

SUMMARIES OF SUBSTANTIVE RATIFIED LEGISLATION



**2003 GENERAL ASSEMBLY
2003 EXTRA SESSION
2003 SECOND EXTRA SESSION
2004 REGULAR SESSION**

**RESEARCH DIVISION
N.C. GENERAL ASSEMBLY
SEPTEMBER 2004**

400 copies of this document were published at an estimated cost of or about \$9.30 per copy.

September 2004

To the Members of the 2004 Session of the 2003 General Assembly:

This publication contains summaries of all substantive legislation of general applicability and certain local legislation having general import of the 2003 