic Violence Commission—see that heading
- Dropout Prevention, Committee on—see that heading
- Early Childhood Education and Care, Joint Legislative
Study Committee on the Consolidation of—see that heading
- Economic Investment Committee—see that heading
- Education, Boards of (local)—see that heading
- Education Commission of the States—see that heading
- Education Oversight Committee, Joint Legislative—
see that heading
- Elections, Boards of (Local)—see that heading
- Elections, State Board of—see that heading
- Electrolysis Examiners, Board of—see that heading
- Elimination or consolidation study 152(2.18)
- Emergency Medical Services Advisory Council—see that heading
- Energy Policy Council—see that heading
- Environmental Management Commission—see that heading
- Ethics Commission, State—see that heading
- Ethics standards for Governor's appointees authorized 169(14)
- Fee-Based Practicing Pastoral Counselors, Board of
Examiners of—see that heading
- Fire and Rescue Commission, State—see that heading
- Geologists, Board for Licensing of—see that heading
- Governance and the Adequacy of the Investment
Authority of Various State-Owned Funds for the
Purposes of Enhancing the Return on Investments,
Commission to Study the—see that heading
- Governor's Crime Commission—see that heading
- Health Care Oversight Committee, Joint Legislative—see that heading
- Health Insurance Risk Pool, Board of Directors—see that heading
- Home Inspector Licensure Board—see that heading
- Housing Finance Agency, Board of Directors—see that heading
- Incentive Bonus Review Committee—see that heading
- Indian Affairs, State Commission of—see that heading
- Indigent Defense Services, Commission on—see that heading
- Irrigation Contractors' Licensing Board—see that heading
- Judicial Council, State—see that heading
- Legislative Ethics Committee—see that heading
- Legislative Research Commission—see that heading
- License to Give Trust Fund Commission—see that heading
- Life Sciences Industry and Related Job Creation, Study
Commission on the Expansion of the—see that heading
- Local Government Commission—see that heading
- Locksmith Licensing Board—see that heading
- Lottery Commission, State—see that heading
- Manufactured Housing Board—see that heading
- Marine Fisheries Commission—see that heading
- Mental Health, Developmental Disabilities, and
Substance Abuse Services, Commission for—see that heading

Committees, Commissions, Councils and Boards—continued

- Mountain Area Resources Technical Advisory Council—
see that heading
- National Park, Parkway and Forests Development
Council—see that heading
- Natural Heritage Trust Fund Board of Trustees—see that heading
- 911 Board—see that heading
- 911 Funds, House Select Committee on the Use of—see that heading
- Northeast Commission, North Carolina's—see that heading
- On-Site Wastewater Contractors and Inspectors
Certification Board—see that heading
- Partnership for Children, Inc., Board of Directors—see that heading
- Personnel Director added to BEACON Project
Steering Committee 31(27B.1)
- Pesticide Board—see that heading
- Post-Release Supervision and Parole Commission—see that heading
- Preservation of Biological Evidence, Joint Select
Study Committee on the—see that heading
- Private Protective Services Board—see that heading
- Program Evaluation Oversight Committee, Joint
Legislative—see that heading
- Property Tax Commission—see that heading
- Public Funding of Council of State Elections
Commission—see that heading
- Public Health, Commission for—see that heading
- Public Officers and Employees Liability Insurance
Commission—see that heading
- Public-Private Partnerships, Legislative Study
Commission on—see that heading
- Railroads Study Commission—see that heading
- Real Estate Commission—see that heading
- Recreational Therapy Licensure Board—see that heading
- Respiratory Care Board—see that heading
- Roanoke Island Commission—see that heading
- Rules Review Commission—see that heading
- Sedimentation Control Commission—see that heading
- Sentencing and Policy Advisory Commission—see that heading
- Sheriffs' Education and Training Standards
Commission—see that heading
- Soil Scientists, Board for Licensing of—see that heading
- Southern Dairy Compact Commission—see that heading
- State Health Plan Administrative Commission—see that heading
- State Health Plan for Teachers and State Employees,
Board of Trustees—see that heading
- State Personnel Commission—see that heading
- State Suggestion Review Committee—see that heading
- Structural Pest Control Committee—see that heading
- Substance Abuse Professionals Practice Board—see that heading
- Supplemental Retirement Board of Trustees—see that heading

Committees, Commissions, Councils and Boards—continued

- Teacher Academy, Board of Trustees—see that heading
- Transportation Oversight Committee, Joint
 - Legislative—see that heading
- UNC Board of Governors—see that heading
- Urban Growth and Infrastructure, Legislative Study
 - Commission on—see that heading
- Utilities Commission—see that heading
- Utility Review Committee, Joint Legislative—see that heading
- Uwharrie Regional Resources Commission—see that heading
- Virginia-North Carolina High-Speed Rail Compact
 - Commission—see that heading
- Water Infrastructure Commission, State—see that heading
- Well Contractors Certification Commission—see that heading
- Western North Carolina Public Lands Council—see that heading
- Wildlife Resources Commission—see that heading
- Zoological Park Funding and Organization Study
 - Committee—see that heading

Community College System Office—financial aid

- consolidation study 31(9.2a)–(9.2d)

Community Colleges

- 3-D equipment funds 31(8.9)
- Basic skills plus 31(8.10)
- Budget flexibility 31(8.2)
- Catawba Valley Community College
 - Manufacturing Solutions Center testing fees 31(8.8b)
- Community college/university demographics study 152(2.11)
- Curriculum and continuing education instruction
 - funding Formula 31(8.4d), (8.5a)
- Financial aid loans 31(8.5b)
- Information system funds carryforward 31(8.1a)–(8.1b)
- No additional multicampus centers without recurring funding 31(8.11)
- No funding reduction for Small Business Centers 31(8.7)
- Presidents' salaries flexibility 113
- Student services funding formula 31(8.5a)
- Tuition
 - Refunds 31(8.6a)–(8.6d)
 - Waivers for certain persons 31(8.4a)–(8.4d)
 - Waivers study 31(8.4d)

Community Colleges, State Board of

- Basic skills plus 31(8.10)
- Curriculum and continuing education instruction
 - funding Formula 31(8.5a)
- Financial aid loans 31(8.5b)
- No additional multicampus centers without recurring funding 31(8.11)
- Presidents' salaries flexibility 113
- Prison inmate education 31(8.3a)–(8.3d)
- Religious holidays policies 112(3)
- Special indebtedness for equipment use 31(30.11a)–(30.11c)

Community Colleges, State Board of—continued	
Student services funding formula	31(8.5a)
Technical corrections, clarifications, and conforming changes	96(14)
Tuition waivers	31(8.4a)–(8.4d)
Voluntary shared leave rules for nonfamily members.....	139
Community Colleges System Office	
Appropriations	
3-D equipment.....	31(8.9)
Current operations	31(2.1)
Information system funds carryforward.....	31(8.1a)–(8.1b)
Prison inmate education	31(8.3a)–(8.3d)
Management flexibility reduction	31(8.7)
No additional multicampus centers without recurring funding.....	31(8.11)
No funding reduction for Small Business Centers	31(8.7)
Reports—see that heading	
Special indebtedness projects	31(30.7a)–(30.7b)
Comparative Negligence and Abrogation of Joint and Several Liability, Joint Select Committee to Study the Adoption of—created	152(35.1)–(35.4)
Computers—see Information Technology	
Concord, City of—annexation.....	86(1)–(5)
Confidentiality—see Privacy	
Conservation	
Agencies/institutions energy efficiency reporting and compliance	31(14.2A)
Cleanfields renewable energy demonstration parks authorized	195
Computer equipment recycling	67; 180(20)
Eco-industrial parks tax credit.....	147(5.1)–(5.4)
Electronic recycling law notebook computer definition.....	180(20)
Energy efficiency pilot program bid exemption for certain cities and counties.....	57(1); 63
Energy efficient commercial building federal tax deduction allocation.....	167(6)
Oyster shell recycling tax credit sunset extended.....	147(4.1)–(4.3)
Plastic bag recycling.....	31(13.10a)–(13.10e); 123(5.2a)– (5.2b)
Real property donated for conservation must be used for such.....	167(5a)–(5b)
Savings from energy conservation shall remain with UNC.....	196
Water conservation/use efficiency programs standards clarification.....	180(8)
Constitution, North Carolina—felons ineligible to be elected sheriff referendum	49

Construction

Franchise tax burden reduction for construction companies	31(31.9a)–(31.9c)
Inventory property tax deferral	140
Management of certain products containing mercury	180(14a)–(14d)
Performance and payment bonding requirements for State and UNC projects	148
Street construction developer responsibility study	152(4.5)

Consumer Choice and Investment Act of 2009 173**Consumer Protection**

Annuity contracts protection clarification	11
Cemetery contracts to include itemized costs.....	102:(4)
Consumer guideline for purchasing hearing aids	121
Homeowner and Homebuyer Protection Act.....	164
Purchase of cemetery vaults	102:(4)
Tax interpretations notice to taxpayers.....	31(31.7Aa)–(31.7Ab)

Continuing Care Facilities—see Nursing Homes**Contracts and Purchasing**

Coastal demonstration wind turbines	31(9.9); 123(3.3)
Community Care of North Carolina	31(10.15)
Death penalty litigation funds.....	31(15.4)
DENR aircraft flight and maintenance software	31(13.17)
Disadvantaged minority-owned and women-owned business program updated and sunset extended	165(9)
Economic interest statement and regulation of campaign contributions study.....	169(25a)–(25b)
Electronic payment/funds transfer by local government and public authorities	97(15a)–(15b); 99
Energy efficiency pilot program bid exemption for certain cities and counties.....	57(1); 63
Gifts for awarding contracts illegal	169(2a)–(2b)
Military veteran contractors use study.....	152(2.13)
"Most Favored Nation" clauses use study	152(2.16)
Multiple award schedule contracts encouraged.....	147(8.1)–(8.3)
NC OpenBook	169(9)
New prison maintenance contracts prohibited.....	31(19.10a)–(19.10b)
Performance and payment bonding requirements for State and UNC projects	148
Promote historically underutilized businesses by Dept. of Commerce	31(14.10A)
Public-private development project authorized for Matthews	52
Public-private partnerships study	152(32.1)–(32.4)
Review and award oversight.....	194

Controlled Substances

Euthanasia registration/certification for animal shelters	124(6.1); 127
Single pharmacy/provider for narcotic prescriptions for Medicaid	31(10.34)

Controller, State

Appropriations-current operations.....	31(2.1)
Criminal Justice Law Enforcement Automated Data Services.....	31(6.10a)–(6.10e)
General Fund availability adjustments.....	31(2.2b)–(2.2c), (2.2f)–(2.2j)
Payment card rebate program.....	31(27B.2)
Personnel Director added to BEACON Project Steering Committee.....	31(27B.1)
Tax and debt collection process improvement.....	31(31.8a)–(31.8k)

Cooleemee, Town of—occupancy tax..... 78(4)–(4f), (11)

Coroners—see Medical Examiners

Corporal Punishment—see Student Discipline

Corporations, For-Profit (see also Commerce)

Citizens United v. FEC conforming changes.....	170
Franchise tax burden reduction for construction companies.....	31(31.9a)–(31.9c)
Low-profit limited liability companies.....	187
Small Business Centers funding.....	31(8.7)
Small business tax reporting compliance relief.....	31(31.3a)–(31.3f)
Taxes and assessments—see that heading	
Voluntary water conservation/water use efficiency programs standards clarification.....	180(8)

Corporations, Nonprofit

Citizens United v. FEC conforming changes.....	170
Real property donated for conservation must be used for such.....	167(5a)–(5b)

Correction, Department of

Appropriations	
Current operations.....	31(2.1)
Federal grant matching funds.....	31(19.1)
Non-General Fund capital improvements.....	31(30.3a)
Community-based residential reentry program for inmates pilot initiative.....	31(19.7)
Community service program fee increase.....	31(19.4a)–(19.4b); 123(6.3)
Contract review and award oversight.....	194(24)
Criminal Justice Partnership Program substance abuse center funds requirements.....	31(19.9)
Division of Community Corrections	
Probation services privatization pilot program.....	31(19.2)
Inmate medical cost containment	
Containment.....	31(19.6a)–(19.6h)
Containment impact study.....	31(19.6d)
Secretary—technical correction.....	96(2)

Correctional Institutions

Community-based residential reentry program for inmates pilot initiative.....	31(19.7)
Criminal Justice Partnership Program substance abuse center funds requirements.....	31(19.9)

Correctional Institutions—continued

Inmate medical costs	
Containment	31(19.6a)–(19.6h)
Containment impact study.....	31(19.6d)
Study.....	31(19.8a)–(19.8b)
Legal status of prisoners queries	97(12)
New maintenance contracts prohibited.....	31(19.10a)–(19.10b)
Prison inmate education.....	31(8.3a)–(8.3d)

Cosmetic Art Examiners, Board of—appointments

and membership	87(2.9)
----------------------	---------

Council of Government—appropriations

31(14.18)

Council of State—public funding of elections study.....

169(26a)–(26h)

Councils—see Committees, Commissions, Councils and Boards**Counties** (see also Local Government; particular county)

Alamance County/Orange County boundary	61
Area mental health boards term limits.....	31(10.7)
Limitation of funds use in elections	114(1.5a)
Local sales tax change on first day of calendar quarter	95(12), (44)
Notice of fees related to subdivision development.....	180(11a)–(11d)
Occupancy tax for certain counties.....	78(5)–(10)
Payment of delinquent taxes required before recording of deeds in certain counties	44
Refund of unused assessments	129(7)
Regulation of towing vehicles from private lots for certain cities/counties	134
Renewable energy facility site lease without notice for certain cities and counties	63
Right of action against county officials, clerks of court removed	96(29)
Taking of foxes in certain cities and counties	82(1a)–(2)
TANF benefit implementation.....	31(10.19)

County Commissioners—Cabarrus fire district

boundaries validated	17
----------------------------	----

Courts

AOC (Administrative Office of the Courts)

Expert witness fees.....	31(15.7), (15.12)
Child support fee modification	31(15.6)

Civil actions

Oil spill liability	179(1a)–(1d)
---------------------------	--------------

Civil procedure

Adoption of comparative negligence and abrogation of joint and several liability study.....	152(35.1)–(35.4)
False Claims Act technical correction.....	96(25a)–(25b)
Filing time for partitions	97(1)
Judgement docket technical correction	96(23)
Judgement execution technical correction	96(24a)–(24c)
Statute of limitations on civil penalties, assessments, and fines under Chapter 20	129(6)

Courts—continued

Clerks of Court	
Community service fees	96(28c)
Conference of Clerks of Superior Court annual study of implementation of removal of personal information clarifying change	96(1)
Escheated property confidentiality	97(10)
Right of action against county officials	96(29)
Technical corrections, clarifications, and conforming changes	96(30)
Court costs and fees	
Attorney appointment	31(15.11a)–(15.11b)
DNA database and databank funding	147(7.1)–(7.3)
Domestic violence counterclaim	31(15.8a)–(15.8b)
Increases	31(15.5a)–(15.5c);123(6.1)
Resumption of maiden of former name	31(15.9a)–(15.9b)
Creation of trust by court	97(5a)
Criminal procedure	
Domestic violence pre-trial release to consider criminal history	135
Technical corrections, clarifications, and conforming changes	96(4)
District Court	
Domestic violence education and training standards for judges	106
Probation revocation jurisdiction	97(13)
Therapeutic court judgement technical correction	96(26a)–(26c)
Domestic violence and civil no-contact cases	
electronic filing pilot program	31(15.13a)–(15.13b)
Evidence	
DNA database and databank funding	147(7.1)–(7.3)
DNA sample taken on arrest	94
Preservation of biological evidence study extended	152(24)
Expunctions technical corrections and clarifying changes	174(1)–(15)
Innocence Inquiry Commission—see that heading	
Judges	
Senior resident superior Court judge determination	105
National Guard courts-martial changes	193
Public defenders	
Expansion funds	31(15.3)
Technical corrections, clarifications, and conforming changes	96(27)
Responsible Individuals List (RIL) judicial review	90
Superior Court	
Probation revocation jurisdiction	97(13)
Senior resident judge determination	105
Supreme Court	
Domestic violence education and training standards for District Court judges	106
Witnesses (see also Evidence, this heading)	
Expert fees	31(15.7), (15.12)
Testimony by legislative employees	169(24a)–(24c)
Craven County —regulation of towing vehicles from private lots	134

Crime Control and Public Safety, Department of

Appropriations	
Current operations	31(2.1)
Transfer for Armory repair and renovation.....	31(30.4e)
Deepwater Horizon spill potential impact review	179(4)
Governor's Crime Commission—see that heading	
Law Enforcement Support Services Division	
Fee schedule development and reporting.....	31(17.2a)–(17.2b)
Fees.....	31(17.1a)–(17.1d)
National Guard Tuition Assistance Program transferred	31(17.3a)–(17.3c)
Oil Spill Contingency Plan update	179(4)
Oversize load/hazardous materials escort fee.....	129(4)
Review of planning and regulatory programs	
considering impacts of climate change	180(13a)–(13b)
Unsecured bonds study	152(10.2)
Crimes (see also Motor Vehicle Violations and Infractions)	
Campaign finance violations	169(6a)–(6c)
Child abuse and neglect—see that heading	
Coerce political contributions or support	169(1a)–(1b)
Domestic violence—see that heading	
Electronic sweepstakes ban	103
Gifts for awarding contracts	169(2a)–(2b)
Increase penalty animal abuse	16
Legal status of prisoners queries	97(12)
Medicaid fraud prevention.....	31(10.26a)–(10.26e)
Misdemeanor reclassification review	31(19.5)
Prohibit remuneration related to referrals or	
purchase/lease arrangements that lead to Medicaid payments.....	185
Receiving anything of value for performance of	
official act.....	169(3a)–(3b)
Restoration of firearms rights and exceptions for certain felons.....	108
Sex offenses—see that heading	
Trespass on domestic violence shelter property a felony	5(1)
Criminal Justice Education and Training Standards Commission	
Appointments and membership	87(1.7)
Exempt from minimum 18 year age requirement for licensing	97(8)
Cullowhee, Town of	
Western Carolina University—see University of	
North Carolina	
Cultural Resources	
Endor iron furnace historic site feasibility study.....	152(17.1)–(17.3),(19)
Freedom Monument Project grant.....	31(22.1)
Institute of Outdoor Drama transferred from	
UNC-Chapel Hill to East Carolina.....	31(9.14a)–(9.14c)
Libraries—see that heading	
NC Symphony funds.....	31(27A.2a)–(27A.2c)
Transfer of funding for performing arts form to	
Roanoke Island Commission.....	31(9.6)
USS North Carolina non-General Fund capital improvements.....	31(30.3a)

Cultural Resources, Department of

Appropriations	
Current operations	31(2.1)
Non-General Fund capital improvements	31(30.3a)
Transfer of funding for performing arts to Roanoke Island Commission	31(9.6)
Arts Council—see that heading	
Comprehensive arts education plan	34
Endor iron furnace historic site feasibility study	152(19)
Freedom Monument Project grant	31(22.1)
Cumberland County	
Regulation of towing vehicles from private lots	134
Current Operations and Capital Improvements Appropriations Act of 2010	31
Current Operations and Capital Improvements Appropriations Act Technical Corrections	123
Curriculum —see Education	
Currituck County	
Currituck Sound environmental restoration study funds	31(30.2a)–(30.2c)
Land-use/building permits prohibited to delinquent taxpayer	30(1)–(3)

D**Dams**—see Lakes and Rivers; Utilities**Dare County**

Manteo Old House Channel funds	31(30.2a)–(30.2c)
Manteo, Town of—see that heading	
Occupancy tax	78(7)
Payment of delinquent taxes required before recording of deeds	44
Regulation of towing vehicles from private lots	134
Wanchese Seafood Industrial Park/Oregon Inlet funds	31(14.5)
Data Systems	
DNA database and databank	
Funding	147(7.1)–(7.3)
Generally	94
NC OpenBook	169(9)
Public access campaign contributions database	169(8)
Responsible Individuals List (RIL) process	90
Water and wastewater infrastructure needs study	144(1a)–(1b)

Databases—see Data Systems**Davie County**

Bermuda Run, Town of—see that heading	
Cooleemee, Town of—see that heading	
Mocksville, Town of—see that heading	

Day Care

Adult day care	
Block grant	31(10.37a)
Criminal records checks study	93
Child care	
Block grants.....	31(10.37a)
Early education certification for child care centers.....	178
Electronic benefits transfer system	31(10.1)
Facilities nutrition and physical activity standards	117
Improve facility nutrition standards study	117(3)
Subsidy funds use facilitation policies repealed	31(10.2)

Deannexation—see Annexation**Death and Dying**

Causes of teen driving fatalities study	152(15)
Disposition of military personnel's remains	191(1)–(3)
Honor wishes of members of military regarding remains	96(38)

Death Benefits—see Insurance, Life**Debt-Local Government**—sale of bonds rated

below "AA" authorization sunset removed	125
---	-----

Debt-State Government

Green Square parking debt service	31(30.9)
Special indebtedness	
For equipment use	31(30.11a)– (30.11c)
Projects	31(30.7a)–(30.7b)
Transportation debt agreements study	152(4.4)
UNC capital improvement projects	172
Yadkin River bridge exempt from Garvee bonds equity formula	31(28.8)

Debtor and Creditor

Fees collection	
Bermuda Run.....	77
Unpaid sewer fees for certain cities	59
Foreclosures	
Emergency Program to Reduce Home Foreclosure Act extended.....	168
Homeowner and Homebuyer Protection Act	164
Prohibited while mortgagor/trustor on active military duty	190
Rescue scams.....	164(2)
Rescue transactions restrictions	97(15a)–(15b)
Tax and debt collection process improvement	31(31.8a)–(31.8k)

Deeds—technical corrections, clarifications, and

conforming changes	96(9)
--------------------------	-------

Deeds of Trust—see Mortgages and Deeds of Trust**Defense and Security Technology Accelerator**

Reports—see that heading	
--------------------------	--

Dentistry

Area Health Education Centers dental care provider workforce development	92
Dental services for special needs population study	88
ECU dental school accreditation	31(9.18)
Licensed dentist added to Commission on Children With Special Health Care Needs	12
No limitations on noncovered fees for dental services by health plans	138

Department of Agriculture and Consumer Services—
see Agriculture and Consumer Services, Department of

Department of Crime Control and Public Safety—
see Crime Control and Public Safety, Department of

**Department of Environment and Natural
Resources**—see Environment and Natural Resources,
Department of (DENR)

Department of Insurance—see Insurance, Department of

Department of Justice—see Justice, Department of

**Department of Juvenile Justice and Delinquency
Prevention**—see Juvenile Justice and Delinquency
Prevention, Department of

Department of Labor—see Labor, Department of

Developmentally Disabled—see Disabled Persons;
Mental Health

Disabled Persons

Alternatives to hospitalization of mh/dd/sas populations study	152(18.1)–(18.6)
ATV use by disabled sportsmen	146
CAP-MR/DD service eligibility	31(10.7A)
Children with disabilities allocation	31(7.1)
Consolidation of schools for the deaf and blind principal functions	31(10.20Ba)– (10.20Bb)
Corporal punishment of students with disabilities	159
Dental services for special needs population study	88
Disabled veteran definition	95(16)
Discipline/instruction of students with disabilities sunset delayed	36
State-county special assistance consolidating changes	31(10.19Aa)– (10.19Ai)

Disciplinary Hearing Commission of the North

Carolina State Bar—appointments and membership

Diseases—see AIDS (Acquired Immune Deficiency
Syndrome); Health Services; Public Health

Distance Education—see Education

Diversity in the Public Schools, Legislative

Commission On—created

Division of Motor Vehicles—see Motor Vehicles,
Division of

Divorce	
Child support	
Child support services funding eliminated.....	31(10.17); 123(4.1)
Fee modification.....	31(15.6)
Technical corrections, clarifications, and conforming changes	96(30)
Counsel fees in alimony and support actions	14
Resumption of maiden of former name fee	31(15.9a)–(15.9b)
DNA Database Act	94
DNA (Deoxyribonucleic Acid)	
Database Act.....	94
Database and databank funding	147(7.1)–(7.3)
Domestic Animals (see also Animals)	
Ownerless dog/cats and commercial dog breeding study	152(2.12)
Domestic Violence	
Block grants	31(10.37a)
Counterclaim action fees	31(15.8a)–(15.8b)
Domestic violence and civil no-contact cases electronic filing pilot program.....	31(15.13a)–(15.13b)
Education and training standards for judges.....	106
Pre-trial release to consider criminal history	135
Shelter limited civil liability	5(2)
Trespass on shelter property a felony	5(1)
Domestic Violence Commission —appointments and membership.....	87(1.8), (2.11)
Drivers Licenses	
Age cap for 8-year license	131
CDL 5-year expiration date	132(1)
Driver Education Program funding and efficacy review	31(28.2)
Restoration of drivers license fee increased	130
Driving While Impaired (DWI)	
Parole into residential treatment program	97(2)
Restoration of drivers license fee increased	130
Dropout Prevention, Committee On	
Appointments and membership	31(7.19c); 87(1.9), (2.12)
Dropout prevention grants	31(7.19a)–(7.19g)
Drought Management Preparedness and Response Act	180(9)
Duplin County —delinquent property tax collection	24
Durham, City of	
Regulation of towing vehicles from private lots	134
Stormwater facilities assessments	81
Durham County	
Jordan Lake water supply storage funds.....	31(30.2a)–(30.2c)
Protest petition requirement.....	80
DWI (Driving While Impaired) —see Driving While Impaired (DWI)	

E

E-NC Authority

- Appointments and membership87(2.15)
- Reports—see that heading

Early Childhood Education and Care, Joint Legislative

- Study Committee On the Consolidation of**—created 152(27.1)–(27.3)

Early Childhood Education and Development

- Initiatives**—see Health and Human Services,
Department of (DHHS)

Eastern Region Development Commission, North**Carolina's**

- Appropriations 31(14.15a)–(14.15d)
- NC East Project..... 123(3.5)

Economic Development

- Agrarian zone definition technical correction 147(1.2)
- Alternative apportionment formula time period 89(2a)–(2c)
- ARRTA grant not public funds for renewable
energy tax credit 4
- Broadband needs study 31(6.18a)–(6.18e)
- Cleanfields renewable energy demonstration parks
authorized 195
- Eco-industrial parks tax credit 147(5.1)–(5.4)
- Environmental document not required for projects
using public funds..... 186; 188
- Environmental impact clarification 147(1.3)–(1.6)
- Film tax credit extended 89(1)
- Global TransPark Authority review 31(28.3b);123
..... (8.2)
- Growing business incentives sunset extended..... 147(1.1)
- Incentive grants..... 31(14.1)
- Incentives reporting and sunsets..... 166
- Interactive digital media tax credit 147(3.1)–(3.7)
- Internet datacenter
 - Investment threshold for excise tax (second facility) 91(6)–(7)
 - Sales tax exemption..... 91(1)–(3), (5)
- Job Development Investment Grant Program
reporting 31(14.8)
- Keeping NC Competitive Act..... 91
- Life sciences industry and related job creation study 152(37.1)–(37.4)
- Main Street Solutions Fund 31(14.6A)
- NC East Project..... 123(3.5)
- NER block grants..... 31(14.2a)–(14.2g)
- No funding reduction for Small Business Centers 31(8.7)
- Paper-from-pulp manufacturing sales tax refund 91(4)
- Poverty reduction and economic recovery study extended 152(28)
- Production company tax credit expanded..... 147(2.1)–(2.3)
- Regional Economic Development Commissions
allocations..... 31(14.15a)–(14.15d)

Economic Development—continued

Renewable energy property	
Facility credit reinstated/expanded	167(3a)–(3b)
Investment credit	167(2a)–(2d)
Tax credit and refund sunsets extended.....	31(31.5a)–(31.5e)
Tax credits for growing businesses	147
Technical corrections, clarifications, and conforming changes.....	96(40.3)
Turbine manufacturing sales tax refund	91(4)
Urban growth and infrastructure study extended	152(22)

Economic Investment Committee—appointments

and membership	87(1.10), (2.13)
----------------------	------------------

Edgecombe County

Princeville, Town of—see that heading	
Rocky Mount, City of—see that heading	

Education

A+ Schools program transfer from UNC-Greensboro to Arts Council	31(9.8)
Academically gifted children funds.....	31(7.2)
Activity buses stopping at railroad crossings exemption	20
Age of school entry for military dependants	111(2)
Agriscience and biotechnology school plan	152(29.1)–(29.4);183
Alternative teacher salary plans pilot program report repealed	31(7.22b)
At-risk and improving student accountability allotment report repealed	31(7.22d)
Broadband needs for education and economic development study	31(6.18a)–(6.18e)
Calendar	
Calendar/instructional time flexibility	10
Pilot program.....	31(7.10)
Weather/emergency good cause waivers	114(1)
Charter schools	
Brevard Academy participation in State Health Plan	137
Reform low-performing schools	1
Class size reduction funds	31(5.1a1)–(5.1b)
Comprehensive arts education plan.....	34
Connectivity initiative funds.....	31(7.9a)–(7.9b)
Consolidation of schools for the deaf and blind principal functions	31(10.20Ba)– (10.20Bb)
Convey certain property by sale lease authorized for Forest City.....	54
Cooperative Innovative High Schools	
Generally	31(7.21a)–(7.21f)
Impact study	31(7.21d)
Deaf and blind residential and preschools transfer.....	31(10.21Aa)–(10.21Ah)
Disadvantaged students supplemental funding.....	31(7.23)
Discipline—see Student Discipline	

Education—continued

DPI reorganization to implement budget act authorized	31(7.7c)
Drivers education	
Program funding and efficacy review	31(28.2)
Standard curriculum	31(7.12)
Dropout prevention grants	31(7.19a)–(7.19g)
Early childhood education and care consolidation study	152(27.1)–(27.3)
Environmental engineer support services	31(7.25)
EVAAS use by school improvement teams	110
Expenditure of supplemental funds for low-wealth counties report repealed	31(7.22c)
Federal funds for local units	31(7.31a)–(7.31b)
Federal funds for state level personnel/contracts review and reallocation	31(7.7b)
Fitness testing guidelines	161
Flexibility in expenditure of State funds	31(7.13a)–(7.13b)
Four-year cohort graduation rate plan	111(1)
Furloughs authorized	31(7.13b), (29.1a)–(29.1j)
Graduate disparity study	152(5.3)
Healthful living education courses	35
High school graduation project repealed	33
Higher education courses for high school students	31(7.24a)–(7.24h); 123(3.1)
Highlands High School scholarship program	9
Identifying students at risk of academic failure	162
Innovative high schools operating flexibility	182
Leadership Academy funds	31(7.6)
Minimum age for enrollment in public schools study	152(5.4)
More at Four program continuation	31(7.5a)–(7.5h)
Oaths by public school principals in Carteret County	74
Public School Building Capital Fund appropriations	123(1.4)
Raising compulsory public school attendance age study	152(14.1)
Receipt-supported positions	31(7.7a)
Religious holidays policies	112(1)–(3)
Safe Schools Act	163
Scholarships for Needy Students funds	31(5.1f)
Significance of Memorial Day instruction	112(4a)–(4b)
Sports injuries study	152(13.1)
STEM	
Education priorities	41
Programs review	31(9.7a)–(9.7c)
Student discipline—see that heading	
Students with disabilities	
Corporal punishment	159
Discipline/instruction sunset delayed	36
Supplemental Nutrition Assistance Program	
Education expansion study	160

Education—continued

Teacher education reports coordinated due dates	31(9.3a)–(9.3e)
Teachers and education administrators—see that heading	
Uniform budget format	31(7.17a)–(7.17c); 123(3.2)
Uniform Education Reporting System funds	31(7.20a)–(7.20b)
Virtual Public Schools (NCVPS) allotment formula	31(7.4a)–(7.4f); 123(3.2A)
Waivers and allotment adjustments report repealed	31(7.22a)
Education Assistance Authority, State	
Appointments and membership	109
Appropriations	
Excess legislative tuition and state grants to State Contractual Scholarship Fund	31(9.19a)–(9.19b)
Financial aid consolidation study	31(9.2a)–(9.2d)
National Board for Professional Teaching	
Standards	31(7.11a)–(7.11c)
National Guard Tuition Assistance Program	
transferred from Dept. of Crime Control	31(17.3a)–(17.3c)
Education, Boards of (Local)	
Academically gifted children funds	31(7.2)
Calendar	
Pilot program	31(7.10)
School calendar/instructional time flexibility	10
Weather/emergency good cause waivers	114(1)
Campus police agency for Moore County	64
Chatham board member term allowed and board	
actions validated	56
Children with disabilities allocation	31(7.1)
Corporal punishment of students with disabilities	159
Disadvantaged students supplemental funding	31(7.23)
Educational testing program components	31(7.30)
EVAAS use by school improvement teams	110
Flexibility in expenditure of State funds	31(7.13a)–(7.13b)
Furloughs authorized	31(7.13b), (29.1a)– (29.1j)
Higher education courses for high school students	31(7.24a)–(7.24h); 123(3.1)
Identifying students at risk of academic failure	162
Limitation of funds use in elections	114(1.5c)
Membership and terms for Davie County	42
Noncontributory health plan coverage for teachers	
who have worked a full year	136(1)
Probationary teachers	31(7.14a)–(7.14b)
Reform low-performing schools	1
Terms for Cherokee County	45
Education Cabinet	
Ready, Set, Go! initiative	31(7.8a)–(7.8b)
STEM education priorities	41

Education Commission of the States—appointments and membership	87(1.11)
Education Oversight Committee, Joint Legislative	
Graduate disparity study	152(5.3)
Minimum age for enrollment in public schools study	152(5.4)
National Board Certification Program for Principals study	31(7.11c)
Virtual school of engineering study	152(5.2)
Education, State Board of	
Appointment of members to regional economic commissions	184
Appropriations	
Academically gifted children	31(7.2)
Children with disabilities	31(7.1)
Environmental engineer support services	31(7.25)
National Board for Professional Teaching Standards	31(7.11b)
Virtual Public Schools (NCVPS) allotment formula	31(7.4a)–(7.4f); 123(3.2A)
Comprehensive arts education plan	34
Cooperative Innovative High Schools	31(7.21a)–(7.21f)
Corporal punishment of students with disabilities	159
Deaf and blind residential and preschools transfer	31(10.21Aa)– (10.21Ah)
Disadvantaged students supplemental funding	31(7.23)
Dismissal of teachers/school employees	163
EVAAS use by school improvement teams	110
Fitness testing guidelines	161
Four-year cohort graduation rate plan	111(1)
Furlough rules for local school boards	31(29.1f)
Healthful living education courses	35
High school graduation project repealed	33
Higher education courses for high school students	31(7.24a)–(7.24h); 123(3.1)
Identifying students at risk of academic failure	162
Innovative high schools operating flexibility	182
Raising compulsory public school attendance age study	152(14.1)
Ready, Set, Go! initiative	31(7.8a)–(7.8b)
Reform low-performing schools	1
Religious holidays policies	112(1)
Significance of Memorial Day instruction	112(4a)–(4b)
Sports injuries study	152(13.1)
Technical corrections, clarifications, and conforming changes	96(13)
Testing program components	31(7.30)
Uniform budget format	31(7.17a)–(7.17c); 123(3.2)
Voluntary shared leave rules for nonfamily members	139

Elections (see also Campaign Finance)

ABC store elections	122(7b)–(8)
Absentee ballot application by military personnel	192
Deceased candidate written designation by representative.....	100
Felons ineligible to be elected sheriff.....	49
Help America Vote Act (HAVA) inspectors funding	31(27.2)
Limitation of funds use in elections by local government	114(1.5a)–(1.5c)
Mayor Pro Tempore election for Highlands.....	58
Non write-in in non-partisan runoff.....	170(15.5)
Political Parties Financing Fund technical correction	95(3)
Public funding of Council of State elections study	169(26a)–(26h)
Technical corrections, clarifications, and conforming changes.....	96(18), (19), (35), (36)

Elections, State Board of

Appropriations	
Current operations	31(2.1)
Help America Vote Act (HAVA) inspectors funding.....	31(27.2)
Reserve for Software Development	123(1.2e)
Expenditure determination.....	170(6)
Part of administrative hearings process for purposes of investigations and audits	169(7)
Public access campaign contributions database	169(8)

Electrolysis Examiners, Board of—appointments

and membership	87(1.12)
----------------------	----------

Electronic Government

Domestic violence and civil no-contact cases	
electronic filing pilot program.....	31(15.13a)– (15.13b)
Efficient State government e-commerce study.....	152(2.8)
Electronic benefits transfer system.....	31(10.1)
Electronic payment/funds transfer by local government and public authorities	99
Enterprise electronic forms and digital signatures plan.....	31(6.17a)–(6.17b)
Motor fuel tax paid by electronic funds transfer	95(25)
NC OpenBook	169(9)
Notice of fees related to subdivision development.....	180(11a)–(11d)
Parole hearing electronic notification to media.....	107
Public access campaign contributions database	169(8)
Smart cards	31(6.19)

Elementary Education—see Education**Emergency Management**

Drought Management Preparedness and Response	
Act enforcement clarification	180(9)
Oil Spill Contingency Plan update	179(4)
Oil spill liability, response & preparedness.....	179

Emergency Medical Services Advisory Council—

appointments and membership	87(1.13), (2.14)
-----------------------------------	------------------

Emergency Program to Reduce Home Foreclosure Act	168
Emergency Services	
Cabarrus fire district boundaries validated.....	17
Fire protection fees for Union County.....	84
Incident management assistance patrol red light use.....	132(11)
Move-over law applies to electric utility restoration vehicles	132(12)
Pyrotechnics safety and licensing.....	22
Silver Alert System conforming change.....	96(16)
Supplemental firemen's retirement fund for Waynesville repealed.....	43
Tuition waivers	31(8.4a)–(8.4d),(9.26)
Wilkesboro firemen's supplemental pension fund benefit increase	23
Youth employment exception.....	97(9)
Eminent Domain —DOT acquisition of right-of-way for a DAS network.....	165(4a)
Emissions Inspections —see Inspections	
Employment (see also State Employees)	
Adult day care/adult day health services criminal records checks study.....	93
Area Health Education Centers dental care provider workforce development	92
Furloughs authorized for local school boards.....	31(7.13b)
Labor Dept. apprenticeship program fees.....	31(12.1)
Substitute teachers and substitute school personnel unemployment insurance.....	71
Workforce Development Boards consumer choice requirements	31(14.4)
Employment Security Commission	
Appropriations	
Reserve Fund.....	31(14.13)
Unemployment Trust Fund	31(14.13)
Worker Training Trust Fund	31(14.13)
Energy Policy Council —technical corrections, clarifications, and conforming changes	142(7)
Engineering —virtual school of engineering study	152(5.2)
Entertainment Industry	
Admissions tax modernization	31(31.7a)–(31.7e)
Public-private development project authorized for Matthews	52
Pyrotechnics safety and licensing.....	22
Ticket resale study	152(7.3)
Under 13 beauty pageant regulation study	152(2.17)
Environment (see also Conservation)	
Air quality violations penalties	180(6)
Basinwide hydrologic models	143
Carbon sequestration and carbon offset opportunities study	152(6.8)
Deepwater Horizon spill potential impact review	179(4)

Environment—continued

Delay sunset on current nutrient offset payments	180(19)
Economic development environmental impact clarification.....	147(1.3)–(1.6)
Environmental document not required for publicly funded economic development projects	186; 188
Fishery management plan sustainable harvest.....	13
Gas leases in the Central Shale Belt study	152(6.7), (8.2)
Greenway easement assessment exemption for Winston-Salem	60
Impact of environmental toxins on human health study	152(6.2)
Inactive Hazardous Sites Program administrative cap	31(13.9a)
Limitations on recovery for damages from oil spill review	179(5)
Management of certain products containing mercury	180(14a)–(14d)
Merger of Div. of Public Health with Div. of Environmental Health study	31(13.2a)–(13.2d)
Offshore exploration and production laws and rules review	179(3)
Oil and gas exploration in the Triassic Basin study	152(6.4)
Oil Spill Contingency Plan update	179(4)
Penalties applicable to violations of packaging, plastics labelling, solid waste, and incineration statutes study	180(15)
Prohibition on increased nutrient loading of impaired water supplies	180(12)
Review of planning and regulatory programs considering impacts of climate change	180(13a)–(13b)
Surface Water Identification and Training Certification Program reestablished	180(4a)–(4c)
Voluntary water conservation/water use efficiency programs standards clarification	180(8)
Water quality cost share study	152(6.3)
Environment and Natural Resources, Department of (DENR)	
Aircraft flight and maintenance software	31(13.17)
Appropriations	
Current operations	31(2.1)
Hazardous waste fund	123(5.3)
Non-General Fund capital improvements	31(30.3a)
Texfi site cleanup and monitoring funds.....	31(13.9A)
Water resources development projects.....	31(30.2a)–(30.2c)
Basinwide hydrologic models	143
Cleanfields renewable energy demonstration parks authorized	195
Dam safety fee	31(13.6a)–(13.6b); 123(5.1)
Development approval running period suspension	177

**Environment and Natural Resources, Department
of (DENR)—continued**

Division of Environmental Assistance and Outreach	
Established	31(13.1a)–(13.1g)
Plastic bag recycling monitoring.....	31(13.10c)
Division of Environmental Health	
Merger with Div. of Public Health study	31(13.2a)–(13.2d)
Division of Forest Resources	
Aircraft maintenance	31(13.16a)–(13.16b)
Information sharing from DOR.....	31(13.15)
Division of Land Resources	
Location of horizontal control monument files for plat and subdivision mapping.....	180(1)
Division of Marine Fisheries	
Aircraft maintenance	31(13.16a)–(13.16b)
Fishery management plan development process study	152(20)
Division of Parks and Recreation	
Reclassify vacant positions	31(13.12)
State Parks System plan report.....	31(13.13)
Division of Pollution Prevention and Environmental Assistance	
Reorganized under Division of Environmental Assistance and Outreach	31(13.1a)–(13.1g)
Division of Waste Management	
Plastic bag recycling monitoring.....	31(13.10c)
Division of Water Quality	
Surface Water Identification and Training Certification Program reestablished.....	180(4a)–(4c)
Drought Management Preparedness and Response	
Act enforcement clarification.....	180(9)
Economic development environmental impact clarification.....	147(1.3)–(1.6)
Fishery management plan sustainable harvest.....	13
Hazardous waste fee increase	31(13.8a)– (13.8b); 123(5.1)
Limitations on recovery for damages from oil spill review	179(5)
Local water supply plan.....	150
Management of certain products containing mercury	180(14a)–(14d)
National Park, Parkway and Forests Development Council—see that heading	
Natural Resources Planning and Conservation Reorganized under Office of Conservation, Planning, and Community Affairs	31(13.1B)
Office of Conservation and Community Affairs Reorganized under Office of Conservation, Planning, and Community Affairs	31(13.1B)

**Environment and Natural Resources, Department
of (DENR)—continued**

Office of Conservation, Planning, and Community Affairs Established	31(13.1B)
Office of Environmental Education Reorganized under Office of Environmental Education and Public Affairs	31(13.1Aa)–(13.1Af)
Office of Environmental Education and Public Affairs Established	31(13.1Aa)–(13.1Af)
Office of Public Affairs Reorganized under Office of Environmental Education and Public Affairs	31(13.1Aa)–(13.1Af)
On-site wastewater certification	31(13.2e)–(13.2o)
Public water/wastewater system financial soundness requirement cost/.benefit.....	144(2a)–(2c)
Reports—see that heading	
Review of planning and regulatory programs considering impacts of climate change	180(13a)–(13b)
Special funds closure/transfer.....	31(13.21a)–(13.21f)
Sustainable Communities Task Force—see that heading	
Temporary streamlined interbasin certification process.....	155(4)
Underground storage tank operators training	154
Wastewater/treatment permitted works owner/ operator annual report.....	180(5)
Water and wastewater infrastructure needs task force	144(1a)–(1b)
Western North Carolina Public Lands Council— see that heading	
Environmental Management Commission	
Appointments and membership	87(1.4)
Boylston Creek water quality classification	157
Prohibition on increased nutrient loading of impaired water supplies	180(12)
Temporary streamlined interbasin certification process.....	155(4)
Environmental Review Commission	
Carbon sequestration and carbon offset opportunities study	152(6.8)
Cochair appointments	180(2)
Gas leases in the Central Shale Belt study	152(6.7)
Impact of environmental toxins on human health study.....	152(6.2)
Interbasin transfer study	155(5)
Merger of Div. of Public Health with Div. of Environmental Health study	31(13.2d)
Oil and gas exploration in the Triassic Basin study	152(6.4)
Penalties applicable to violations of packaging, plastics labelling, solid waste, and incineration statutes study	180(15)
Reclaimed water use and storage study	152(6.5)
Recycling of electronic equipment study	67(6)
Water quality cost share study.....	152(6.3)

Equitable Distribution—see Divorce**Escheats**—see Property**Estates and Trusts**

Attorney as beneficiary to will	181(1)–(2)
Cemetery perpetual care funds	102:(2)–(3)
Community third party and pooled trusts	118
Creation of trust by court	97(5a)
Highway use tax on vehicle transferred to trust	95(6)
Marital deduction for spousal trust conforming change	181(3)
Payment of income taxes from principal	181(4)
Technical corrections, clarifications, and conforming changes	96(8), (9)
Trustee distribution of property	97(5b)

Ethics (see also Lobbying; Public Officials)

Criminal provision revisions	169(1a)–(3b)
Economic interest statement and regulation of campaign contributions study	169(25a)–(25b)
Ethics standards for Governor's appointees authorized	169(14)
Expedited preliminary investigation of complaint	169(23a)–(23h)
Gift ban clarification	169(15a)–(15d)
Gift conforming change	170(14)–(15)
Government Ethics and Campaign Reform Act of 2010	169
Modernize ABC system	122
National convention lobbying exemption	169(20)
Officials/employees added to gift ban	169(10)–(11)
Publication of complaints	169(19a)–(19b)
Technical corrections, clarifications, and conforming changes	169(22a)–(22f)

Ethics Act**Ethics Commission, State**

Appointments and membership	87(1.33)
Appropriations	
Paralegal positions technical correction	169(27)
Economic interest statement filing for elected officials	169(12)–(13e)
Ethics standards for Governor's appointees authorized	169(14)
Expedited preliminary investigation of complaint	169(23a)–(23h)
Gift ban clarification	169(15a)–(15d)
Publication of ethics complaints	169(19b)
Rule-making	169(16)

Evidence—see Courts**Explosives**—pyrotechnics safety and licensing**F****Fair Bluff, Town of**—visitor center funds**Falls Lake**—Watershed Association**Fayetteville, City of**

Regulation of towing vehicles from private lots	134
Texfi site cleanup and monitoring funds	31(13.9A)
Wheel locks allowed	50

Fee-Based Practicing Pastoral Counselors, Board of Examiners of—appointments and membership	87(1.15), (2.16)
Fees (see also Courts, Court costs and fees)	
Assessment/collection authority for Bermuda Run	77
Assisted living medication aide	31(10.36Aa)–(10.36Ab)
Athletic trainer examiner licensure	98
Child support modification	31(15.6)
Collection of unpaid sewer fees for certain cities	59
Community service program	31(19.4a)–(19.4b); 96(28c); 123(6.3)
Computer equipment recycling	67
Continuing care license	128(1)
Dam safety	31(13.6a)–(13.6b); 123(5.1)
Establishing increasing fees pursuant to Budget Act	31(6.5a)–(6.5b)
Euthanasia registration/certification for animal shelters	127
Fire protection for Union County	84
Fire-safe cigarette certification	101
Hazardous waste	31(13.8a)–(13.8b);123(5.1)
Labor Dept. apprenticeship program	31(12.1)
Law enforcement support services	31(17.1a)–(17.1d)
Mail-in vehicle registration fee repealed	132(8)
Manufacturing Solutions Center testing	31(8.8b)
National Board for Professional Teaching Standards application repayment	31(7.11a)
No parking fees in State parks	31(13.14)
Notice of fees related to subdivision development	180(11a)–(11d)
On-site wastewater certification	31(13.2e)–(13.2o)
Oversize load/hazardous materials escort	129(4)
Pesticide	31(11.1a)–(11.1g)
Probation, parole, and post-release supervision	31(19.3a)–(19.3d)
Pyrotechnics safety and licensing	22
Real estate appraisal management company regulation	141
Real estate transfer fee covenants prohibited	32
Restoration of drivers license	130
Restoration of firearms rights and exceptions for certain felons	108
S.A.F.E Mortgage Licensing Act	168(4)–(6)
Sewer treatment fee for Caswell Beach	29
Spirituous liquor tasting permits	31(14.12b)–(14.12d)
Structural pest control	31(11.2a)–(11.2c)
Technical corrections, clarifications, and conforming changes	96(10)
Utilities regulatory fees	31(14.14)
Film Industry	
Expand tax credit	89(1)
Production company tax credit expanded	147(2.1)–(2.4)

Financial Services

Contracts for deed.....	164(4)
Emergency Program to Reduce Home Foreclosure Act extended.....	168
Foreclosures prohibited while mortgagor/trustor on active military duty.....	190
Home foreclosure rescue scams.....	164(2)
Homeowner and Homebuyer Protection Act.....	164
Option to purchase contracts with lease agreements.....	164(3)

Fines and Penalties

Air quality violations.....	180(6)
Dealer plate changes.....	132(5)
Fair tax penalties.....	31(31.10a)–(31.10g)
Law enforcement authority to seize a motor vehicle.....	129(2)
Management of certain products containing mercury.....	180(14a)–(14d)
Penalties applicable to violations of packaging, plastics labelling, solid waste, and incineration statutes study.....	180(15)
Statute of limitations on civil penalties, assessments, and fines under Chapter 20.....	129(6)
Transporter plate Changes.....	132(6)
Misuse.....	132(16)
Unpaid open road tolls penalties.....	133(5)

Fire and Rescue Commission, State—appointments

and membership.....	87(1.34), (2.32)
---------------------	------------------

Fire-Safety Standard and Firefighter Protection Act..... 101**Firefighters and Firefighting—see Emergency Services****Fireworks—see Explosives****Fish and Wildlife (see also Hunting and Fishing)**

Coyote control.....	156
Fur-bearer and fox management study.....	152(2.9)

Fisheries

Management plan Development process study.....	152(20)
Supplement expedited process.....	15
Sustainable harvest.....	13
Oyster shell recycling tax credit sunset extended.....	147(4.1)–(4.3)
Suspension, revocation, reissuance of licenses rules.....	145

Fisheries Products—oyster shell technical correction..... 142(10)**Flags—see State Symbols****Food Services—sale of uncooked sandwiches in**

traditional country stores exempt from sanitation regulation.....	180(18)
--	---------

**Foreclosures—see Debtor and Creditor; Mortgages
and Deeds of Trust****Forest City, Town of—convey certain property by**

sale/lease authorized.....	54
----------------------------	----

Forestry Products—information sharing between

DOR and DENR.....	31(13.15)
-------------------	-----------

Forsyth County

- Planning and zoning violations..... 62
- Regulation of towing vehicles from private lots 134
- Winston-Salem, City of—see that heading

Foster Care—block grants..... 31(10.37a)

Fuels

- Renewable fuel facility and biodiesel producer
credit extended..... 167(1a)–(1b)
- Taxes and assessments—see that heading
- Underground storage tank operators training 154

Funds and Accounts

Bladen Lakes Special Fund

- General Fund availability adjustments..... 31(2.2a)
- Transfer 31(2.2h)

Children's Trust Fund

- Technical corrections 31(10.20Aa)–
(10.20Ab)

Clean Water Management Trust Fund

- Current operations appropriation 31(2.1)

Collection of Worthless Check Fund

- Use..... 31(15.1)

DENR special funds closure/transfer 31(13.21a)–
(13.21f)

Drinking Water Reserve

- Common criteria for water/wastewater
infrastructure project loans/grants..... 151
- Technical corrections, clarifications, and
conforming changes 142(13)

Drinking Water State Revolving Fund

- Technical corrections, clarifications, and
conforming changes 142(13)

Education Lottery Fund

- Appropriations..... 31(5.1a1)

Education Lottery Reserve Fund

- Appropriations..... 31(5.1a1)

Escheat Fund

- Millennium Teaching Scholarship appropriation
repealed 31(9.1)

Green Business Fund

- Eco-industrial parks tax credit 147(5.1)–(5.4)

Health and Wellness Trust Fund

- General Fund availability adjustments..... 31(2.2a)
- Transfer 31(2.2f)

Health Trust Account

- Transfer 31(2.2f)

Highway Fund

- Current operations 31(3.1)

Highway Trust Fund

- Current operations 31(4.1)

Funds and Accounts—continued

Inactive Hazardous Sites Cleanup Fund	
Administrative cap	31(13.9a)
Technical corrections, clarifications, and conforming changes	142(12)
Industrial Development Fund	
Reporting requirements	31(14.9)
Local Government Other Post-Employment Benefit	
Funds authorized	175
Lottery Fund	
Appropriations.....	31(5.1a)–(5.1h)
Measures for potential loss of federal funds	31(2.3c)
Main Street Solutions Fund	31(14.6A)
Mercury Pollution Prevention Fund	
General Fund availability adjustments.....	31(2.2a)
Transfer	31(2.2h)
Military Morale, Recreation, and Welfare Fund	
Appropriations.....	31(27A.1a)–(27A.1d)
NC Mobility Fund	
Established	31(28.7a)–(28.7i);123(8.2)
911 Fund	
Secondary PSAPs funding study.....	158(10)
Use.....	158
One North Carolina Fund	
Economic development incentive grants	31(14.1)
Parks and Recreation Trust Fund	
Operating expenses consideration.....	31(13.11)
Political Parties Financing Fund technical correction	95(3)
PSAP Grant and Statewide 911 Projects Account	
Use.....	158
Public School Building Capital Fund	
Appropriations.....	31(5.1b), (5.1c); 123(1.4)
Scrap Tire Disposal Account	
General Fund availability adjustments.....	31(2.2a), (2.2d)
Technical corrections, clarifications, and conforming changes	123(1.2a)
Solid Waste Management Trust Fund	
Technical corrections, clarifications, and conforming changes	142(11)
Texfi site cleanup and monitoring funds.....	31(13.9A)
Spay/Neuter Account	
Transfer program from DHHS to Agriculture Dept.....	31(11.4c)–(11.4e)
Special Registration Plate Account	
Visitor center funds	31(28.11)
State Contractual Scholarship Fund	
Excess legislative tuition grants and state grants to private institutions transferred	31(9.19a)–(9.19b)
State Public School Fund.....	31(7.3)

Funds and Accounts—continued

Uniform budget format	31(7.17a)–(7.17c);123(3.2)
Sustainable Communities Grant Fund	
Created	31(13.5a)
Tobacco Trust Fund	
Transfer	31(2.2i)
University Cancer Research Fund	
Committee membership	31(9.11)
Uwharrie Regional Resources Fund	
Created	176
Wastewater Reserve	
Common criteria for water/wastewater infrastructure project loans/grants.....	151
White Goods Fund	
General Fund availability adjustments.....	31(2.2a)
White Goods Management Account	
General Fund availability adjustments.....	31(2.2e)
Technical corrections, clarifications, and conforming changes	123(1.2b)
Funeral Services	
Cemetery Act study	102:(7a)–(7f)
Cemetery contracts to include itemized costs.....	102:(4)
Cemetery perpetual care funds	102:(2)–(3)
Change of cemetery control/deposits to trusts.....	102:(1)
Construction of mausoleums extension.....	102:(5)
Honor wishes of members of military regarding remains	96(38)
Purchase of vaults	102:(4)
Fuquay-Varina, Town of—access to email lists held by units of local government	83

G

Gaming—electronic sweepstakes ban.....	103
Garner, Town of—access to email lists held by units of local government	83
Garnishment—see Debtor and Creditor	
Gaston County—regulation of towing vehicles from private lots	134
General Assembly	
Appropriations-current operations.....	31(2.1)
Economic interest statement filing	169(12)–(13e)
Ethics—see that heading	
Fiscal Research Division	
Financial aid consolidation study.....	31(9.2a)–(9.2d)
Legislative Ethics Committee—see that heading	
Lobbying—see that heading	
Program Evaluation Division	
Chapter 150B (Administrative Procedure Act)	
contested cases study	152(9.2)
Child nutrition programs study	115; 152(9.1)
Global TransPark Authority review	31(28.3b);123(8.1)

General Assembly—continued	
Revolving door provisions for legislators and state officials.....	169(4a)–(5c)
Technical corrections, clarifications, and conforming changes.....	96(6), (20)
Televising House/Senate sessions study.....	152(2.5)
Testimony by legislative employees.....	169(24a)–(24c)
General Statutes	
Federal/state military organization statutory language uniformity study extended	152(25.1)
Gender neutral statutes and constitution changes study extended	152(25.2)
Revisor of Statutes	
Print comments pertaining to certain bills	96(22)
Recodification authorization	96(21)
Technical corrections, clarifications, and conforming changes—see particular subject	
General Statutes Commission	
Federal/state military organization language uniformity study	152(25.1)
Gender neutral statutes and constitution changes study extended	152(25.2)
Geographic Information and Analysis, Center for—see Center for Geographic Information and Analysis	
Geography—location of horizontal control	
monument files for plat and subdivision mapping	180(1)
Geologists, Board for Licensing of—contract review and award oversight	194(13)
Global TransPark Authority	
Appointments and membership	87(2.17)
Combine Global TransPark, Ports Authority, and Railroad, and establish class I rail service to TransPark and ports study	152(30.1)–(30.2)
Contract review and award oversight	194(11)
Reports—see that heading	
Review	31(28.3b); 123(8.1)
Goldsboro, City of	
Goldsboro-Wayne Municipal Airport private sale	76
Governance and the Adequacy of the Investment Authority of Various State-Owned Funds for the Purposes of Enhancing the Return On Investments, Commission to Study the	
Extended	152(23)
Report date correction.....	96(37)
Government Ethics and Campaign Reform Act of 2010	169
Governor, Office of the	
Appropriations-current operations.....	31(2.1)
Ethics standards for appointees authorized	169(14)
Veto technical correction.....	96(15)

Governor's Logistics Task Force —combine Global TransPark, Ports Authority, and Railroad, and establish class I rail service to TransPark and ports study	152(30.1)–(30.2)
Graham, City of —deannexation	27
Grants	
Common criteria for water/wastewater infrastructure project loans/grants	151
DHHS block grants	31(10.37a)
Infrastructure Program	31(14.20)
Granville County —Kerr Dam and Reservoir funds	31(30.2a)–(30.2c)
Greene County —hunting amendments	82(3a)–(3b)
Greensboro, City of	
Annexation	75
North Carolina Agricultural and Technical State University—see University of North Carolina	
UNC-Greensboro—see University of North Carolina	
Greenville, City of	
East Carolina University—see University of North Carolina	
Guardianship	
State Health Plan coverage of dependants of court-appointed guardians	119(1); 120
Guilford County	
Greensboro, City of—see that heading	
High Point, City of—see that heading	
Regulation of towing vehicles from private lots	134

H

Hamlet, City of —use of ATVs on certain highways	19
Harbors —see Ports and Harbors	
Haywood County	
Waynesville, Town of—see that heading	
Hazardous Materials —oversize load/hazardous materials escort fee	
	129(4)
Hazardous Substances	
Hazardous waste fee increase	31(13.8a)–(13.8b); 123(5.1)
Hazardous waste fund appropriation	123(5.3)
High content arsenic glass beads in pavement marking paint prohibited	180(17a)–(17b)
Inactive Hazardous Sites Program administrative cap	31(13.9a)
Management of certain products containing mercury	180(14a)–(14d)
Penalties applicable to violations of packaging, plastics labelling, solid waste, and incineration statutes study	180(15)
Recording requirement for remedial action plans	180(3)
Hazardous Waste —see Hazardous Substances; Waste Management	

Health and Human Services, Department of (DHHS)

Adoptee access to information and confidential intermediaries.....	116
Aging and long-term care services and programs description update.....	66
Alternatives to hospitalization of mh/dd/sas populations study.....	152(18.1)–(18.6)
Appropriations	
Central management and support.....	31(2.1)
Child welfare postsecondary support program funds	31(10.18)
Division of Aging and Adult Services	
Block grants	31(10.37a)
Current operations.....	31(2.1)
Project C.A.R.E.	31(10.35B)
Division of Child Development	
Block grants	31(10.37a)
Current operations.....	31(2.1)
Division of Education Services	
Current operations.....	31(2.1)
Division of Health Service Regulation	
Block grants	31(10.37a)
Current operations.....	31(2.1)
Division of Medical Assistance	
Current operations.....	31(2.1)
Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	
Block grants	31(10.37a)
Current operations.....	31(2.1)
Local inpatient beds	31(10.6a)
Division of Public Health	
Block grants	31(10.37a)
Current operations.....	31(2.1)
Division of Services for the Blind, Deaf, and Hard of Hearing	
Block grants	31(10.37a)
Current operations.....	31(2.1)
Division of Social Services	
Block grants	31(10.37a)
Current operations.....	31(2.1)
Division of Vocational Rehabilitation Services	
Current operations.....	31(2.1)
Johnston County LME administrative funding.....	31(10.6A)
Measures for potential loss of federal funds	31(2.3a), (2.3f)
Medicaid Management Information System (MMIS).....	31(10.16)
Medicaid recipient appeals process funds transferred to OAH.....	31(10.30b)
NC FAST eligibility information system	31(10.16Aa)–(10.16Ab)
NC Health Choice	
Current operations.....	31(2.1)
Assisted living medication aide fees	31(10.36Aa)–(10.36Ab)
Capitated 1915(B)(C) behavioral health waivers expansion.....	31(10.24a)–(10.24b)

Health and Human Services,**Department of (DHHS)—continued**

- Child support services funding eliminated 31(10.17);123(4.1)
- Community third party and pooled trusts 118
- DHHS block grants..... 31(10.37a)
- Division of Aging and Adult Services
 - Adult day care/adult day health services
 - criminal records checks study 93
 - Appropriations—see Appropriations, this heading
- Division of Child Development
 - Administrative allowance for county social
 - service departments..... 31(10.5)
 - Appropriations—see Appropriations, this heading
 - Child care facilities nutrition and physical
 - activity standards..... 117
 - Child care subsidy funds use facilitation policies repealed 31(10.2)
 - Early care and education providers monitoring 31(7.5h)
 - Electronic benefits transfer system 31(10.1)
- Division of Education Services
 - Appropriations—see Appropriations, this heading
- Division of Health Service Regulation
 - Appropriations—see Appropriations, this heading
 - Nurse aides education and training review 69
- Division of Medical Assistance
 - Appropriations—see Appropriations, this heading
 - Body mass screening of children on public
 - health plans study..... 152(17.1)–(17.3)
 - Budget reduction compliance authorizations 31(10.35)
 - CAP-MR/DD service eligibility 31(10.7A)
 - Community Care of North Carolina..... 31(10.15)
 - Contract review and award oversight..... 194(15), (20.2)
 - Dental services for special needs population study 88
 - Health Choice Program review process 70
 - Long-Term Care Partnership Program..... 68
 - Medicaid assisted living waiver 31(10.35Aa)–(10.35Ac)
 - Medicaid HIV waiver study 31(10.27)
 - Medicaid policy changes..... 31(10.22a)–(10.22b);123(4.6)
 - Medicaid preferred drug list review panel 31(10.33a)–(10.33c)
 - Medicaid provider rates study 31(10.25a)–(10.25c)
 - Medicaid recipient appeals process..... 31(10.30a)–(10.30c)
 - Mental health services independent assessments..... 31(10.36a)–(10.36c);
123(4.2)
 - "Never Events" reimbursement eliminated 31(10.28)
 - Personal Care Services studies..... 31(10.35)
- Division of Mental Health, Developmental
Disabilities, and Substance Abuse Services
 - Appropriations—see Appropriations, this heading
 - Dix operations budget 31(10.10a)–(10.10b)
 - First Commitment Pilot Program elements study 119(1); 123(4.8)

Health and Human Services,**Department of (DHHS)—continued**

Mental health crisis services by emergency departments evaluation	31(10.7B)
Supports Intensity Scale assessment pilot program	31(10.6b)
Division of Public Health	
Appropriations—see Appropriations, this heading	
Dental services for special needs population study	88
Improve child care facility nutrition standards study.....	117(3)
Medicaid HIV waiver study	31(10.27)
Merger with Div. of Environmental Health study	31(13.2a)–(13.2d)
Division of Services for the Blind, Deaf, and Hard of Hearing	
Appropriations—see Appropriations, this heading	
Division of Social Services	
Appropriations—see Appropriations, this heading	
Supplemental Nutrition Assistance Program	
Education expansion study	160
Division of Vocational Rehabilitation Services	
Appropriations—see Appropriations, this heading	
DWI drivers license restoration fee to support	
Alcohol Branch forensic testing	130
Early Childhood Education and Development Initiatives	
Block grants.....	31(10.37a)
Early childhood education and care consolidation study.....	152(27.1)–(27.3)
Enhancements.....	31(10.3)
First Commitment Pilot Program extended/expanded.....	119(1); 123(4.8)
Hold harmless payment calculation data	95(14)
Identify barriers to home care services in continuing care retirement communities	128(5)
Medicaid—see that heading	
More at Four—see Early Childhood Education and Development Initiatives, this heading	
NC FAST eligibility information system	31(10.16Aa)–(10.16Ab)
NC Health Choice	
Appropriations—see Appropriations, this heading	
Office of Education Services	
Consolidation of schools for the deaf and blind principal functions	31(10.20Ba)–(10.20Bb)
Deaf and blind residential and preschools transfer	31(10.21Aa)–(10.21Ah)
Personal Care Services studies	31(10.35)
Reports—see that heading	
Responsible Individuals List (RIL) process	90
Review of planning and regulatory programs considering impacts of climate change	180(13a)–(13b)
Single pharmacy/provider for narcotic prescriptions for Medicaid.....	31(10.34)
Smart Start—see Early Childhood and development initiatives, this heading	
Spay/neuter program transfer	31(11.4a)–(11.4n)

Health and Human Services,	
Department of (DHHS)—continued	
Specialty drug provider network	31(10.23)
State-county special assistance consolidating changes	31(10.19Aa)–(10.19Ai)
TANF Emergency Contingency Fund grants application	123(4.7)
Health Care Oversight Committee, Joint Legislative	
Medical malpractice claims reduction	
collaboration project review	152(3.3)
Personal care services revised requirements impact study	152(3.4)
State diabetes coordinator study	152(3.2)
Health, Departments of (County)—childhood	
immunization program funding	31(10.13a)–(10.13b); 123(4.5)
Health Insurance Risk Pool, Board of Directors	
Administer federal high risk pool	31(24.3)
Appointments and membership	87(1.16)
Health Services	
Adult day care/day health services criminal	
records checks study	93
Area Health Education Centers dental care	
provider workforce development	92
Certified nurse midwives flexibility study	152(2.4)
Childhood immunization program funding	31(10.13a)– (10.13b); 123(4.5)
Community-Focused Eliminating Health	
Disparities Initiative report date	31(10.11)
Consumer guideline for purchasing hearing aids	121
Continuing care—see Nursing Homes	
Dental services for special needs population	
study	88
Dentistry—see that heading	
Hearing aid coverage by health plans	2
Home care	
Definition	128(2)
Services barriers in continuing care	
retirement communities	128(5)
Inmate medical costs study	31(19.8a)–(19.8b)
Medicaid budget reduction compliance	
authorizations	31(10.35)
Medical malpractice claims reduction	
collaboration project review	152(3.3)
Mental health—see that heading	
Nursing homes—see that heading	
Personal care services	
Revised requirements impact study	152(3.4)
Studies	31(10.35)
State-county special assistance consolidating changes	31(10.19Aa)– (10.19Ai)

Hearing Aid Dealers and Fitters Board	
Develop consumer guideline for purchasing hearing aids.....	121
Required health plan coverage requires authorized fitters.....	97(7)
Henderson County—Boylston Creek water quality classification	
	157
Hickory, City of	
Catawba Valley Community College—see Community Colleges	
High Point, City of—deannexation	
	75
High Schools—see Education	
Higher Education—see Colleges and Universities; Community Colleges; University of North Carolina	
Highlands, Town of	
Highlands High School scholarship program.....	9
Mayor Pro Tempore election.....	58
Historic Sites and Monuments—see Cultural Resources	
Holidays—see Calendar	
Holly Springs, Town of—access to email lists held by units of local government.....	
	83
Home Care—see Health Services	
Home Inspector Licensure Board—appointments and membership.....	
	87(2.18)
Homeless Programs, Inter-Agency Council for—appropriations-block grants	
	31(10.37a)
Homeowner and Homebuyer Protection Act	
	164
Horses—see Animals; Livestock and Poultry	
Hospitals and Clinics (see also Health Services)	
Health Choice Program emergency room copay.....	31(10.14)
Mental health crisis services by emergency departments evaluation.....	31(10.7B)
"Never Events" reimbursement eliminated	31(10.28)
Hotels and Motels	
Occupancy tax—see Taxes and Assessments	
House Select Committee On the Use of 911 Funds—see 911 Funds, House Select Committee on the Use of	
Housing	
Carbon monoxide detectors.....	97(6a)–(6b)
Corporation for 'hardest hit housing markets' funding.....	31(23.1a)–(23.1b)
Emergency Program to Reduce Home Foreclosure Act extended.....	168
Foreclosures prohibited while mortgagor/trustor on active military duty.....	190
Inventory property tax deferral.....	140
Supportive housing initiative study	152(2.19)
Tax liens extinguished for low/moderate income housing.....	95(18)

Housing Finance Agency, Board of Directors

- Appropriations-current operations.....31(2.1)
Corporation for 'hardest hit housing markets' funding 31(23.1a)–(23.1b)

Hunting and Fishing

- Hunting in Greene County..... 82(3a)–(3b)
Taking of foxes in certain cities and counties 82(1a)–(2)

I**Immigration and Citizenship**

- Legal status of prisoners queries97(12)

Immunizations—see Public Health**Incentive Bonus Review Committee**—name change.....97(11)**Indian Affairs, State Commission of**

- Appointments and membership87(1.17)
Appropriations—in-home services for the elderly block grant..... 31(10.37a)

Indigent Defense Services, Commission On—technical

- corrections, clarifications, and conforming changes96(27)

Indigent Defense Services, Office of

Appropriations

- Current operations31(2.1)
Death penalty litigation31(15.4)
Expansion funds31(15.3)
Misdemeanor reclassification review31(19.5)

Industrial Location—eco-industrial parks tax credit..... 147(5.1)–(5.4)**Information Technology**

- Access to email lists held by certain local governments 83

Broadband

- Needs for education and economic
development study 31(6.18a)–(6.18e)
Smart grid study 152(2.20)
Community college information system funds carryforward..... 31(8.1a)–(8.1b)
Contracted personnel31(6.12)
Data integration enterprise licensing agreements funding 31(6.14a)–(6.14c)
DENR aircraft flight and maintenance software31(13.17)
Electronic sweepstakes ban 103
Enterprise electronic forms and digital signatures plan..... 31(6.17a)–(6.17b)
Interactive digital media tax credit 147(3.1)–(3.7)

Internet datacenter

- Investment threshold for excise tax (second facility) 91(6)–(7)
Sales tax exemption..... 91(1)–(3), (5)
ITS network integration.....31(6.11)
Medicaid Management Information System (MMIS) funds31(10.16)
NC FAST eligibility information system 31(10.16Aa)–(10.16Ab)
Network security assessments 31(6.15a)–(6.15b)

Personnel Director added to BEACON Project

- Steering Committee 31(27B.1)
Procurement assistance 123(2.2)
Public-private partnerships for Revenue Dept. IT needs..... 123(2.3)

Information Technology—continued

Recycling	
Computer equipment	67; 180(20)
Electronic equipment study	67(6)
Electronic recycling law notebook computer definition	180(20)
Reserve for Software Development for State	
Board of Elections	123(1.2e)
School connectivity initiative funds	31(7.9a)–(7.9b)
Smart cards	31(6.19)
Technical corrections, clarifications, and conforming changes.....	96(13)

Information Technology Services, Office of

Appropriations	
Availability	31(5.2)
Operations	31(6.8)
Center for Geographic Information and Analysis—see that heading	
Contracted personnel	31(6.12)
Coordination of IT requirements and geographic information system efforts.....	31(6.9a)–(6.9b)
Criminal Justice Law Enforcement Automated	
Data Services	31(6.10a)–(6.10e)
Data integration enterprise licensing agreements funding	31(6.14a)–(6.14c)
Enterprise electronic forms and digital signatures plan	31(6.17a)–(6.17b)
Enterprise projects cost.....	123(2.1)
ITS network integration.....	31(6.11)
NC OpenBook	169(9)
Network security assessments	31(6.15a)–(6.15b)
Procurement.....	123(2.2)
Smart cards	31(6.19)
Water and wastewater infrastructure needs task force	144(1a)–(1b)

Infrastructure—see Roads and Highways;

Telecommunications; Utilities

Inmates—see Correctional Institutions**Innocence Inquiry Commission**

Can compel testimony	171
Postcommission three-judge panel	171(1)
Provision for compensation	171(1), (3)–(4)
Special prosecutor	171(2)

Inspections

DMV inspection call center clarification.....	132(21)
Motor vehicle	
10-day trip permit.....	97(3)
Conforming change	96(7)
Emissions/safety inspections of Cleveland	
County vehicles by City of Shelby	47

Institute of Medicine —needs of children with mental health study	152(16.1)
Insurance	
Fresh produce growers insurance coverage options study	152(2.15)
Health	
Annuity contracts protection clarification.....	11
Health Choice Program	
Emergency room copay	31(10.14)
Review process	70
Technical corrections, clarifications, and conforming changes.....	96(39a)–(39b)
Health insurance pool pilot project start date.....	123(7.1)
Health reform authority and positions.....	31(24.2a)–(24.2c)
Hearing aid coverage.....	2
NC Health Choice	
Body mass screening of children on public health plans study	152(17.1)–(17.3)
Current operations appropriation.....	31(2.1)
No limitations on noncovered fees for dental services.....	138
State Health Plan for Teachers and State Employees	
Brevard Academy participation.....	137
Coverage of dependants of court-appointed guardians.....	120
Dependent child coverage to 26	3
Hearing aid coverage	2
No coverage for former employees provided coverage by subsequent employer.....	136(2)
Noncontributory coverage for teachers who have worked a full year	136(1)
Required health plan coverage requires authorized fitters	97(7)
Technical corrections, clarifications, and conforming changes.....	96(33)
Tobacco usage verification authorization required.....	3
State high risk pool to administer federal high risk pool.....	31(24.3)
Liability	
Long-term care facility study	152(2.14)
Life	
Annuity contracts protection clarification.....	11
Charlotte Firefighters' Retirement System death benefit	7
Long-term care	
Long-Term Care Partnership Program.....	68
Mortgage	
Discretion to waive policyholders position requirement for mortgage guarantee effective date.....	40

Insurance—continued

Motor vehicle	
Transporter plate changes.....	132(6)
Technical corrections, clarifications, and conforming changes	96(11)
Unemployment	
Small business tax credit.....	31(31.1Aa)–(31.1Ab)
Substitute teachers.....	71
Technical corrections, clarifications, and conforming changes	96(12)

Insurance, Department of

Appropriations-current operations.....	31(2.1)
Commissioner	
Contract review and award oversight.....	194(6)–(10)
Discretion to waive policyholders position	
requirement for mortgage guarantee effective date	40
Federal high risk pool	31(24.3)
Fire-safe cigarette certification fee	101
Health reform authority and positions	31(24.2a)–(24.2c)
Identify barriers to home care services in	
continuing care retirement communities	128(5)
Long-Term Care Partnership Program	68
Reports—see that heading	
Review of planning and regulatory programs	
considering impacts of climate change	180(13a)–(13b)
State Fire Marshall	
Pyrotechnics safety and licensing	22

Interest—measures for potential loss of federal funds31(2.3d)

Internet—see Information Technology; Telecommunications

Investments—governance and adequacy of the
investment authority of State funds study extended 152(23)

Iredell County

Statesville, City of—see that heading

Irrigation Contractors' Licensing Board—

appointments and membership87(2.18A)

J**Jackson County**

Cullowhee, Town of—see that heading

Jacksonville, City of—regulation of towing

vehicles from private lots..... 134

Jails—see Correctional Institutions

Johnston County—LME administrative funding.....31(10.6A)

Joint Broadband Task Force—see Broadband

Task Force, Joint

Joint Legislative Administrative Procedure

Oversight Committee—see Administrative
Procedure Oversight Committee, Joint Legislative

Joint Legislative Education Oversight Committee

—see Education Oversight Committee, Joint Legislative

Joint Legislative Health Care Oversight Committee —see Health Care Oversight Committee, Joint Legislative	
Joint Legislative Program Evaluation Oversight Committee —see Program Evaluation Oversight Committee, Joint Legislative	
Joint Legislative Study Committee On State Funded Student Financial Aid —see State Funded Student Financial Aid, Joint Legislative Study Committee on	
Joint Legislative Study Committee On the Consolidation of Early Childhood Education and Care —see Early Childhood Education and Care, Joint Legislative Study Committee on the Consolidation of	
Joint Legislative Transportation Oversight Committee —see Transportation Oversight Committee, Joint Legislative	
Joint Legislative Utility Review Committee —see Utility Review Committee, Joint Legislative	
Joint Select Committee to Study the Adoption of Comparative Negligence and Abrogation of Joint and Several Liability —see Comparative Negligence and Abrogation of Joint and Several Liability, Joint Select Committee to Study the Adoption of	
Joint Select Study Committee On the Preservation of Biological Evidence —see Preservation of Biological Evidence, Joint Select Study Committee on the	
Jordan Lake —water supply storage funds	31(30.2a)–(30.2c)
Judicial Council, State —appointments and membership	87(1.37)
Judicial Department	
Appropriations-current operations	31(2.1)
Collection of Worthless Check Fund use	31(15.1)
Local government supplementation of salaries of nonelected officials	31(29.7a)–(29.7e)
Office of Indigent Defense Services—see Indigent Defense Services, Office of	
Statutory staffing numbers aligned to budget reductions	123(6.4)
Justice, Department of	
Appropriations	
Current operations	31(2.1)
Non-General Fund capital improvements	31(30.3a)
Criminal Justice Law Enforcement Automated Data Services	31(6.10a)–(6.10e)
Criminal records checks—see Records	
DNA database and databank funding	147(7.1)–(7.3)
Medicaid Fraud Unit	
Reporting requirement	31(16.1)
Restoration of firearms rights and exceptions for certain felons	108

Juvenile Justice and Delinquency Prevention,**Department of**

Appropriations

Current operations 31(2.1)

Matching funds 31(18.1)

Youth Development Centers staffing cap removed 31(18.2)

K**Kannapolis, City of**

Annexation 86(1)–(5)

Deannexation 86(6)–(7)

Rowan/Kannapolis ABC Board membership equal
representation 122(28)**Keeping NC Competitive Act** 91**Kerr Lake**—dam and reservoir funds 31(30.2a)–(30.2c)**Kindergarten and Preschool**—see Education**King, City of**—no building permits to delinquent taxpayer 55(2)**Knightdale, Town of**—access to email lists held by
units of local government 83**L****Labor, Department of**

Apprenticeship program fees 31(12.1)

Appropriations-current operations 31(2.1)

Lake Gaston—aquatic plant control funds 31(30.2a)–(30.2c)**Lakes and Rivers** (see also particular lake or river)

Aquatic plant control funds 31(30.2a)–(30.2c)

Basinwide hydrologic models 143

Boylston Creek water quality classification 157

Dam safety fee 31(13.6a)–(13.6b); 123(5.1)

Interbasin transfer study 155(5)

Temporary streamlined interbasin certification process 155(4)

Water resources development projects funds 31(30.2a)–(30.2c)

Land-Use—see Planning and Zoning**Landlord and Tenant**

Carbon monoxide detectors 97(6a)

Option to purchase contracts with lease agreements 164(3)

Law Enforcement

Authority to seize a motor vehicle for delinquent

fines and penalties 129(2)

Campus police agency for Moore County Board of Education 64

Community college tuition waivers for certain persons 31(8.4a)–(8.4d)

Felons ineligible to be elected sheriff referendum 49

Justice Academy live fire shoot house capital improvements 31(30.3a)

Oversize load/hazardous materials escort fee 129(4)

Preservation of biological evidence study extended 152(24)

Registration for out-of-state sex offenders 174(16a)–(16b)

Law Enforcement—continued

SBI (State Bureau of Investigation)	
DNA sample taken on arrest	94
Special retirement allowances	124
Sworn officers emergency pension fund benefits	
ceiling and stipend for minors	8
Wheel locks allowed for Fayetteville	50

Laws Amended or Repealed

1913 Private Laws	
Chapter 313	21
1927 Private Laws	
Chapter 224	60
1931 Public-Local Laws	
Chapter 446	8
1947 Session Laws	
Chapter 677	62
Chapter 926	7(1)
1961 Session Laws	
Chapter 119	25; 53
Chapter 268	65
1963 Session Laws	
Chapter 305	51
1965 Session Laws	
Chapter 144	60
1967 Session Laws	
Chapter 1242	42(1)–(4)
1975 Session Laws	
Chapter 219	82(3a)
Chapter 332	9(1)–(3)
Chapter 502	45(1)–(2)
Chapter 671	81
1977 Session Laws	
Chapter 495	73(1)
1979 Session Laws	
Chapter 5	42(4)
1981 Session Laws	
Chapter 288	43
Chapter 342	73(1)
Chapter 415	18
1985 Session Laws	
Chapter 131	23
Chapter 449	78(7)
Chapter 471	82(3b)
1985 Session Laws (Regular Session 1986)	
Chapter 904	65
1987 Session Laws	
Chapter 132	82(3a)
Chapter 506	7(1)
Chapter 558	17

Laws Amended or Repealed—continued

1987 Session Laws (Regular Session 1988)	
Chapter 1033	7(1)
1989 Session Laws	
Chapter 248	7(1)
Chapter 658	79(1)–(4)
1991 Session Laws	
Chapter 177	78(7)
Chapter 519	9(4); 58
1991 Session Laws (Regular Session 1992)	
Chapter 830	7(1)
Chapter 883	84(1)–(2)
Chapter 906	78(7)
1995 Session Laws	
Chapter 61	84(1)
Chapter 307	42(4)
1996 Session Laws (Second Extra Session)	
Chapter 18	8
1997 Session Laws	
Chapter 410	51
1997 Session Laws (Regular Session 1998)	
Chapter 73	51
1999 Session Laws	
Chapter 39	84(1)–(2)
Chapter 56	23
Chapter 97	79(1)–(3)
Chapter 100	7(1)
2001 Session Laws	
Chapter 22	7(1)
Chapter 434	78(5)–(6)
Chapter 439	78(7)
2001 Session Laws (Regular Session 2002)	
Chapter 126	31(9.3e)
2003 Session Laws	
Chapter 178	119(1); 123(4.8)
Chapter 240	50(1)–(2)
2003 Session Laws (Regular Session 2004)	
Chapter 92	122(28)
Chapter 96	29(1)–(3)
Chapter 323	8
2005 Session Laws	
Chapter 190	142(17); 180(12)
Chapter 276	31(7.22c)–(7.22d), (9.3d)
Senate Resolution 1177	96(41.7)
2005 Session Laws (Regular Session 2006)	
Chapter 1	17
Chapter 54	29(1)
Chapter 66	119(1); 123(4.8)

Laws Amended or Repealed—continued

Chapter 184	171(5)
Chapter 203	96(34)
Chapter 247	174(16a)
Chapter 259	180(12)
2007 Session Laws	
Chapter 51	82(2)
Chapter 323	31(7.19e), (7.19f), (7.19g)
Chapter 330	50(1)
Chapter 333	57(1)
Chapter 383	95(43)
Chapter 438	180(19)
Chapter 453	31(7.22b)
Chapter 471	95(22d)
Chapter 504	123(4.8)
Chapter 518	155(4)
Chapter 527	95(22a)–(22b)
Chapter 550	67(1a)
2007 Session Laws (Regular Session 2008)	
Chapter 41	62
Chapter 90	36
Chapter 107	31(7.19e), (7.19g), (9.3c), (10.30b), (27B.1), (28.7c), (30.6)
Chapter 118	31(10.30b), (27B.1)
Chapter 134	95(22b), (22e), (43)
Chapter 181	31(7.19f); 152(22), (28)
Chapter 208	67(1b)
2009 Session Laws	
Chapter 16	2; 31(2.3h)
Chapter 57	63(2b)
Chapter 90	95(43)
Chapter 124	31(10.10A)
Chapter 129	96(20)
Chapter 149	57(1), (2)
Chapter 159	96(19)
Chapter 203	152(24)
Chapter 222	96(8), (22)
Chapter 254	40(2)
Chapter 267	96(22)
Chapter 268	96(9)
Chapter 273	152(25.2)
Chapter 281	152(25.1)
Chapter 308	95(21)
Chapter 318	96(22)
Chapter 329	152(21)
Chapter 340	123(4.8)
Chapter 355	96(1)
Chapter 364	96(7)

Laws Amended or Repealed—continued

Chapter 406	177
Chapter 438	180(19)
Chapter 445	95(22c), (22d),(22e)
Chapter 446	96(21)
Chapter 451	31(2.2a), (2.2f),(2.2g), (2.2i), (2.3h), (3.2), (4.2), (5.1d),(5.2), (5.3), (5.4), (6.7), (6.8), (6.12),(7.9a), (7.10), (7.19c), (7.19d), (8.7), (8.10),(9.1), (9.6), (9.9), (9.13), (9.20a), (10.2),(10.3), (10.5), (10.9), (10.15), (10.16),(10.17), (10.18), (10.19), (10.22a)–(10.22b), (10.31), (10.32), (10.35),(14.1), (14.2A), (14.5), (14.10A),(14.13), (14.14), (14.18), (14.19),(14.20), (14.21), (15.3), (15.4), (18.2),(19.1), (19.6f)–(19.6g), (28.1a), (29.1g),(29.7c), (30.5a), (30.9); 95(42); 96(13);123(3.3), (3.4a), (4.6), (6.2), (9.2),(9.3); 132(21)
Chapter 452	96(26a)–(26c)
Chapter 466	85(1)
Chapter 484	67(1c); 177
Chapter 516	96(26a)–(26c);97(13)
Chapter 550	67(1d); 177
Chapter 570	96(14)
Chapter 571	96(13)
Chapter 572	177
Chapter 574	96(37); 152(23),(26)
Chapter 575	31(6.11), (7.9a),(10.35), (19.6f)– (19.6g), (29.7c);123(9.2); 132(21)

2009 Session Laws (Regular Session 2010)

Chapter 2	96(33)
Chapter 31	123(1.1)
Chapter 67	180(20)
Chapter 70	96(39a)
Chapter 94	147(7.1)–(7.3)
Chapter 95	96(41)
Chapter 97	96(41.3)
Chapter 124	96(40.7)
Chapter 132	96(40a)
Chapter 147	96(40.3)
Chapter 165	97(14)
Chapter 186	188
Chapter 191	96(38)

Leasing and Rentals

Convey certain property by sale lease authorized for Forest City.....	54
Lease of city-owned property authorized for Burlington.....	53
Renewable energy facility site lease without notice for certain cities and counties	57(2); 63

Lee County

- Endor iron furnace historic site feasibility study 152(18.1)–(18.6),(19)
 Sanford, City of—see that heading

Legislative Commission On Diversity in the Public

Schools—see Diversity in the Public Schools, Legislative
 Commission on

Legislative Ethics Committee—economic interest statement

- and regulation of campaign contributions study 169(25a)–(25b)

Legislative Research Commission

- Annual/sick leave transfer from city or county study 152(2.2)
 Boards/commissions elimination or
 consolidation study 152(2.18)
 Broadband-smart grid study 152(2.20)
 Certified nurse midwives flexibility study 152(2.4)
 Community college/university demographics study 152(2.11)
 Efficient State government e-commerce study 152(2.8)
 Fresh produce growers insurance coverage options study 152(2.15)
 Inmate medical costs study 31(19.8a)–(19.8b)
 Long-term care facility liability insurance study 152(2.14)
 Military veteran contractors use study 152(2.13)
 "Most Favored Nation" clauses use study 152(2.16)
 Ownerless dog/cats and commercial dog breeding study 152(2.12)
 Pre-escheat procedures study 152(2.10)
 State agency and department consolidation study 152(2.3)
 Supportive housing initiative study 152(2.19)
 Televising House/Senate sessions study 152(2.5)
 Under 13 beauty pageant regulation study 152(2.17)

Legislative Study Commission On Public-Private

Partnerships—see Public-Private Partnerships,
 Legislative Study Commission on

Legislative Study Commission On Urban Growth

and Infrastructure—see Urban Growth and
 Infrastructure, Legislative Study Commission on

Legislative Task Force On Childhood Obesity—

see Childhood Obesity, Legislative Task Force on

Legislative Task Force On Prescription Drug

Abuse—see Prescription Drug Abuse, Legislative
 Task Force on

Lenoir County—TANF benefit implementation 31(10.19)**Liability**

- Adoption of comparative negligence and
 abrogation of joint and several liability study 152(34.1)–(34.6);
 (35.1)–(35.4)
 Domestic violence shelter limited 5(2)
 Insurance—see that heading
 Limitations on recovery for damages from oil spill review 179(5)
 Medical malpractice claims reduction
 collaboration project review 152(3.3)
 Oil spill liability 179(1a)–(1d)

Libraries

Charlotte-Mecklenburg Public Library sales and use tax refund	95(4a)–(4b)
Recording requirement for remedial action plans	180(3)

License Plates and Registration

Certain armed forces plates clarification	132(7)
Dealer plate changes	132(5)
Emergency use of plate repealed	132(4)
License plate covers	132(3)
Logging truck registration	132(9)
Mail-in registration fee repealed	132(8)
Registration of property-hauling vehicles	129(3)
Registration renewal blocked for unpaid tolls	133(6)
Technical corrections, clarifications, and conforming changes	96(40a)–(40b)
Transporter plate	
Changes	132(6)
Misuse	132(16)
Wartime veterans special plates	39
'Weighted' plates on certain property hauling vehicles	132(2)

License to Give Trust Fund Commission—

appointments and membership	87(1.18)
-----------------------------------	----------

Licenses and Permits

10-day motor vehicle trip permit	97(3)
Continuing care license fee increase	128(1)
Development approval running period suspension	177
Emergency trip permit for motor carrier	97(4)
Environmental document not required for publicly funded economic development projects	186; 188
Land-use/building permits prohibited to delinquent taxpayers in Currituck County	30(1)–(3)
No building permits to delinquent taxpayer in King	55(2)
Pyrotechnics safety and licensing	22
Retired probation/parole officers exempt from certain concealed handgun requirements	104
Spirituos liquor tasting permits	31(14.12b)–(14.12d)
Wastewater/treatment permitted works owner/ operator annual report	180(5)

Licensing and Certification

Athletic trainer examiner licensure fees	98
Certain law enforcement exempt from minimum 18 year age requirement for licensing	97(8)
Dismissal of teachers/school employees	163
Early education certification for child care centers	178
Euthanasia registration/certification for animal shelters	125; 127
National Board Certification Program for Principals study	31(7.11c)
National Board for Professional Teaching Standards	31(7.11a)–(7.11c)

Licensing and Certification —continued	
Nurse aides education and training review	69
On-site wastewater certification	31(13.2e)–(13.2o)
Pesticide fees increase	31(11.1a)–(11.1g)
Pyrotechnics safety and licensing	22
S.A.F.E Mortgage Licensing Act	168(4)–(6)
Structural pest control fee increases	31(11.2a)–(11.2c)
Surface Water Identification and Training Certification Program reestablished	180(4a)–(4c)
Technical corrections, clarifications, and conforming changes.....	96(10)
Underground storage tank operators training	154
Lieutenant Governor, Office of —appropriations- current operations.....	31(2.1)
Life and Health Insurance Guarantee	
Association —annuity contracts protection clarification.....	11
Life Sciences Industry and Related Job Creation, Study Commission On the Expansion of the —created	
	152(37.1)–(37.4)
Limited Liability Companies (LLCs) —see Corporations, For-Profit	
Lincoln County —TANF benefit implementation	31(10.19)
Livestock and Poultry —coyote control.....	156
LLCs (Limited Liability Companies) —see Corporations, For-Profit	
Lobbying (see also Ethics; General Assembly)	
Expedited preliminary investigation of ethics complaint.....	169(23a)–(23h)
Lobbyist principal reporting	169(17a)–(17s)
National convention exemption.....	169(20)
Registration changes.....	169(4a)–(5c)
Revolving door provisions for legislators and state officials.....	169(4a)–(5c)
Technical corrections, clarifications, and conforming changes	169(22a)–(22f)
Local Government (see also particular city or county)	
Admissions tax modernization	31(31.7a)–(31.7e)
Annual/sick leave transfer from city or county study	152(2.2)
Authority to finance energy programs.....	167(4a)–(4d)
Cable service franchise agreements study	152(7.4)
Cable television system joint governmental agency sales tax refund.....	153
Child support services funding eliminated	31(10.17); 123(4.1)
Development approval running period suspension opt out	177
Electronic payment/funds transfer by local government and public authorities	97(15a); 99
Government owned and operated communication systems study.....	152(7.5a)–(7.5b)
In-ground irrigation system water meters requirement clarification	180(16)
Local Government Employees Retirement System (LGERS) —see Retirement	

Local Government—continued	
911 Fund use.....	158
Nonelected officials salaries supplementation	31(29.7a)–(29.7e)
Occupancy tax modernization	31(31.6a)–(31.6g)
PEG channel support	158(11a)–(11d)
Post-Employment Benefit Funds authorized.....	175
Public-private partnerships study	152(32.1)–(32.4)
Public water/wastewater system financial soundness requirement cost/.benefit.....	144(2a)–(2c)
Reimbursement of State local government support programs	31(26.1a)–(26.1c)
Rights-of-way acquisition agreements	165(6)
Sales tax	
Accommodations modernization	31(31.6a)–(31.6g); 123(9.2), (10.2)
Change on first day of calendar quarter	95(12)
Subdivision development fee notice.....	180(11a)–(11d)
Water quality cost share study.....	152(6.3)
Water resources planning assistance to communities funds.....	31(30.2a)–(30.2c)
Water supply plan.....	150
Workforce Development Boards	
Consumer choice requirements	31(14.4)
Local Government Commission—public water/ wastewater system financial soundness requirement cost/benefit.....	144(2a)–(2c)
Local Government Employees Retirement System (LGERS)—see Retirement	
Local School Administration Units (LEAs)—see Education, Boards of (local)	
Locksmith Licensing Board—appointments and membership.....	87(1.19)
Locust, City of—collection of unpaid sewer fees.....	59
Lottery Commission, State—contract review and award oversight.....	194(1)

M

Macon County	
Highlands, Town of—see that heading	
TANF benefit implementation.....	31(10.19)
Manteo, Town of	
Coastal Studies Institute—see University of North Carolina	
Manufactured Housing Board—appointments and membership.....	87(2.19)
Manufacturing	
Computer equipment recycling	67; 180(20)
Economic Development.....	167(1a)–(1b)

Manufacturing —continued	
Fire-safe cigarette certification fee	101
Paper-from-pulp manufacturing sales tax refund	91(4)
Renewable energy property investment credit	167(2a)–(2d)
Renewable fuel facility and biodiesel producer credit extended.....	167(1a)–(1b)
Turbine manufacturing sales tax refund	91(4)
Mapping —see Geography	
Marine Fisheries Commission	
Exempt from legislative disapproval process study	152(11.1)
Fishery management plan	
Expedited process.....	15
Sustainable harvest.....	13
Suspension, revocation, reissuance of licenses rules.....	145
Marriage and Family	
Child abuse and neglect—see that heading	
Dependent child coverage to 26 on State Health Plan	3
Divorce—see that heading	
Marital deduction for spousal trust conforming change.....	181(3)
Marriage Certificates —see Records	
Marshville, Town of —council-manager form of government.....	21
Martin County	
Williamston, Town of—see that heading	
Matthews, Town of —public-private development project authorized.....	52
McDowell County —payment of delinquent taxes required before recording of deeds	44
MCNC (Microelectronics Center of North Carolina) —ITS network integration.....	31(6.11)
Mecklenburg County	
Charlotte, City of—see that heading	
Matthews, Town of—see that heading	
Public Library sales and use tax refund.....	95(4a)–(4b)
Regulation of towing vehicles from private lots	134
Sworn officers emergency pension fund benefits ceiling and stipend for minors	8
Media —see News and Other Media	
Mediation and Arbitration	
Medicaid recipient appeals process	31(10.30a)–(10.30c)
Public records dispute mediation.....	169(21a)–(21d)
Medicaid	
Appeals process	31(10.30a)–(10.30c)
Assisted living waiver.....	31(10.35Aa)–(10.35Ac)
Body mass screening of children on public health plans study	152(17.1)–(17.3)
Budget reduction compliance authorizations	31(10.35)
Capitated 1915(B)(C) behavioral health waivers expansion	31(10.24a)–(10.24b)
Community third party and pooled trusts	118

Medicaid—continued

Contract review and award oversight	194(20.2)
Estate recovery plan	68(2)
Fraud	
Prevention	31(10.26a)–(10.26e)
Unit reporting requirement	31(16.1)
HIV waiver study	31(10.27)
Inmate medical cost containment	31(19.6c)
Long-Term Care Partnership Program	68
Measures for potential loss of federal funds	31(2.3f)
Medicaid Management Information System (MMIS) funds	31(10.16)
Mental health services independent assessments	31(10.36a)– (10.36c); 123(4.2)
"Never Events" reimbursement eliminated	31(10.28)
Personal Care Services studies	31(10.35)
Policy changes	31(10.22a)–(10.22b); 123(4.6)
Preferred drug list	31(10.32), (10.33a)– (10.33c)
Prohibit remuneration related to referrals or purchase/lease arrangements	185
Provider rates study	31(10.25a)–(10.25c)
Receivables as nontax revenue	31(10.31)
Single pharmacy/provider for narcotic prescriptions	31(10.34)
Specialty drug provider network	31(10.23)
Medical Examiners —Rutherford County coroner office vacated	48

Medicine, Institute of—see Institute of Medicine

Mental Health

Area mental health boards term limits	31(10.7)
Autism spectrum disorder and public safety study extended	31(10.9)
CAP-MR/DD service eligibility	31(10.7A)
Crisis services by emergency departments evaluation	31(10.7B)
First Commitment Pilot Program	
Elements study	119(2)
Extended/expanded	119(1); 123(4.8)
Local inpatient beds funds	31(10.6a)
Medicaid budget reduction compliance authorizations	31(10.35)
Mental health services independent assessments	31(10.36a)–(10.36c); 123(4.2)
Needs of children with mental health study	152(16.1)
Supportive housing initiative study	152(2.19)
Supports Intensity Scale assessment pilot program	31(10.6b)

Mental Health, Developmental Disabilities, and Substance Abuse Services, Commission	
for —appointments and membership	87(2.20)
Midwives —see Health Services; Nursing	
Mining and Mineral Exploration	
Deepwater Horizon spill potential impact review	179(4)
Gas leases in the Central Shale Belt study	152(6.7), (8.2)
Limitations on recovery for damages from oil spill review	179(5)
Offshore exploration and production laws and rules review	179(3)
Offshore fossil fuel facilities review	179(2)
Oil and gas exploration in the Triassic Basin study	152(6.4)
Oil Spill Contingency Plan update	179(4)
Oil spill liability, response & preparedness	179
Minorities	
Disadvantaged minority-owned and women-owned business program updated and sunset extended	165(9)
Promote historically underutilized businesses by Dept. of Commerce	31(14.10A)
Minors	
Abuse and neglect	90
Age of school entry for military dependants	111(2)
Body mass screening of children on public health plans study	152(17.1)–(17.3)
Causes of teen driving fatalities study	152(15)
Child nutrition programs study	115; 152(9.1)
Child support—see Divorce	
Children with disabilities allocation	31(7.1)
Compulsory public school attendance age study	152(14.1)
Early childhood education and care consolidation study	152(27.1)–(27.3)
Early Childhood Education and Development Initiatives enhancements	31(10.3)
Immunization program funding	31(10.13a)–(10.13b); 123(4.5)
Needs of children with mental health study	152(16.1)
Obesity study reestablished	152(26)
School sports injuries study	152(13.1)
Silver Alert System conforming change	96(16)
State Health Plan coverage of dependants of court-appointed guardians	119(1); 120
Supplemental Nutrition Assistance Program Education expansion study	160
Support Our Students program repeal technical correction	123(6.2)
Sworn officers emergency pension fund benefits ceiling and stipend for minors	8
Teen pregnancy block grants	31(10.37a)
Under 13 beauty pageant regulation study	152(2.17)
Youth employment exception for fire and rescue squads	97(7), (9)

Mocksville, Town of —occupancy tax	78(2)–(2f), (11)
Montgomery County —occupancy tax	78(5)
Monuments —see Historic Sites and Monuments	
Moore County —Board of Education to maintain campus police	64
Moratoriums —collection of 911 fee extended	95(43)
Morehead City, Town of —harbor maintenance funds	31(30.2a)–(30.2c)
Morrisville, Town of —access to email lists held by units of local government	83
Mortgages and Deeds of Trust	
Contracts for deed	164(4)
Discretion to waive policyholders position requirement for mortgage guarantee effective date extended	40
Emergency Program to Reduce Home Foreclosure Act extended	168
Foreclosure rescue transactions restrictions	97(15a)–(15b)
Foreclosures prohibited while mortgagor/trustor on active military duty	190
Home foreclosure rescue scams	164(2)
Homeowner and Homebuyer Protection Act	164
Option to purchase contracts with lease agreements	164(3)
Motor Carriers —see Shipping	
Motor Vehicle Violations and Infractions	
License plate covers	132(3)
Parking on highway and highway shoulder	132(13)–(15)
Unpaid open road tolls penalties	133(5)
Wheel locks allowed for Fayetteville	50
Motor Vehicles (see also Roads and Highways)	
Abandoned vehicle removal	132(20)
Causes of teen driving fatalities study	152(15)
Cleveland County vehicles inspections by City of Shelby	47
Commercial and motor carrier vehicles—see Shipping	
Compliance with Federal Motor Vehicle Safety Act	129(1), (5)
Drivers education	
Program funding and efficacy review	31(28.2)
Standard curriculum	31(7.12)
Drivers licenses—see that heading	
Emergency trip permit for motor carrier	97(4)
Escort fee	129(4)
Incident management assistance patrol red light use	132(11)
Law enforcement authority to seize a motor vehicle	129(2)
Move-over law applies to electric utility vehicles	132(12)
Private vehicle expense reimbursement	31(20.2)
Property-hauling vehicles registration	129(3)
Removal/sale for scrap of untitled vehicles study	152(4.2)
Statute of limitations on civil penalties, assessments, and fines	129(6)
Technical corrections, clarifications, and conforming changes	96(7)
Towing from private lots regulation for certain cities/counties	134
Unregulated/unregistered vehicles	
ATV use by city employees in certain cities	19; 46
ATV use by disabled sportsmen	146

Motor Vehicles, Division of (see also Transportation, Department of)	
Appropriations-current operations.....	31(3.1)
Inspection call center clarification.....	132(21)
Registration renewal blocked for unpaid tolls.....	133(6)
Removal/sale for scrap of untitled vehicles study.....	152(4.2)
Mountain Area Resources Technical Advisory Council —technical corrections, clarifications, and conforming changes.....	142(14)–(16)
Municipalities (see also Local Government; particular city)	
Area mental health boards term limits.....	31(10.7)
Collection of unpaid sewer fees for certain cities.....	59
Energy efficiency pilot program bid exemption for certain cities and counties.....	57(1); 63
Funding for pedestrian safety improvements.....	37
Limitation of funds use in elections.....	114(1.5b)
Notice of fees related to subdivision development.....	180(11a)–(11d)
Renewable energy facility site lease without notice for certain cities.....	57(2)
Taking of foxes in certain cities and counties.....	82(1a)–(2)
Towing of vehicles from private lots regulation for certain cities/counties.....	134

N

Narcotics —see Controlled Substances; Pharmaceuticals	
Nash County	
Red Oak, Town of—see that heading	
Rocky Mount, City of—see that heading	
National Guard —see Armed Forces	
National Park, Parkway and Forests Development Council —name change to Western North Carolina Public Lands Council.....	180(7a)–(7g)
Natural Heritage Trust Fund Board of Trustees — appointments and membership.....	87(2.21)
Neuse River —basin PED funds.....	31(30.2a)–(30.2c)
New Hanover County	
Cape Fear River Basin model update funds.....	31(30.2a)–(30.2c)
Regulation of towing vehicles from private lots.....	134
Wilmington, City of—see that heading	
New London, Town of —collection of unpaid sewer fees.....	59
News and Other Media	
Campaign ads disclosure.....	170(8)
Media outlet authorization requirements for campaigns.....	170(4)
Parole hearing electronic notification to media.....	107
Public records dispute mediation.....	169(21a)–(21d)

Newspapers—see News and Other Media

911 Board

- Appointments and membership87(1.20);
158(2a)–(2b)
- PSAPs 158

911 Funds, House Select Committee On the Use

- of—secondary PSAPs funding study..... 158(10)

North Carolina Arboretum, Board of Directors—

see Arboretum, Board of Directors

North Carolina Battleship Commission—see

Battleship Commission, North Carolina

North Carolina Biotechnology Center—see

Biotechnology Center, North Carolina

North Carolina State Bar—see State Bar, North Carolina

North Carolina Turnpike Authority—see Turnpike

Authority, North Carolina

North Carolina's Northeast Commission—see

Northeast Commission, North Carolina's

North Topsail Beach, Town of—beach protection

- study funds 31(30.2a)–(30.2c)

Northeast Commission, North Carolina's

- Appointments and membership 87(1.21); 184(2)
- Appropriations 31(14.15a)–
(14.15d)

Notification

- Consolidation of notices of taxes owed 95(8a)–(8b)
- Notice of fees related to subdivision development..... 180(11a)–(11d)
- Parole hearing electronic notification to media 107
- Registration for out-of-state sex offenders 174(16a)–(16b)
- Tax interpretations notice to taxpayers..... 31(31.7Aa)–(31.7Ab)

Nursing

- Certified nurse midwives flexibility study 152(2.4)
- Nurse aides education and training review 69

Nursing Homes

- Aging and long-term care services and programs
description update..... 66
- Assisted living medication aide fees 31(10.36Aa)–
(10.36Ab)
- Continuing care
 - Continuing care/home care definitions 128(2)
 - Contract provisions 128(3)
 - License fee increase 128(1)
 - Services without lodging..... 128(4)
- Dental services for special needs population study 88
- Identify barriers to home care services in continuing
care retirement communities 128(5)
- Long-term care facility liability insurance study..... 152(2.14)
- Medicaid assisted living waiver 31(10.35Aa)–(10.35Ac)

Nutrition—see Public Health

O

Oaths —see Public Officials	
Occupational Testing —pyrotechnics safety and licensing.....	22
Ocracoke County —Silver Lake Harbor Disposal	
Area maintenance funds.....	31(30.2a)–(30.2c)
Office of Administrative Hearings —see Administrative Hearings, Office of	
Office of Indigent Defense Services —see Indigent Defense Services, Office of	
Office of Information Technology Services —see Information Technology Services, Office of	
Oil Exploration —see Mining and Mineral Exploration	
On-Site Wastewater Contractors and Inspectors Certification Board	
Appointments and membership	87(1.22), (2.22)
Certification process	31(13.2e)–(13.2o)
Onslow County	
Jacksonville, City of—see that heading	
Onslow Beach funds.....	31(30.2a)–(30.2c)
Orange County	
Alamance County boundary	61
Carrboro, Town of—see that heading	
Chapel Hill, City of—see that heading	
Regulation of towing vehicles from private lots	134

P

Parks and Recreation Areas	
No parking fees in State parks	31(13.14)
State Parks System plan report	31(13.13)
Parks and Recreation Authority	
Appointments and membership	87(1.23), (2.23)
Operating expenses consideration	31(13.11)
Parole and Probation (see also Sentencing)	
Community service fees	96(28c)
DWI parole into residential treatment program.....	97(2)
Fees increase	31(19.3a)–(19.3d)
Probation revocation jurisdiction.....	97(13)
Probation services privatization pilot program.....	31(19.2)
Retired probation/parole officers exempt from certain concealed handgun requirements	104
Technical corrections, clarifications, and conforming changes.....	96(5), (28a)–(28b)
Therapeutic court judgement technical correction	96(26a)–(26c)
Parole Commission —see Post-Release Supervision and Parole Commission	
Partnership for Children, Inc., Board of Directors —appointments and membership	87(1.24), (2.24), (3)
Pasquotank County —tax prepayment discount allowed.....	30(4)

Pembroke, Town of	
Occupancy tax	78(1)–(1f), (11)
UNC-Pembroke—see University of North Carolina	
Pender County	
North Topsail Beach, Town of—see that heading	
Surf City, Town of—see that heading	
Permit Extension Act of 2009	177
Personnel Commission, State —see State Personnel Commission	
Pesticide Board —fees increase	31(11.1a)–(11.1g)
Pests and Pesticides	
Fees increase	31(11.1a)–(11.1g)
Fur-bearer and fox management study	152(2.9)
Structural pest control fee increases	31(11.2a)–(11.2c)
Pharmaceuticals	
Assisted living medication aide fees	31(10.36Aa)–(10.36Ab)
Medicaid	
Policy changes	31(10.22a)– (10.22b); 123(4.6)
Preferred drug list program	31(10.32)
Preferred drug list review panel	31(10.33a)–(10.33c)
Single pharmacy/provider for narcotics	31(10.34)
Specialty drug provider network	31(10.23)
Prescription drug abuse study	152(33.1)–(33.4)
Pharmacists —single pharmacy/provider for narcotic prescriptions for Medicaid	31(10.34)
Piedmont Triad Regional Partnership	
Appointments and membership	184(4)
Appropriations	31(14.15a)–(14.15d)
Pilot Programs	
Alternative teacher salary plans report repealed	31(7.22b)
Community-based residential reentry program for inmates initiative	31(19.7)
Criminal Justice Law Enforcement Automated Data Services	31(6.10a)–(6.10e)
Domestic violence and civil no-contact cases electronic filing	31(15.13a)–(15.13b)
Energy efficiency bid exemption for certain cities and counties	57(1); 63
First Commitment	
Elements study	119(2)
Extended/expanded	119(1); 123(4.8)
Health insurance pool project start date	123(7.1)
Probation services privatization	31(19.2)
School calendar	31(7.10)
Supports Intensity Scale assessment	31(10.6b)
Pitt County	
Greenville, City of—see that heading	

Planning and Zoning (see also Local Government; Property)	
Annexation—see that heading	
Land-use/building permits prohibited to delinquent taxpayers in Currituck County.....	30(1)–(3)
Protest petition requirement for Durham County.....	80
Residential development in municipal service districts for Burlington.....	25
Winston-Salem/Forsyth County violations.....	62
Policy Act for the Aging	66(1)
Political Parties —national convention lobbying exemption.....	169(20)
Pollution —see Environment	
Ports and Harbors	
Carolina Beach extraterritoriality.....	73(2a)–(2e)
Combine Global TransPark, Ports Authority, and Railroad, and establish class I rail service to TransPark and ports study.....	152(30.1)–(30.2)
General Fund expenditures for international terminal prohibited.....	31(30.10)
Ports Authority, State	
Appointments and membership.....	87(1.25), (2.35)
Combine Global TransPark, Ports Authority, and Railroad, and establish class I rail service to TransPark and ports study.....	152(30.1)–(30.2)
General Fund expenditures for international terminal prohibited.....	31(30.10)
Pay for audit.....	31(21.2)
Post-Release Supervision and Parole Commission	
Fees increase.....	31(19.3a)–(19.3d)
Parole hearing electronic notification to media.....	107
Poverty Reduction and Economic Recovery	
Legislative Study Commission —extended.....	152(28)
Practicing Pastoral Counselors, Board of	
Examiners of Fee-Based —see Fee-Based Practicing Pastoral Counselors, Board of Examiners of	
Prescription Drug Abuse, Legislative Task	
Force On —created.....	152(33.1)–(33.4)
Prescription Drugs —see Pharmaceuticals	
Preservation of Biological Evidence, Joint Select	
Study Committee On the —extended.....	152(24)
Princeville, Town of —flood damage reduction funds.....	31(30.2a)–(30.2c)
Principals —see Education; Teachers and Education Administrators	
Prisoners —see Correctional Institutions	
Privacy	
Access to email lists held by certain local governments.....	83
Adoptee access to information and confidential intermediaries.....	116
Conference of Clerks of Superior Court annual study of implementation of removal of personal information clarifying change.....	96(1)
DNA sample taken on arrest.....	94

Privacy —continued	
Escheated property confidentiality	97(10)
Expunctions technical corrections and clarifying changes.....	174(1)–(15)
Information sharing between DOR and DENR.....	31(13.15)
Long-Term Care Partnership Program	68
State personnel records confidentiality.....	169(18a)–(18h)
Private Protective Services Board —appointments and membership	87(2.25)
Privatization —probation services pilot program	31(19.2)
Professional Education —community college tuition waivers for certain persons.....	31(8.4a)–(8.4d)
Program Evaluation Oversight Committee, Joint Legislative Chapter 150B (Administrative Procedure Act)	
contested cases study	152(9.2)
Child nutrition programs study	115; 152(9.1)
Property (see also Eminent Domain; Planning and Zoning)	
Appraisal management company regulation	141
Collection of unpaid sewer fees for certain cities.....	59
Convey certain property by sale/lease authorized for certain cities	53; 54; 55(1)
DOT acquisition of right-of-way for a DAS network	165(4a)
Escheats	
Confidentiality.....	97(10)
Pre-escheat procedures study	152(2.10)
Goldsboro-Wayne Municipal Airport private sale	76
Real property donated for conservation must be used for such.....	167(5a)–(5b)
Rights-of-way acquisition agreements	165(6)
Transfer fee covenants prohibited	32
Property Tax Commission —local government reimbursement of State local government support programs	31(26.1a)–(26.1c)
Public Defenders —see Courts	
Public Funding of Council of State Elections Commission —created.....	169(26a)–(26h)
Public Health	
Area Health Education Centers dental care provider workforce development	92
Body mass screening of children on public health plans study	152(17.1)–(17.3)
Child care facilities nutrition and physical activity standards	117
Child nutrition programs study	115; 152(9.1)
Childhood immunization program funding	31(10.13a)–(10.13b); 123(4.5)
Childhood obesity study reestablished	152(26)
Fitness testing guidelines for public schools	161
Healthful living education courses	35
Impact of environmental toxins on human health study.....	152(6.2)

Public Health—continued

Merger of Div. of Public Health with Div. of
 Environmental Health study 31(13.2a)–(13.2d)
 School sports injuries study 152(13.1)
 State diabetes coordinator study 152(3.2)
 Supplemental Nutrition Assistance Program
 Education expansion study 160
 University Cancer Research Fund Committee
 Membership 31(9.11)
 Well testing effective date 31(10.10A)

Public Health, Commission for—well testing 31(10.10A)

Public Instruction, Department of

Agriscience and biotechnology school plan 152(29.1)–(29.4);
 183

Appropriations

Current operations 31(2.1)
 Dropout prevention grants 31(7.19a)
 Federal funds for local units 31(7.31a)–(7.31b)
 Leadership Academy 31(7.6)
 Comprehensive arts education plan 34
 Cooperative Innovative High Schools
 Generally 31(7.21a)–(7.21f)
 Impact study 31(7.21d)
 Deaf and blind residential and preschools transfer 31(10.21Aa)–
 (10.21Ah)

Drivers education

Program funding and efficacy review 31(28.2)
 Standard curriculum 31(7.12)
 Early care and education providers monitoring 31(7.5h)
 Environmental engineer support services 31(7.25)
 Federal funds for state level personnel/contracts
 review and reallocation 31(7.7b)
 More at Four program continuation 31(7.5a)–(7.5h)
 Office of Early Learning
 More at Four program continuation 31(7.5a)–(7.5h)
 More at Four program longitudinal review 31(7.5g)
 Receipt-supported positions 31(7.7a)
 Reorganization to implement budget act authorized 31(7.7c)
 STEM programs review 31(9.7a)–(9.7c)
 Virtual Public Schools (NCVPS) allotment formula 31(7.4a)–(7.4f);
 123(3.2A)

Public Meetings—interbasin transfer public

hearings costs 155(2)–(3)

Public Officers and Employees Liability Insurance

Commission—appointments and membership 87(2.26)

Public Officials (see also Ethics)

Area mental health boards term limits 31(10.7)
 Board of Education membership/terms for
 certain counties 42; 45

Public Officials—continued

Brevard city manager to appoint city clerk	18
Chatham education board member term allowed and board actions validated	56
Council-manager form of government for Marshville	21
Economic interest statement filing for elected officials	169(12)–(13e)
Gift ban clarification	169(15a)–(15d)
Government Ethics and Campaign Reform Act of 2010	169
Improve child care facility nutrition standards study	117(3)
Mayor Pro Tempore election for Highlands	58
Oaths by public school principals in Carteret County	74
Officials/employees added to gift ban	169(10)–(11)
Public funding of Council of State elections study	169(26a)–(26h)
Resources Development Commission membership increased for Brunswick County	65
Right of action against county officials, clerks of court removed	96(29)
Rutherford County coroner office vacated	48
Tourism Authority modified for Cabarrus County	79
Public-Private Partnerships, Legislative Study	
Commission On —created	152(32.1)–(32.4)
Public Records —see Records	
Pyrotechnics —see Explosives	

R

Racing —motorsports fuel sales and use refund sunset extended	31(31.5d)
Radio —see News and Other Media	
Railroads	
Combine Global TransPark, Ports Authority, and Railroad, and establish class I rail service to TransPark and ports study	152(30.1)–(30.2)
School/activity buses stopping at railroad crossings exemption	20
Study	152(36.1)–(36.4)
Railroads Study Commission —created	152(36.1)–(36.4)
Raleigh, City of	
Access to email lists held by units of local government	83
Green Square parking debt service	31(30.9)
North Carolina State University—see University of North Carolina	
Real Estate —see Property	
Real Estate Commission —transfer fee covenants prohibited	32

Recordation of Instruments —payment of delinquent taxes required before recording of deeds in certain counties	44; 51
Records	
Adoptee access to information and confidential intermediaries.....	116
Criminal Checks	
Adult day care/adult day health services criminal records checks study.....	93
Animal shelter Euthanasia technicians (see also Estates and Trusts)	
Animal shelter euthanasia technicians.....	127(4)
Real estate appraisal management company regulation	141
Restoration of firearms rights and exceptions for certain felons.....	108
DNA sample taken on arrest	94
Expunctions technical corrections and clarifying changes	174(1)–(15)
Public	
Access to email lists held by certain local governments	83
Dispute mediation	169(21a)–(21d)
State personnel records confidentiality.....	169(18a)–(18h)
Recreational Therapy Licensure Board —	
appointments and membership	87(2.27)
Recycling —see Conservation; Waste Management	
Red Oak, Town of —deannexation	26(1)
Referendums and Initiatives —see Elections	
Register of Deeds	
Payment of delinquent taxes required before recording of deeds in certain counties.....	44; 51
Recording requirement for remedial action plans	180(3)
Registries —see Data Systems	
Religion —religious holidays policies	112(1)–(3)
Remote Learning —see Education	
Reports	
Administration, Department of	
Agencies/institutions energy efficiency reporting and compliance	31(14.2A)
Private motor vehicle expense reimbursement	31(20.2)
Review of planning and regulatory programs considering impacts of climate change	180(13b)
Sustainable communities.....	31(13.5c)
Administrative Procedure Oversight Committee, Joint Legislative	
Exempt Wildlife Resources Commission and Marine Fisheries Commission from legislative disapproval process study	152(11.1)

Reports—continued

Agriculture and Consumer Services, Department of	
Agriculture water infrastructure needs plan	149(3)
Review of planning and regulatory programs	
considering impacts of climate change	180(13b)
Agriscience and Biotechnology Regional School	
Planning Commission.....	152(29.4); 183(4)
Area Health Education Centers	
Dental care provider workforce development	
coordination	92
Autism Spectrum Disorder and Public Safety, Joint	
Study Committee on	
Extended.....	31(10.9)
Biotechnology Center, North Carolina	
Commercialization of life sciences technologies plan.....	31(14.18A)
Broadband Task Force, Joint.....	31(6.18e)
Budget and Management, Office of State	
Driver Education Program funding and efficacy	
review	31(28.2)
Monitor compliance on salary freeze	31(29.5a)
Cemetery Act, Legislative Study Commission on	
the North Carolina Cemetery Act.....	102:(7f)
Center for Geographic Information and Analysis	
Coordination of IT requirements and geographic	
information system efforts	31(6.9b)
Childhood Obesity, Legislative Task Force on	
Reestablished.....	152(26)
Coastal Resources Commission	
Offshore exploration and production laws and	
rules review	179(3)
Commerce, Department of	
Industrial Development Fund reporting	
requirements.....	31(14.9)
Promote historically underutilized businesses	31(14.10A)
Review of planning and regulatory programs	
considering impacts of climate change	180(13b)
Sustainable communities.....	31(13.5c)
Tourist destination marketing	31(14.10A)
Community Care of North Carolina	
Enhanced primary care case management system	31(10.15)
Community College System Office	
Financial aid consolidation study.....	31(9.2a)–(9.2d)
Law enforcement tuition waivers costs.....	31(8.4c)
Prison inmate education	31(8.3c)
Success NC program	31(9.16)
Community Colleges, State Board of	
Special indebtedness for equipment use	31(30.11c)
Voluntary shared leave.....	139(3)

Reports—continued

Comparative Negligence and Abrogation of Joint and Several Liability, Joint Select Committee to Study the Adoption of	152(35.4)
Comprehensive arts education plan task force	34
Controller, State	
Payment card rebate program.....	31(27B.2)
Correction, Department of	
Community-based residential reentry program for inmates pilot initiative	31(19.7)
Inmate medical cost containment.....	31(19.6f)–(19.6g)
Inmate medical cost containment impact study	31(19.6d)
Prison inmate education	31(8.3c)
Crime Control and Public Safety, Department of	
Law Enforcement Support Services Division fee schedule.....	31(17.2a)–(17.2b)
Review of planning and regulatory programs considering impacts of climate change	180(13b)
Unsecured bonds study.....	152(10.1)
Cultural Resources, Department of	
Endor iron furnace historic site feasibility study	152(18.1)–(18.6), (19)
Defense and Security Technology Accelerator	
Reporting requirements	31(14.17)
Diversity in the Public Schools, Legislative Commission on.....	152(34.6)
Dropout Prevention, Committee on	
Dropout prevention grants.....	31(7.19b), (7.19e)
E-NC Authority	
Reporting requirements	31(14.16)
Early Childhood Education and Care, Joint Legislative Study Committee on the Consolidation of	152(27.3)
Economic Investment Committee	
Job Development Investment Grant Program	31(14.8)
Education Assistance Authority, State	
Financial aid consolidation study.....	31(9.2a)–(9.2d)
Education, Boards of (local)	
Expenditure of supplemental funds for low-wealth counties repealed	31(7.22c)
Education Cabinet	
Ready, Set, Go! initiative	31(7.8b)
STEM education priorities	41(2)
Education Oversight Committee, Joint Legislative	
Graduate disparity study.....	152(5.1)
Minimum age for enrollment in public schools study	152(5.1)
National Board Certification Program for Principals study.....	31(7.11c)
Virtual school of engineering study	152(5.1)

Reports—continued

Education, State Board of	
Alternative teacher salary plans pilot program report repealed.....	31(7.22b)
At-risk and improving student accountability allotment report repealed	31(7.22d)
Deaf and blind residential and preschools transition plan.....	31(10.21Ab)
Expenditure of supplemental funds for low- wealth counties repealed	31(7.22c)
Four-year cohort graduation rate plan.....	111(1)
More at Four program	31(7.5c)
Raising compulsory public school attendance age study	152(14.2)
School calendar pilot program	31(7.10)
Significance of Memorial Day instruction.....	112(4b)
Sports injuries study.....	152(13.2)
Voluntary shared leave.....	139(3)
Waivers and allotment adjustments report repealed	31(7.22a)
Environment and Natural Resources, Department of (DENR)	
Agriculture water infrastructure needs plan.....	149(3)
Aviation activities	31(13.18a)– (13.18b)
Computer equipment recycling.....	67
Fishery management plan development process study	152(20)
Inactive Hazardous Sites Program	31(13.9b)
Limitations on recovery for damages from oil spill review	179(5)
Merger of Div. of Public Health with Div. of Environmental Health study	31(13.2c)
Public water/wastewater system financial soundness requirement cost/benefit	144(2c)
Reports consolidation.....	142(1)–(6)
Review of planning and regulatory programs considering impacts of climate change.....	180(13b)
State Parks System plan	31(13.13)
Surface Water Identification and Training Certification Program reestablished.....	180(4b)
Sustainable communities.....	31(13.5c)
Water and wastewater infrastructure needs.....	144(1b)
Water resources development projects.....	31(30.2c)
Environmental Review Commission	
Carbon sequestration and carbon offset opportunities study	152(6.1)
Gas leases in the Central Shale Belt study	152(6.1)
Impact of environmental toxins on human health study	152(6.1)

Reports—continued

Interbasin transfer study	155(5)
Merger of Div. of Public Health with Div. of Environmental Health study	31(13.2d)
Oil and gas exploration in the Triassic Basin study	152(6.1)
Penalties applicable to violations of packaging, plastics labelling, solid waste, and incineration statutes study	180(15)
Reclaimed water use and storage study	152(6.1)
Recycling of electronic equipment study	67(6)
Water quality cost share study	152(6.1)
Fiscal Research Division	
Community college tuition waivers study	31(8.4d)
General Statutes Commission	
Federal/state military organization language uniformity study	152(24), (25.1)
Gender neutral statutes and constitution changes study extended	152(25.2)
Global TransPark Authority	
Anticipated repayment schedule	31(28.3a)
Governance and the Adequacy of the Investment Authority of Various State-Owned Funds for the Purposes of Enhancing the Return on Investments, Commission to Study the	
Date correction	96(37)
Extended	152(23)
Governor's Crime Commission	
Legal status of prisoners queries	97(12)
Governor's Logistics Task Force	
Combine Global TransPark, Ports Authority, and Railroad, and establish class I rail service to TransPark and ports study	152(30.2)
Hardest hit housing markets funding corporation	31(23.1a)–(23.1b)
Health and Human Services, Department of (DHHS)	
Adult day care/adult day health services criminal records checks study	93
Body mass screening of children on public health plans study	152(17.3)
CAP-MR/DD service eligibility	31(10.7A)
Capitated 1915(B)(C) behavioral health waivers expansion	31(10.24b)
Community-Focused Eliminating Health Disparities Initiative report date	31(10.11)
Dental services for special needs population study	88(2)
Dix operations budget	31(10.10a)–(10.10b)
First Commitment Pilot Program elements study	119(2)
Identify barriers to home care services in continuing care retirement communities	128(5)
Improve child care facility nutrition standards study	117(3)

Reports—continued

Medicaid assisted living waiver	31(10.35Ac)
Medicaid fraud prevention	31(10.26d)
Medicaid HIV waiver study	31(10.27)
Medicaid provider rates study	31(10.25b)
Medicaid recipient appeals process.....	31(10.30c)
Mental health crisis services by emergency departments evaluation	31(10.7B)
Mental health services independent assessments	31(10.36a)– (10.36c); 123(4.2)
Merger of Div. of Public Health with Div. of Environmental Health study	31(13.2c)
Nurse aides education and training review	69
Personal Care Services studies	31(10.35)
Position eliminations	31(10.5A); 123(4.3)
Project C.A.R.E.....	31(10.35B)
Review of planning and regulatory programs considering impacts of climate change	180(13b)
Supplemental Nutrition Assistance Program Education expansion study	160
Supports Intensity Scale assessment pilot program	31(10.6b)
Sustainable communities.....	31(13.5c)
Health Care Oversight Committee, Joint Legislative	
Medical malpractice claims reduction collaboration project review.....	152(3.1)
Personal care services revised requirements impact study	152(3.1)
State diabetes coordinator study.....	152(3.1)
Hearing Aid Dealers and Fitters Board	
Develop consumer guideline for purchasing hearing aids	121
Indian Economic Development Initiative	
Reporting requirements	31(14.17A)
Information Technology Services, Office of	
Data integration enterprise licensing agreements funding	31(6.11), (6.14b)
Enterprise electronic forms and digital signatures plan.....	31(6.17b)
ITS network integration plan	31(6.11)
Smart cards.....	31(6.19)
Institute of Medicine	
Needs of children with mental health study	152(16.2)
Insurance, Department of	
Identify barriers to home care services in continuing care retirement communities.....	128(5)

Reports—continued

Review of planning and regulatory programs considering impacts of climate change	180(13b)
Legislative Ethics Committee	
Economic interest statement and regulation of campaign contributions study	169(25b)
Legislative Research Commission	
Inmate medical costs study	31(19.8b)
Legislative Services Office	
Monitor compliance on salary freeze	31(29.5b)
Life Sciences Industry and Related Job Creation, Study Commission on the Expansion of the	152(37.4)
Local Government Commission	
Public water/wastewater system financial soundness requirement cost/.benefit	144(2c)
Military Morale, Recreation, and Welfare Fund	
Allocation and use	31(27A.1a)–(27A.1d)
Poverty Reduction and Economic Recovery	
Legislative Study Commission	
Extended	152(28)
Prescription Drug Abuse, Legislative Task Force on	152(33.4)
Preservation of Biological Evidence, Joint Select Study Committee on the	
Extended	152(24)
Program Evaluation Division	
Child nutrition programs study	115(1b)
Consolidate administrative functions of Depts of Social Services study extended	31(10.20)
Global TransPark Authority review	31(28.3b); 123(8.1)
Public Funding of Council of State Elections Commission	169(26h)
Public Instruction, Department of	
Alternative teacher salary plans pilot program report repealed	31(7.22b)
Cooperative Innovative High Schools impact study	31(7.21d)
Federal funds for state level personnel/ contracts review and reallocation	31(7.7b)
Math and science educators survey	31(9.7c)
Public-Private Partnerships, Legislative Study	
Commission on	152(32.4)
Railroads Study Commission	152(36.4)
Revenue Laws Study Committee	
Local cable service franchise agreements study	152(7.1)
Local government owned and operated communication systems study	152(7.1)
Ticket resale study	152(7.1)
RTI International	
Reporting requirements	31(14.17A)
Sentencing and Policy Advisory Commission	
Misdemeanor reclassification review	31(19.5)

Reports—continued

State Personnel Commission	
Voluntary shared leave.....	139(3)
Sustainable Communities Task Force	31(13.5a);180(21.2b)
Transportation, Department of	
Causes of teen driving fatalities study	152(15)
NC Mobility Fund	31(28.7a)–(28.7l);123(8.2)
Personnel positions.....	31(28.9)
Public access to coastal waters report repealed.....	165(8)
Report on finances, buildings, and properties repealed	165(1)
Review of planning and regulatory programs	
considering impacts of climate change	180(13b)
Road naming policy	31(28.4)
Sustainable communities.....	31(13.5c)
Transportation Oversight Committee, Joint Legislative	
Debt agreements study	152(4.1)
Removal/sale for scrap of untitled vehicles study.....	152(4.1)
Street construction developer responsibility study	152(4.1)
Transportation funding debt affordability study	31(28.7e)
Welcome centers/visitor centers study.....	152(4.1)
UNC Board of Governors	
Distance education biennial reports repealed.....	31(9.3e)
Focused Growth pilot program report date change.....	31(9.3e)
Repairs and Renovations Reserve Account	
allocations	31(30.4c)
School administrator supply and demand	
report date change	31(9.3b)
Special indebtedness for equipment use	31(30.11c)
STEM programs review	31(9.7b)
Success NC program	31(9.16)
Teacher education and recruitment initiative	
report date change	31(9.3d)
Teacher education reports coordinated due dates	31(9.3a)–(9.3e)
UNC-NCCCS 2+2 E-Learning Initiative	
report date change	31(9.3c)
University of North Carolina	
Financial aid consolidation study.....	31(9.2a)–(9.2d)
Urban Growth and Infrastructure, Legislative	
Study Commission on	
Extended.....	152(22)
Utility Review Committee, Joint Legislative	
Gas leases in the Central Shale Belt study	152(8.1)
Wastewater/treatment permitted works owner/ operator annual report.....	180(5)
Wine and Grape Growers Council	
Reporting requirements	31(14.10)
Zoological Park Funding and Organization	
Study Committee	
Extended.....	152(21)

Rescue Squads—see Emergency Services**Research Triangle Regional Partnership**

Appointments and membership 184(4)

Appropriations 31(14.15a)–(14.15d)

Respiratory Care Board—appointments and membership 87(2.28)**Retailing**Plastic bag recycling 31(13.10a)–
(13.10e);
123(5.2a)–
(5.2b)Sale of uncooked sandwiches in traditional
country stores exempt from sanitation
regulation 180(18)**Retirement**

Charlotte Firefighters' Retirement System

Death benefit 7

Local Government Employees Retirement

System (LGERS)

Optional retirement program reciprocity 38

Special retirement allowances 124

Technical corrections, clarifications, and
conforming changes 72; 96(40.7)

Supplemental firemen's retirement fund for

Waynesville repealed 42; 43

Sworn officers emergency pension fund benefits

ceiling and stipend for minors 8

Teachers' and State Employees' Retirement

System (TSERS)

Measures for potential loss of federal funds 31(2.3h)

Optional retirement program reciprocity 38

Special retirement allowances 124

Technical corrections, clarifications, and
conforming changes 72; 96(40.7)

Wilkesboro firemen's supplemental pension

fund benefit increase 23

Revenue, Department of

Appropriations-current operations 31(2.1)

Economic incentives reporting and sunsets 166

Fair tax penalties 31(31.10a)–(31.10g)

Federal 'mailbox rule' governs timely filing 95(10a)–(10b)

Hold harmless payment calculation data 95(14)

Local government reimbursement of State local

government support programs 31(26.1a)–(26.1c)

Sharing of information with DENR 31(13.15)

Small business reporting compliance relief 31(31.3a)–(31.3f)

Small retailer sales and use tax burden 31(31.3a)–(31.3f)

Tax and debt collection process improvement 31(31.8a)–(31.8k)

Tax interpretations notice to taxpayers 31(31.7Aa)–(31.7Ab)

Technology needs public-private partnerships 123(2.3)

Revenue Laws Study Committee

Local cable service franchise agreements study	152(7.4)
Local government owned and operated communication systems study	152(7.5a)–(7.5b)
Ticket resale study	152(7.3)

Richmond County

Hamlet, City of—see that heading	
Regulation of towing vehicles from private lots	134

Roads and Highways (see also Motor Vehicles)

Abandoned vehicle removal	132(20)
Appalachian Development Highway System exempt from equity formula	31(28.10)
ATV use by city employees on certain highways for Williamston	46
ATV use by disabled sportsmen	146
Combine Global TransPark, Ports Authority, and Railroad, and establish class I rail service to TransPark and ports study	152(30.1)–(30.2)
High content arsenic glass beads in pavement marking paint prohibited	180(17a)–(17b)
Light-traffic road limitations	132(10)
Move-over law applies to electric utility restoration vehicles	132(12)
Municipal funding for pedestrian safety improvements	37
Parking on highway and highway shoulder	132(13)–(15)
Road naming policy	31(28.4)
Street construction developer responsibility study	152(4.5)
Toll roads and bridges—see that heading	
Transportation funding debt affordability study	31(28.7e)
Visitor center funds	31(28.11)
Welcome centers/visitor centers study	152(4.3)
Yadkin River bridge exempt from Garvee bonds equity formula	31(28.8)
Yellow light duration at red light camera intersections	132(17)–(19)

Roadside Assistance—see Emergency Services**Roanoke Island Commission**

Appointments and membership	87(1.26), (2.29)
Appropriations	
Current operations	31(2.1)
Permanent transfer of funding for performing arts	31(9.6)
Contract review and award oversight	194(26)

Robeson County

Pembroke, Town of—see that heading	
Regulation of towing vehicles from private lots	134

Rocky Mount, City of—deannexation26(2)**Rolesville, Town of**—access to email lists held by

units of local government	83
---------------------------------	----

Rowan County

- Kannapolis, City of—see that heading
- Rowan/Kannapolis ABC Board membership
equal representation..... 122(28)
- Salisbury, City of—see that heading

Rules Review Commission

- Appointments and membership 87(1.28)
- Technical corrections, clarifications, and
conforming changes..... 96(6)

Rural Economic Development Center

- Appropriations
 - Clean Water Bond funding..... 31(14.22)
 - Current operations 31(2.1)
 - Funds use..... 31(14.19)
 - Infrastructure program..... 31(14.20)
 - Opportunities Industrialization Centers 31(14.21)
- Infrastructure program 31(14.20)

Rutherford County

- Coroner office vacated..... 48
- Forest City, Town of—see that heading

S

S.A.F.E Mortgage Licensing Act 168

Safe Schools Act..... 163

Safety

- Municipal funding for pedestrian safety
improvements 37
- School/activity buses stopping at railroad
crossings exemption 20

Safety Equipment

- Carbon monoxide detectors 97(6a)–(6b)
- Yellow light duration at red light camera
intersections 132(17)–(19)

Salaries and Benefits

- ABC board administration..... 122(11)–(13)
- Annual/sick leave transfer from city or county
study 152(2.2)
- Community colleges presidents' salaries
flexibility 113
- Local government supplementation of salaries
of nonelected officials 31(29.7a)–(29.7e)
- Monitor compliance on salary freeze 31(29.5a)–(29.5b)
- School administrator salary schedules..... 31(29.3a)–(29.3h)
- State Health Plan for Teachers and State
Employees—see Insurance, Health
- Teacher salary schedules 31(29.2a)–(29.2g)
- Voluntary shared leave rules for nonfamily
members 139

Sales

- Convey certain property by sale/lease authorized
 - for certain cities54; 55(1)
 - Goldsboro-Wayne Municipal Airport private sale 76

Salisbury, City of—Rowan/Kannapolis ABC

- Board membership equal representation..... 122(28)

Sanford, City of—convey certain property by sale authorized 55(1)**Sanitation** (see also Public Health)—Sale of

- uncooked sandwiches in traditional country stores
 - exempt from sanitation regulation 180(18)

Scholarships—see Colleges and Universities; Tuition**School of Government**—see University of North Carolina**Science and Technology**

- Commercialization of life sciences technologies plan 31(14.18A)
- Life sciences industry and related job creation study..... 152(37.1)–(37.4)
- STEM
 - Education priorities 41
 - Programs review..... 31(9.7a)–(9.7c)

Secondary Education—see Education**Secretary of State**

- Appropriations-current operations.....31(2.1)
- Cleanfields renewable energy demonstration
 - parks authorized..... 195
- Lobbying and lobbyists
 - Principal reporting..... 169(17a)–(17s)
 - Registration 169(4a)–(5c)
- Publication of ethics complaints 169(19a)

Sedimentation Control Commission—appointments

- and membership 180(10)

Sentencing (see also Courts; Crimes)

- Community service program fee increase 31(19.4a)–(19.4b);
123(6.3)
- Parole into residential treatment program 97(2)

Sentencing and Policy Advisory Commission—

- misdemeanor reclassification review 31(19.5)

Sex Offenses—registration for out-of-state offenders 174(16a)–(16b)**Shelby, City of**—emissions/safety inspections of

- Cleveland County vehicles 47

Sheriffs—see Law Enforcement**Sheriffs' Education and Training Standards****Commission**

- Appointments and membership 87(1.28)
- Exempt from minimum 18 year age
 - requirement for licensing..... 97(8)

Shipping (see also Commerce)

- CDL 5-year expiration date 132(1)
- Compliance with Federal Motor Vehicle Safety Act 129(1), (5)
- Emergency trip permit for motor carrier 97(4)
- Light-traffic road limitations 132(10)

Shipping —continued	
Logging truck registration	132(9)
Oversize load/hazardous materials escort fee.....	129(4)
Registration of property-hauling vehicles	129(3)
'Weighted' plates on certain property hauling vehicles	132(2)
Small Business Contractor Authority —	
appointments and membership	87(1.29)
Small Businesses —see Corporations, For-Profit	
Smart Start —see Health and Human Services, Department of (DHHS)	
Smoke Detectors —see Safety Equipment	
Social Services, Departments of (County)	
Administrative allowance	31(10.5)
Adoptee access to information and confidential intermediaries	116
Block grants	31(10.37a)
Consolidate administrative functions of Depts of Social Services study extended	31(10.20)
State-county special assistance consolidating changes	31(10.19Aa)– (10.19Ai)
Software —see Information Technology	
Soil Scientists, Board for Licensing of	
Appointments and membership	87(1.30), (2.30)
Contract review and award oversight	194(14)
Solid Waste Management Act	67
Southeastern North Carolina Regional Economic Development Commission	
Appointments and membership	184(3)
Appropriations	31(14.15a)– (14.15d)
Southern Dairy Compact Commission —	
appointments and membership	87(1.31)
Speed Limits —see Motor Vehicle Violations and Infractions	
Sports	
In-state tuition for non-resident athletic scholarships repealed	31(9.25)
Public-private development project authorized for Matthews	52
School sports injuries study	152(13.1)
Stanfield, Town of —collection of unpaid sewer fees	59
State Bar Council —see State Bar, North Carolina	
State Bar, North Carolina	
Contract review and award oversight	194(12)
Disciplinary Hearing Commission—see that heading	
State Board of Chiropractic Examiners —see Chiropractic Examiners, State Board of	

State Board of Chiropractic Examiners	87(2.3)
State Board of Community Colleges —see Community Colleges, State Board of	
State Board of Education —see Education, State Board of	
State Board of Elections —see Elections, State Board of	
State Building Commission —see Building Commission, State	
State Chief Information Officer —see Information Technology Services, Office of	
State Commission of Indian Affairs —see Indian Affairs, State Commission of	
State Education Assistance Authority —see Education Assistance Authority, State	
State Employees	
Consolidation of schools for the deaf and blind principal functions.....	31(10.20Ba)–(10.20Bb)
DPI receipt-supported positions	31(7.7a)
Environmental engineer DPI support services	31(7.25)
Farm to School Program position	31(11.5)
Federal funds for state level DPI personnel/ contracts review and reallocation	31(7.7b)
Furlough rules for local school boards	31(29.1a)–(29.1j)
Gift ban clarification.....	169(15a)–(15d)
Health reform positions	31(24.2a)–(24.2c)
IT contracted personnel	31(6.12)
Judicial Dept. statutory staffing numbers aligned to budget reductions.....	123(6.4)
Officials/employees added to gift ban	169(10)–(11)
Paralegal positions for Ethics Commission technical correction	169(27)
Personnel Director added to BEACON Project Steering Committee.....	31(27B.1)
Personnel records confidentiality	169(18a)–(18h)
Position eliminations in DHHS report.....	31(10.5A);123(4.3)
Receiving anything of value for performance of official act illegal.....	169(3a)–(3b)
Reclassify vacant Parks and Recreation positions.....	31(13.12)
Retirement—see that heading	
Revolving door provisions for legislators and state officials.....	169(4a)–(5c)
RIF extend employee priority rights.....	123(9.3)
Salaries and benefits—see that heading	
State Employee Incentive Bonus program name change	97(11)
State Employee Suggestion Program	97(11)
State Health Plan for Teachers and State Employees—see Insurance; Insurance, Health	
Teachers' and State Employees' Retirement System (TSERS)—see Retirement	
Testimony by legislative employees.....	169(24a)–(24c)
Transportation Dept. personnel positions report	31(28.9)

State Employees —continued	
UNC furloughs authorized.....	31(29.4a)–(29.4i)
Youth Development Centers staffing cap removed.....	31(18.2)
State Ethics Commission —see Ethics	
Commission, State	
State Fire and Rescue Commission —see Fire and Rescue Commission, State	
State Funded Student Financial Aid, Joint Legislative Study Committee On —duplicate study repealed	31(9.5)
State Health Plan Administrative Commission — appointments and membership	87(1.35)
State Health Plan for Teachers and State Employees —see Insurance, Health	
State Health Plan for Teachers and State Employees, Board of Trustees	
Appointments and membership	87(1.36), (2.34)
Contract review and award oversight	194(18a)–(18b)
State Judicial Council —see Judicial Council, State	
State Lottery Commission —see Lottery Commission, State	
State Personnel Commission	
Annual/sick leave transfer from city or county study.....	152(2.2)
Appointments and membership	87(1.38), (2.33)
Voluntary shared leave rules for nonfamily members	139
State Ports Authority —see Ports Authority, State	
State Suggestion Review Committee —Name change from Incentive Bonus Review Committee	97(11)
State Symbols	
Colonial Spanish Mustang official state horse	6
Honor and Remember Flag adopted	191(4)
Retirement of flags	189
State Treasurer —see Treasurer, State	
State Water Infrastructure Commission —see Water Infrastructure Commission, State	
Statesville, City of —Deannexation	28
Storage Systems —Underground storage tank operators training	154
Structural Pest Control Committee	
Appointments and membership	87(1.39), (2.36)
Fee increases	31(11.2a)–(11.2c)
Student Discipline	
Corporal punishment of students with disabilities.....	159
Discipline/instruction of students with disabilities sunset delayed	36

Student Loans—see Tuition**Students**—see Education**Studies**

Adoption of comparative negligence and abrogation of joint and several liability	152(34.1)–(34.6), (35.1)–(35.4)
Adult day care/adult day health services criminal records checks	93
Agriculture water infrastructure needs plan	149
Annual/sick leave transfer from city or county	152(2.2)
Autism spectrum disorder and public safety study extended	31(10.9)
Barriers to home care services in continuing care retirement communities	128(5)
Boards/commissions elimination or consolidation	152(2.18)
Broadband needs for education and economic development	31(6.18a)–(6.18e)
Broadband-smart grid	152(2.20)
Carbon sequestration and carbon offset opportunities study	152(6.8)
Causes of teen driving fatalities	152(15)
Cemetery Act	102:(7a)–(7f)
Certified nurse midwives flexibility	152(2.4)
Chapter 150B (Administrative Procedure Act) contested cases	152(9.2)
Child nutrition programs	115; 152(9.1)
Childhood obesity study reestablished	152(26)
Combine Global TransPark, Ports Authority, and Railroad, and establish class I rail service to TransPark and ports	152(30.1)–(30.2)
Community college tuition waivers	31(8.4d)
Community college/university demographics	152(2.11)
Comprehensive arts education plan	34
Conference of Clerks of Removal of personal information from public records clarifying change	96(1)
Consolidate administrative functions of Depts of Social Services study extended	31(10.20)
Cooperative Innovative High Schools impact	31(7.21d)
Dental services for special needs population	88
Diversity in public schools	152(34.1)–(34.6)
Driver Education Program funding and efficacy review	31(28.2)
Early childhood education and care consolidation	152(27.1)–(27.3)
Economic interest statement and regulation of campaign contributions	169(25a)–(25b)
Efficient State government e-commerce	152(2.8)
Endor iron furnace historic site feasibility	152(18.1)–(18.6),(19)
Federal/state military organization statutory language uniformity study extended	152(25.1)
Financial aid consolidation	31(9.2a)–(9.2d)

Studies—continued

First Commitment Pilot Program elements	119(2)
Fishery management plan development process	152(20)
Fresh produce growers insurance coverage options	152(2.15)
Fur-bearer and fox management study	152(2.9)
Gas leases in the Central Shale Belt	152(6.7), (8.2)
Gender neutral statutes and constitution changes study extended	152(25.2)
Global TransPark Authority review	31(28.3b);123(8.1)
Governance and adequacy of the investment authority of State funds study extended	152(23)
Graduate disparity	152(5.3)
Impact of environmental toxins on human health	152(6.2)
Improve child care facility nutrition standards	117(3)
Inmate medical cost containment impact	31(19.6d)
Inmate medical costs	31(19.8a)–(19.8b)
Interbasin transfers	155(5)
Life sciences industry and related job creation	152(37.1)–(37.4)
Local cable service franchise agreements	152(7.4)
Local government owned and operated communication systems	152(7.5a)–(7.5b)
Long-term care facility liability insurance	152(2.14)
Medicaid HIV waiver	31(10.27)
Medicaid provider rates	31(10.25a)–(10.25c)
Medical malpractice claims reduction collaboration project review	152(3.3)
Mental health crisis services by emergency departments evaluation	31(10.7B)
Military veteran contractors use	152(2.13)
Minimum age for enrollment in public schools	152(5.4)
Misdemeanor reclassification review	31(19.5)
"Most Favored Nation" clauses use	152(2.16)
National Board Certification Program for Principals	31(7.11c)
Needs of children with mental health	152(16.1)
Nurse aides education and training review	69
Offshore exploration and production laws and rules review	179(3)
Oil and gas exploration in the Triassic Basin	152(6.4)
Ownerless dog/cats and commercial dog breeding	152(2.12)
Penalties applicable to violations of packaging, plastics labelling, solid waste, and incineration statutes	180(15)
Personal Care Services	31(10.35)
Personal care services revised requirements impact	152(3.4)
Poverty reduction and economic recovery study extended	152(28)
Pre-escheat procedures	152(2.10)
Prescription drug abuse	152(33.1)–(33.4)
Preservation of biological evidence study extended	152(24)
Public funding of Council of State elections	169(26a)–(26h)
Public-private partnerships	152(32.1)–(32.4)

Studies—continued

Public water/wastewater system financial soundness requirement cost/benefit.....	144(2a)–(2c)
Railroads	152(36.1)–(36.4)
Raising compulsory public school attendance age	152(14.1)
Reclaimed water use and storage.....	152(6.5)
Recycling of electronic equipment	67(6)
Removal/sale for scrap of untitled vehicles.....	152(4.2)
School sports injuries.....	152(13.1)
Secondary PSAPs funding.....	158(10)
State agency and department consolidation study.....	152(2.3)
State diabetes coordinator.....	152(3.2)
Street construction developer responsibility.....	152(4.5)
Supportive housing initiative.....	152(2.19)
Televising House/Senate sessions	152(2.5)
Ticket resale.....	152(7.3)
Transportation debt agreements.....	152(4.4)
Transportation funding debt affordability	31(28.7e)
Under 13 beauty pageant regulation.....	152(2.17)
Unsecured bonds.....	152(10.2)
Urban growth and infrastructure study extended	152(22)
Virtual school of engineering	152(5.2)
Water and wastewater infrastructure needs	144(1a)–(1b)
Water quality cost share.....	152(6.3)
Welcome centers/visitor centers	152(4.3)
Zoological Park funding and organization study extended.....	152(21)
Studies Act of 2010	152
Study Commission On Aging—see Aging, Study Commission on	
Study Commission On the Expansion of the Life Sciences Industry and Related Job Creation—see Life Sciences Industry and Related Job Creation, Study Commission on the Expansion of the	
Substance Abuse	
Alternatives to hospitalization of mh/dd/sas populations study.....	152(18.1)–(18.6)
Block grants.....	31(10.37a)
Criminal Justice Partnership Program substance abuse center funds requirements	31(19.9)
DWI parole into residential treatment program.....	97(2)
Prescription drug abuse study.....	152(33.1)–(33.4)
Substance Abuse Professionals Practice Board—	
appointments and membership	87(1.40), (2.37)
Sugar Mountain, Village of—payment of delinquent taxes required before recording of deeds.....	51
Supplemental Retirement Board of Trustees—	
appointments and membership	87(1.41), (2.38)

Surety and Fidelity

ABC boards and stores	122(14), (24)
Bail and bail bondsmen	
Technical corrections, clarifications, and conforming changes	96(3), (10)
Unsecured bonds study.....	152(10.2)
Change of cemetery control/deposits to trusts.....	102:(1)
Performance and payment bonding requirements for State and UNC projects	148
Surf City, Town of —beach protection study funds.....	31(30.2a)–(30.2c)
Susie's Law	16
Sustainable Communities Task Force —created	31(13.5a)–(13.5e); 180(21.2a)–(21.c)

Symphonies—see Arts; Cultural Resources

T**Task Forces**

Broadband Task Force, Joint—see that heading	
Comprehensive arts education plan.....	34
Consumer guideline for purchasing hearing aids	121
Needs of children with mental health study	152(16.1)
Prescription Drug Abuse, Legislative Task Force on—see that heading	
Raising compulsory public school attendance age study	152(14.1)
Sustainable Communities Task Force—see that heading	
Water and wastewater infrastructure needs task force	144(1a)–(1b)

Taxes and Assessments

Collection	
Consolidation of notices of taxes owed	95(8a)–(8b)
Delinquent property tax collection for Duplin County	24
Disputed amount paid before judicial review	95(9)
Fair tax penalties	31(31.10a)–(31.10g)
Land-use/building permits prohibited to delinquent taxpayers in Currituck County	30(1)–(3)
No building permits to delinquent taxpayer in King.....	55(2)
Payment of delinquent taxes required before recording of deeds in certain counties	44; 51
Tax and debt collection process improvement.....	31(31.8a)–(31.8k)
Credits	
ARRTA grant not public funds for renewable energy credit.....	4
Eco-industrial parks.....	147(5.1)–(5.4)
Economic development environmental impact clarification	147(1.3)–(1.6)
Expand film credit.....	89(1)
Growing business incentives sunset extended	147(1.1)
Interactive digital media.....	147(3.1)–(3.7)
Oyster shell recycling sunset extended	147(4.1)–(4.3)

Taxes and Assessments—continued

Production company expanded	147(2.1)–(2.4)
Rehabilitation projects sunset extended	31(31.5a)
Renewable energy property	
Facility credit reinstated/expanded	167(3a)–(3b)
Investment credit	167(2a)–(2d)
Renewable fuel facility and biodiesel producer credit extended	167(1a)–(1b)
Small business unemployment insurance	31(31.1Aa)–(31.1Ab)
Technical corrections, clarifications, and conforming changes	95(2)
Deductions	
Energy efficient commercial building federal tax deduction allocation	167(4a)–(4d), (6)
Marital deduction for spousal trust conforming change	181(3)
Estate	
Estate and generation-skipping transfer tax laws	126
Excise	
Access to sales information used to determine tobacco escrow	95(11)
Internet datacenter investment threshold (second facility)	91(6)–(7)
Exemptions	
Internet datacenter sales tax	91(1)–(3), (5)
Wood chipper sales and use tax	147(6.1)–(6.2)
Franchise	
Tax burden reduction for construction companies	31(31.9a)–(31.9c)
Fuel	
Base state clarification	95(28)
Kerosene distributor refund clarification	95(29a)–(29b)
Motorsports fuel sales and use refund sunset extended	31(31.5d)
Passenger plane sales and use refund sunset extended	31(31.5c)
Payment by electronic funds transfer	95(25)
Refund application electronic filing	95(32)
Refund on non-highway operation of special mobile equipment	95(31b)
Taxicab definition	95(31a)
Technical corrections, clarifications, and conforming changes	95(25)–(32)
General Fund availability adjustments	31(2.2a)
Highway use	
Logging truck registration	132(9)
Technical corrections, clarifications, and conforming changes	95(5), (6)
Income, corporate	
Alternative apportionment formula	89(2a)–(2c)
Economic incentives reporting and sunsets	166
Extend certain tax credit and refund sunsets	31(31.5a)–(31.5e)
Fair tax penalties	31(31.10a)–(31.10g)
Investments tax credit sunset extended	31(31.5b)

Taxes and Assessments—continued

Income, individual	
Fair tax penalties	31(31.10a)–(31.10g)
Investments tax credit sunset extended	31(31.5b)
IRC update.....	31(31.1a)–(31.1c)
Marital deduction for spousal trust conforming change	181(3)
Payment of income taxes from principal	181(4)
IRC update	31(31.1a)–(31.1c)
Motor fuel—see Fuel, this heading	
Motor vehicle	
Combined motor vehicle system effective date corrected	95(22)
Occupancy	
Anson County.....	78(6)
Bermuda Run.....	78(3)–(3f), (11)
Cooleemee.....	78(4)–(4f), (11)
Dare County	78(7)
Mocksville.....	78(2)–(2f), (11)
Montgomery County	78(5)
Pembroke.....	78(1)–(1f), (11)
Wilkes County.....	78(8)–(9g), (10)
Occupancy tax	
Modernization	31(31.6a)–(31.6g); 123(9.1a)–(9.1b), (10.2)
Privilege	
Admissions tax modernization.....	31(31.7a)–(31.7e)
Property	
Assessment/collection of fees authority for	
Bermuda Run	77
Builder inventory deferral repeal clarification.....	95(21)
Combined motor vehicle system effective date corrected	95(22)
Delinquent property tax collection for Duplin County	24
Disabled veteran definition	95(16)
Greenway easement assessment exemption for	
Winston-Salem.....	60
Historic structure lien clarification.....	95(15), (17)
Inventory tax deferral	140
Land-use/building permits prohibited to	
delinquent taxpayers in Currituck County	30(1)–(3)
Liens extinguished for low/moderate income housing	95(18)
No building permits to delinquent taxpayer in King.....	55(2)
Payment of delinquent taxes required before	
recording of deeds in certain counties	44; 51
Radio common carrier term removed	95(19)
Refund of unused assessments by counties.....	129(7)
Stormwater facilities assessments for Durham	81
Tax prepayment discount allowed for Pasquotank County.....	30(4)

Taxes and Assessments—continued

- Technical corrections, clarifications, and
conforming changes 95(15)–(22)
- Terminal facility definition added..... 95(20)

Refunds

- Cable television system joint governmental
agency sales tax refund 153
- Charlotte-Mecklenburg Public Library sales
and use tax refund 95(4a)–(4b)
- Economic incentives reporting and sunsets 166
- Paper-from-pulp manufacturing sales tax 91(4)
- Refund of unused assessments by counties..... 129(7)
- Turbine manufacturing sales tax 91(4)

Returns

- Federal 'mailbox rule' governs timely filing 95(10a)–(10b)
- Technical corrections, clarifications, and
conforming changes 95(3)

Sales and use

- Cable television system joint governmental
agency sales tax refund 153
- Charlotte-Mecklenburg Public Library tax refund..... 95(4a)–(4b)
- Economic incentives reporting and sunsets 166
- Internet datacenter exemption 91(1)–(3), (5)
- Local sales tax change on first day of calendar quarter 95(12), (44)
- Motorsports fuel refund sunset extended 31(31.5d)
- Paper-from-pulp manufacturing refund 91(4)
- Passenger plane sales and use refund sunset extended 31(31.5c)
- Sales tax on accommodations modernization 31(31.6a)–(31.6g);
123(9.2), (10.2)
- Small retailer burden 31(31.3a)–(31.3f)
- Turbine manufacturing refund 91(4)
- Wood chipper exemption 147(6.1)–(6.2)

Technical corrections, clarifications, and

- conforming changes..... 95; 96(41)

Teacher Academy, Board of Trustees—technical

- corrections, clarifications, and conforming changes 96(31)

Teachers and Education Administrators

- Consolidation of schools for the deaf and blind
principal functions 31(10.20Ba)–(10.20Bb)
- Dismissal of teachers/school employees 163
- Furloughs authorized for local school boards..... 31(29.1a)–(29.1j)
- Leadership Academy funds 31(7.6)
- National Board Certification Program for Principals study 31(7.11c)
- National Board for Professional Teaching Standards 31(7.11a)–(7.11c)
- Oaths by public school principals in Carteret County..... 74
- Probationary teachers..... 31(7.14a)–(7.14b)
- Salary schedules..... 31(29.2a)–(29.3h)
- State Health Plan for Teachers and State
Employees—see Insurance, Health

Teachers and Education Administrators

—continued

STEM education priorities.....	41
Substitute teachers and substitute school personnel unemployment insurance.....	71
Teacher education reports coordinated due dates.....	31(9.3a)–(9.3e)

Teachers' and State Employees' Retirement**System (TSERS)**—see Retirement**Teachers' and State Employees' Retirement****System (TSERS), Board of Trustees**—appointments

and membership.....	87(2.39)
---------------------	----------

Telecommunications

Broadband needs for education and economic development study.....	31(6.18a)–(6.18e)
Broadband-smart grid study.....	152(2.20)
Cable television system joint governmental agency sales tax refund.....	153
Consumer Choice and Investment Act of 2009.....	173
DOT acquisition of right-of-way for a DAS network.....	165(4a)
Emergency telephone service.....	158
Local cable service franchise agreements study.....	152(7.4)
Local government owned and operated communication systems study.....	152(7.5a)–(7.5b)
911 fee moratorium extended.....	95(43)
PEG channel support.....	158(11a)–(11d)
Secondary PSAPs funding study.....	158(10)
Subsection (h) companies Exempt from robo-call restrictions.....	173(4)
Exemptions.....	173(1)
Stand-alone service to rural customers.....	173(2)–(3)
Televising House/Senate sessions study.....	152(2.5)

Television—see News and Other Media;

Telecommunications

Term Lengths and Limits (see also Public Officials)—

area mental health boards term limits.....	31(10.7)
--	----------

Testing

DWI drivers license restoration fee to support Alcohol Branch forensic testing.....	130
Educational testing program components.....	31(7.30)
Well testing effective date.....	31(10.10A)

Tobacco and Tobacco Products

Access to sales information used to determine tobacco escrow.....	95(11)
Fire-safe cigarette certification fee.....	101
State Health Plan tobacco usage verification authorization required.....	3

Toll Roads and Bridges

Open-road toll billing.....	133(3)–(4)
Registration renewal blocked for unpaid tolls.....	133(6)

Toll Roads and Bridges —continued	
Review of unpaid toll bill	133(7)
State toll bridge authority repealed.....	133(1)
Transponder discount limit removed.....	133(2)
Unpaid open road tolls penalties	133(5)
Torts —see Courts, Civil actions	
Towing and Wrecker Services —see Motor Vehicles	
Transportation —see Aviation; Railroads; Roads and Highways	
Transportation, Board of —transfer rule-making authority to Secretary of Transportation.....	165(11), (13)
Transportation, Department of	
Acquisition of right-of-way for a DAS network	165(4a)
Appalachian Development Highway System exempt from equity formula.....	31(28.10)
Appropriations	
Division of Highways-current operations	31(3.1)
Ferry operations-current operations	31(3.1)
Governor's Highway Safety Program-current operations	31(3.1)
Highway Fund	31(28.1a)–(28.1b)
Highway Trust Fund.....	31(28.1a), (28.1c)
Transfer aviation from Dept. of Commerce	31(2.2a)
Visitor center funds	31(28.11)
Contract review and award oversight	194(19), (24)
Debt agreements study.....	152(4.4)
Disadvantaged minority-owned and women-owned business program updated and sunset extended	165(9)
Division of Aviation	
Executive Aircraft Division transfer	31(14.6a)–(14.6c)
Driver Education Program funding and efficacy review.....	31(28.2)
Executive Committee for Highway Safety	
Causes of teen driving fatalities study	152(15)
Highway Trust Fund	
Current operations	31(4.1)
Motor Vehicles, Division of—see that heading	
Municipal funding for pedestrian safety improvements.....	37
NC Mobility Fund established.....	31(28.7a)–(28.7l); 123(8.2)
Planning and regulatory programs considering impacts of climate change review	180(13a)–(13b)
Reports—see that heading	
Rights-of-way	
Acquisition agreements	165(6)
Distributed antenna systems.....	97(14)
Road naming policy.....	31(28.4)
Rule-making authority transfer.....	165(11), (13)
Secretary	
Rule-making authority transfer	165(11), (13)

Transportation, Department of—continued

Technical corrections, clarifications, and conforming changes.....	165(2)
Transportation Improvement Plan correction.....	165(3), (5)–(6), (12)
Transportation project authority	165(4)

Transportation Oversight Committee, Joint**Legislative**

Debt agreements study.....	152(4.4)
Removal/sale for scrap of untitled vehicles study.....	152(4.2)
Street construction developer responsibility study.....	152(4.5)
Transportation funding debt affordability study.....	31(28.7e)
Welcome centers/visitor centers study	152(4.3)

Transylvania County

Boylston Creek water quality classification	157
Brevard, City of—see that heading	

Travel and Tourism

Occupancy tax

Anson County.....	78(6)
Bermuda Run.....	78(3)–(3f), (11)
Cooleemee.....	78(4)–(4f), (11)
Dare County	78(7)
Mocksville.....	78(2)–(2f), (11)
Montgomery County	78(5)
Pembroke.....	78(1)–(1f), (11)
Sales tax on accommodations modernization	31(31.6a)–(31.6g); 123(9.2), (10.2)
Wilkes County.....	78(8)–(9g), (10)

Tourism Development Authorities

Bermuda Run.....	78(3c)–(3f), (11)
Cabarrus County authority modifications	79
Cooleemee.....	78(4c)–(4f), (11)
Mocksville.....	78(2c)–(2f), (11)
Pembroke.....	78(1c)–(1f), (11)
Wilkes County.....	78(9c)–(9g), (10)

Visitor center funds.....	31(28.11)
---------------------------	-----------

Welcome centers/visitor centers study	152(4.3)
---	----------

Treasurer, State

Appropriations

Current operations.....	31(2.1)
-------------------------	---------

Governance and adequacy of the investment

authority of State funds study extended	152(23)
---	---------

Local Government Other Post-Employment

Benefit Funds authorized.....	175
-------------------------------	-----

Water and wastewater infrastructure needs task force	144(1a)–(1b)
--	--------------

Trusts (see also Estates and Trusts)**Tuition**

Campus initiated increases	31(9.20a)–(9.20b)
----------------------------------	-------------------

Child welfare postsecondary support program funds.....	31(10.18)
--	-----------

Tuition—continued

Community colleges	
Financial aid loans.....	31(8.5b)
Refunds.....	31(8.6a)–(8.6d)
Waivers for certain persons.....	31(8.4a)–(8.4d)
Waivers study.....	31(8.4d)
Financial aid consolidation study.....	31(9.2a)–(9.2d)
Higher education courses for high school students.....	31(7.24a)–(7.24h); 123(3.1)
Highlands High School scholarship program.....	9
In-state tuition for non-resident athletic scholarships repealed.....	31(9.25)
Millennium Teaching Scholarship escheat fund appropriation repealed.....	31(9.1)
National Guard Tuition Assistance Program transferred.....	31(17.3a)–(17.3c)
UNC increase authorized.....	31(9.13); 123(3.4a)
Waivers.....	31(9.26)

Turnpike Authority, North Carolina

Appointments and membership.....	87(2.40)
Appropriations	
Current operations.....	31(4.1)
Project funds.....	31(28.7c)–(28.7d), (28.7g), (28.7k)
Contract review and award oversight.....	194(20.1)
Open-road toll billing.....	133(3)–(4)
Registration renewal blocked for unpaid tolls.....	133(6)
Review of unpaid toll bill.....	133(7)
State toll bridge authority repealed.....	133(1)
Technical corrections, clarifications, and conforming changes.....	165(7), (10), (14)
Transponder discount limit removed.....	133(2)
Unpaid open road tolls penalties.....	133(5)

U**UNC Board of Governors**

Appropriations	
Building Reserve allocations.....	31(9.27)
Current operations.....	31(2.1); 123(1.1)
Institute of Outdoor Drama.....	31(9.14a)–(9.14c)
Master gardener.....	31(9.24)
Pharmacy student recruitment.....	31(9.15a)–(9.15b)
Transfer of funding for performing arts to Roanoke Island Commission.....	31(9.6)
Transfer to Crime Control Dept.....	31(30.4e)
Campus initiated tuition increases.....	31(9.20a)–(9.20b)
Campus safety funds.....	31(30.4d)
Coastal demonstration wind turbines.....	31(9.9); 123(3.3)

UNC Board of Governors—continued

Enrollment growth	31(9.22)
Furloughs authorized	31(29.4a)–(29.4i); 123(9.1a)–(9.1b)
Management flexibility reduction	31(9.13); 123(3.4a)
Millennium Teaching Scholarship escheat fund appropriation repealed	31(9.1)
Religious holidays policies	112(2)
Repairs and Renovations Reserve Account allocations	31(30.4a)–(30.4e)
Reports—see that heading	
Special indebtedness for equipment use	31(30.11a)–(30.11c)
Special indebtedness projects	31(30.7a)–(30.7b)
STEM programs review	31(9.7a)–(9.7c)
Tuition increase authorized	31(9.13); 123(3.4a)

UNC General Administration—see UNC Board
of Governors**Unemployment**—see Employment**Uniform Trust Code**..... 96(8)**Union County**—fire protection fees 84**University of North Carolina**

Agriscience and biotechnology school plan 152(29.1)–(29.4);183

Appalachian State University

Appropriations

Beasley broadcast complex	31(9.27)
College of Education bldg	31(9.27)
Current operations.....	31(2.1)
Capital improvement projects	172(2)
Plemmons Student Union.....	172(2)
Student Leadership and Development Center	172(2)
Winkler and Belk residence Halls.....	172(2)

Appropriations—see particular institution, this
heading; UNC Board of Governors

Board of Governors —see UNC Board of Governors

Capital improvement projects..... 172

Coastal Studies Institute

Coastal wave energy research	31(9.10a)–(9.10b); 180(21.1)
------------------------------------	---------------------------------

Community college/university demographics study 152(2.11)

East Carolina University

Appropriations

Brody School of Medicine transfer.....	31(2.2j); 123(1.2c)
Current operations.....	31(2.1)
Dental school	31(9.18)
Family Medicine Center	31(9.27)
Heart Center	31(9.27)
MRI lease fund.....	31(2.2a)
NC East Project.....	123(3.5)
Capital improvement projects	172(2)
Clement and Greene residence Halls	172(2)

University of North Carolina—continued

Dental school accreditation	31(9.18)
Institute of Outdoor Drama transferred from UNC-Chapel Hill	31(9.14a)–(9.14c)
Elizabeth City State University	
Appropriations	
Current operations.....	31(2.1)
School of Pharmacy	31(9.27)
Pharmacy student recruitment collaboration.....	31(9.15a)–(9.15b)
Enrollment growth	31(9.22)
Fayetteville State University	
Appropriations	
Current operations.....	31(2.1)
Lilly Gym.....	31(9.27)
Nursing education building.....	31(9.27)
Financial aid	
Consolidation study	31(9.2a)–(9.2d)
Private colleges	
Current operations appropriation.....	31(2.1); 123(1.1)
Furloughs authorized	31(29.4a)–(29.4i); 123(9.1a)–(9.1b)
General Administration	
Appropriations	
Current operations.....	31(2.1)
In-state tuition for non-resident athletic scholarships repealed.....	31(9.25)
Institute of Medicine—see that heading	
Institute of Outdoor Drama—see East Carolina University, this heading	
North Carolina Agricultural and Technical State University	
Aggie Stadium press box	172(2)
Appropriations	
Barnes Hall	31(9.27)
Cherry Hall	31(9.27)
Current operations.....	31(2.1)
Capital improvement projects	172(2)
North Carolina Central University	
Appropriations	
Pearson culinary arts teaching lab	31(9.27)
North Carolina School of the Arts—see UNC School of the Arts, this heading	
North Carolina State University	
Appropriations	
Avent Ferry Administration Center	31(9.27)
CBC substation infrastructure.....	31(9.27)
Council building	31(9.27)
Current operations.....	31(2.1)
CVM Finger Barns HVAC	31(9.27)

University of North Carolina—continued

Eastern 4-H Conference Center	31(9.27)
Engineering complex III	31(9.27)
Hunt Library	31(9.27)
Math and science bldg	31(9.27)
Parks Shops.....	31(9.27)
Terry Animal Medical Center.....	31(9.27)
Yarborough Steam Plant.....	31(9.27)
Capital improvement projects	172(2)
Greek Village townhouses	172(2)
Master gardener funds restored.....	31(9.24)
Talley Student Center.....	172(2)
Repairs and Renovations Reserve Account allocations.....	31(30.4a)–(30.4e)
Savings from energy conservation shall remain with University	196
School of Government	
Domestic violence education and training for District Court judges	106(2)
Misdemeanor reclassification review.....	31(19.5)
School of Science and Mathematics	
Appropriations	
Current operations.....	31(2.1)
School of the Arts—see UNC School of the Arts, this heading	
Special indebtedness projects	31(30.7a)–(30.7b)
Tuition increase authorized.....	31(9.13); 123(3.4a)
Tuition waivers	31(9.26)
UNC-Asheville	
Appropriations	
Current operations.....	31(2.1)
Res NC Center for Health and Wellness	31(9.27)
Rhoades Hall and Tower.....	31(9.27)
Capital improvement projects	172(2)
Governors Village	172(2)
Pharmacy student recruitment collaboration.....	31(9.15a)–(9.15b)
UNC-Chapel Hill	
Appropriations	
Arts common.....	31(9.27)
Berryhill	31(9.27)
Current operations.....	31(2.1)
Duke Energy building.....	31(9.27)
Science complex	31(9.27)
Capital improvement projects	172(2)
Graham Student Union.....	172(2)
Highway Safety Research Center	
Drivers education standard curriculum.....	31(7.12)
Infrastructure improvements	172(2)
Institute of Outdoor Drama transferred to East Carolina	31(9.14a)–(9.14c)

University of North Carolina—continued

Kenan Stadium	172(2), (7)
Lenoir Hall	172(2)
Pharmacy student recruitment collaboration.....	31(9.15a)–(9.15b)
School of Government—see School of Government, this heading	
UNC-Charlotte	
Appropriations	
Bioinformatics building	31(9.27)
Center city building	31(9.27)
Cone Center	31(9.27)
Current operations.....	31(2.1)
Memorial Hall.....	31(9.27)
Football complex.....	172(2)
New residence hall	172(4)
Parking deck.....	172(2), (4)
Residence dining hall	172(4)
UNC General Administration—see General Administration, this heading	
UNC-Greensboro	
A+ Schools program transfer to Arts Council	31(9.8)
Appropriations	
Current operations.....	31(2.1)
New classroom and office.....	31(9.27)
COPS authorization.....	31(30.6)
Dining hall.....	172(2)
Quad Residence Halls	172(2)
Ragsdale and Mendenhall Residence Halls	172(2)
UNC Health Care System.....	31(9.11)
UNC Hospitals at Chapel Hill	
Ambulatory Care Center	172(3)
Appropriations	
Current operations.....	31(2.1)
Capital improvement projects	172(3)
General Internal Hospital	172(3)
Imaging and Outpatient Center	172(3)
UNC-Pembroke	
Appropriations	
Current operations.....	31(2.1)
Magnolia property purchase	31(9.27)
Capital improvement projects	172(4)
Student health services	172(4)
UNC School of the Arts	
Appropriations	
172 Waughtown Street.....	31(9.27)
Current operations.....	31(2.1)
Transfer of funding for performing arts to Roanoke Island Commission.....	31(9.6)
UNC-Wilmington	

University of North Carolina—continued

Appropriations	
Current operations.....	31(2.1)
Oyster hatchery research lab.....	31(9.27)
School of Nursing.....	31(9.27)
University Cancer Research Fund Committee	
Membership.....	31(9.11)
Virtual school of engineering study.....	152(5.2)
Western Carolina University	
Appropriations	
Campus recreation center.....	31(9.27)
Current operations.....	31(2.1)
Residence halls.....	172(2)
Winston-Salem State University	
Appropriations	
Current operations.....	31(2.1)
University of North Carolina Board of	
Governors—see UNC Board of Governors	
Urban Growth and Infrastructure, Legislative	
Study Commission On—extended.....	152(22)
Utilities	
Carbon sequestration and carbon offset	
opportunities study.....	152(6.8)
Local cable service franchise agreements study.....	152(7.4)
Local government owned and operated	
communication systems study.....	152(7.5a)–(7.5b)
Local water supply plan.....	150
Move-over law applies to electric utility	
restoration vehicles.....	132(12)
Regulatory fees.....	31(14.14)
Uwharrie Regional Resources Act.....	176
Utilities Commission	
Cleanfields renewable energy demonstration	
parks authorized.....	195
Coastal demonstration wind turbines.....	31(9.9); 123(3.3)
Regulatory fees.....	31(14.14)
Utility Review Committee, Joint Legislative—	
gas leases in the Central Shale Belt study.....	152(8.2)
Uwharrie Regional Resources Act.....	176
Uwharrie Regional Resources Commission—created.....	176

V

Vaccines—see Public Health	
Vance County—Kerr Dam and Reservoir funds.....	31(30.2a)–(30.2c)
Veto—see Governor, Office of the	
Virginia-North Carolina High-Speed Rail	
Compact Commission—appointments and	
membership.....	87(1.42a)–(1.42b)

Vital Records—see Records**Vocational Education**

Basic skills plus	31(8.10)
Labor Dept. apprenticeship program fees.....	31(12.1)
Tuition waivers for certain persons	31(8.4a)–(8.4d)
Workforce Development Boards consumer choice requirements.....	31(14.4)

W**Wake County**

Access to email lists held by units of local government	83
Apex, Town of—see that heading	
Cary, Town of—see that heading	
Criminal Justice Law Enforcement Automated Data Services	31(6.10a)–(6.10e)
Fuquay-Varina, Town of—see that heading	
Garner, Town of—see that heading	
Holly Springs, Town of—see that heading	
Jordan Lake water supply storage funds.....	31(30.2a)–(30.2c)
Knightdale, Town of—see that heading	
Morrisville, Town of—see that heading	
Regulation of towing vehicles from private lots	134
Rolesville, town of—see that heading	
Wake Forest, Town of—see that heading	
Wendell, Town of—see that heading	
Zebulon, Town of—see that heading	

Wake Forest, Town of—access to email lists held

by units of local government	83
------------------------------------	----

Warren County—Kerr Dam and Reservoir funds 31(30.2a)–(30.2c)**Waste Management**

Computer equipment recycling	67; 180(20)
Electronic recycling law notebook computer definition.....	180(20)
Hazardous waste	
Fee increase	31(13.8a)–(13.8b); 123(5.1)
Fund appropriation.....	123(5.3)
Inactive Hazardous Sites Program	
administrative cap	31(13.9a)
Management of certain products containing mercury	180(14a)–(14d)
Recording requirement for remedial action plans	180(3)
Texfi site cleanup and monitoring funds.....	31(13.9A)
Oyster shells	
Recycling tax credit sunset extended	147(4.1)–(4.3)
Technical correction.....	142(10)
Penalties applicable to violations of packaging, plastics labelling, solid waste, and incineration statutes study	180(15)

Watauga County

Boone, City of—see that heading

Water and Sewer Systems

Annual report by permitted owner/operators.....	180(5)
Beneficial use of wastewater	155(6)
Clean Water Bond funding	31(14.22)
Collection of unpaid sewer fees for certain cities.....	59
Common criteria for water/wastewater infrastructure project loans/grants	151
In-ground irrigation system water meters requirement clarification	180(16)
Local water supply plan.....	150
Notice of fees related to subdivision development.....	180(11a)–(11d)
On-site wastewater certification	31(13.2e)–(13.2o)
Public water/wastewater system financial soundness requirement cost/.benefit.....	144(2a)–(2c)
Reclaimed water use and storage study	152(6.5)
Sewer treatment fee for Caswell Beach.....	29
Stormwater facilities assessments for Durham.....	81
Water and wastewater infrastructure needs study	144(1a)–(1b)
Well testing effective date	31(10.10A)

Water Infrastructure Commission, State—

infrastructure needs task force	144(1a)–(1b)
---------------------------------------	--------------

Water Resources

Agriculture water infrastructure needs and voluntary water resources protection and conservation.....	149
Basinwide hydrologic models	143
Beneficial use of wastewater	155(6)
Clean Coastal Water and Vessel Act limited application	180(21a)–(21b)
Common criteria for water/wastewater infrastructure project loans/grants	151
Delay sunset on current nutrient offset payments	180(19)
Development projects funds	31(30.2a)–(30.2c)
Falls Lake Watershed Association	155(1)
Interbasin transfers Public hearings costs	155(2)–(3)
Studies	155(5)
Prohibition on increased nutrient loading of impaired water supplies	180(12)
Reclaimed water use and storage study	152(6.5)
Surface Water Identification and Training Certification Program reestablished	180(4a)–(4c)
Temporary streamlined interbasin certification process	155(4)
Voluntary water conservation/water use efficiency programs standards clarification	180(8)
Water and wastewater infrastructure needs study	144(1a)–(1b)
Water quality cost share study.....	152(6.3)

Wayne County	
Goldsboro, City of—see that heading	
Goldsboro-Wayne Municipal Airport private sale	76
Waynesville, Town of—supplemental firemen's	
retirement fund repealed	43
Weapons	
Restoration of firearms rights and exceptions	
for certain felons	108
Retired probation/parole officers exempt from	
certain concealed handgun requirements	104
Welfare	
Child welfare postsecondary support program	
funds	31(10.18)
Electronic benefits transfer system	31(10.1)
TANF (Temporary Assistance for Needy	
Families)	
Benefit implementation	31(10.19)
Block grants	31(10.37a)
Emergency Contingency Fund grants	
application	123(4.7)
Work First	
Block grants	31(10.37a)
Well Contractors Certification Commission—	
appointments and membership	87(1.43)
Wendell, Town of—access to email lists held	
by units of local government	83
Western North Carolina Public Lands	
Council—name change from National Park,	
Parkway and Forests Development Council	180(7a)–(7g)
Western North Carolina Regional Economic	
Development Commission	
Appointments and membership	184(1)
Appropriations	31(14.15a)– (14.15d)
Wildlife Resources Commission	
Appropriations	
General Fund availability adjustments	31(2.2a)
Non-General Fund capital improvements	31(30.3a)
Transfer	31(2.2h)
Coyote control	156
Exempt from legislative disapproval process	
study	152(11.1)
Fur-bearer and fox management study	152(2.9)
Non-General Fund capital improvements	31(30.5a)–(30.5b)
Wilkes County	
Occupancy tax	78(8)–(9g), (10)
School calendar pilot program	31(7.10)
Visitor center funds	31(28.11)
Wilkesboro, Town of—see that heading	

Wilkesboro, Town of —firemen's supplemental pension fund benefit increase	23
Williamston, Town of —ATV use by city employees on certain highways	46
Wills and Estates —see Estates and Trusts	
Wilmington, City of	
Civil Service Commission membership	73(1)
Harbor deepening and maintenance funds.....	31(30.2a)–(30.2c)
USS North Carolina non-General Fund capital improvements.....	31(30.3a)
Wilson, City of —regulation of towing vehicles from private lots	134
Wilson County —TANF benefit implementation	31(10.19)
Wine and Grape Growers Council	
Reports—see that heading	
Winston-Salem, City of	
Greenway easement assessment exemption	60
Planning and zoning violations.....	62
Taking of foxes	82(1a)–(1c)
Women (see also Marriage and Family)	
Disadvantaged minority-owned and women- owned business program updated and sunset extended.....	165(9)
Domestic violence—see that heading	
Gender neutral statutes and constitution changes study extended	152(25.2)
Promote historically underutilized businesses by Dept. of Commerce	31(14.10A)
Wood and Crop Biomass Strategic Working Group —created.....	152(31.1)
Workforce Development —see Employment; Vocational Education	

Y

Yadkin County —access to email lists held by units of local government	83
Yadkin River	
Bridge exempt from Garvee bonds equity formula	31(28.8)
Uwharrie Regional Resources Act	176

Z

Zebulon, Town of —access to email lists held by units of local government	83
Zoological Park Funding and Organization Study Committee —extended	152(21)

**INDEX TO RESOLUTIONS
2009 GENERAL ASSEMBLY
REGULAR SESSION 2010**

A

Adjournment 1; 31
Albemarle, City of—electric system 100th anniversary 27
Appointments—confirmation of Lucy Allen to Utilities Commission 15
Armed Forces
 Honoring members of the military 3; 4
 Honoring Randolph County Honor Guard 7
Arts—honoring W. Horace Carter 17

B

Banking—see Financial Institutions
Brownlee, Thomas McCue "Mac" 23

C

Carter, W. Horace 17
Caswell County—233rd Anniversary 22
Colleges and Universities—honoring Duke University Basketball 12; 16
Collins, Christopher Duffy 8
Corporations, Nonprofit
 Honoring Boy Scouts 100th anniversary 24
 YMCA camping 100th anniversary 29
Craven County
 New Bern, City of—see that heading
Crockett, Manuel Huston 23

D

Deceased Persons (see also General Assembly, Deceased former members)
 Carter, W. Horace 17
 Collins, Christopher Duffy 8
 Forlines, John Arthur, Jr. 30
 France, William C. "Bill," Jr. 2
 Harper, Margaret Taylor 21
 Hutchens, Sgt. Mickey 18
 Lowry, Jimmy Reese 26
 Wellons, Myrna Miller 14
Disabled Persons—honoring persons with disabilities and passage of ADA 23
Durham, City of—NCCU 100th anniversary 28

F

Financial Institutions—honoring John Arthur Forlines, Jr. 30

Follin-Mace, Lockhart	23
Forlines, John Arthur, Jr.	30
Forsyth County	
Winston-Salem, City of—see that heading	
France, William C. "Bill," Jr.	2
Franklin, Kenneth D.	23

G

Galloway, Grady	23
General Assembly	
Adjournment	31
Confirmation of Lucy Allen to Utilities Commission	15
Deceased former members	
Hensley, Robert J. "Bob," Jr.	5
Taylor, Hoyt Patrick, Sr.	13
Turner, James R.	25
Williamson, Arthur W.	9
Wiser, Betty Hutchinson	20
Joint sessions	
Honoring Duke University Basketball	12
Taylor, Hoyt Patrick, Jr.	13
Greenblatt, Deborah	23

H

Hall, Victor	23
Harper, Margaret Taylor	21
Hensley, Robert J. "Bob," Jr.	5
Hutchens, Sgt. Mickey	18

J

Johnson, Jimmie	2
------------------------------	---

L

Law Enforcement —honoring Sgt. Mickey Hutchens	18
Laws Amended or Repealed	
2009 Resolutions	
Resolution 33	1
Literature —see Arts	
Little Switzerland —100th anniversary	11
Lowry, Jimmy Reese	26

M

Mace, Ron	23
------------------------	----

McDowell County

Little Switzerland—see that heading

Minors

Honoring Boy Scouts 100th anniversary 24
 YMCA camping 100th anniversary 29

N

New Bern, City of—300th anniversary 19

O

Organ Donation—honoring Christopher Duffy Collins 8

P

Pitt County—200th anniversary 6

Polk County

Tryon, Town of—see that heading

R

Racing—see Sports

Randolph County—honoring Veterans Honor Guard 7

S

Shaffer, Gary 23

Sports

Honoring Duke University Basketball 12; 16
 Honoring Jimmie Johnson 2
 Honoring William C. "Bill" France, Jr. 2

Stanly County

Albemarle, City of—see that heading

T

Taylor, Hoyt Patrick, Jr. 13
Taylor, Hoyt Patrick, Sr. 13
Taylor, Wyatt..... 29
Tryon, Town of—125th anniversary 10
Turner, James R...... 25

U

University Of North Carolina

North Carolina Central University—100th anniversary 28

Utilities—honoring Albemarle Electric System 100th anniversary 27

Utilities Commission—confirmation of Lucy Allen's appointment 15

W

Wellons, Myrna Miller	14
Williamson, Arthur W.	9
Winston-Salem, City of —honoring Sgt. Mickey Hutchens.....	18
Wiser, Betty Hutchinson	20

Y

Youth Organizations—see Corporations, Nonprofit; Minors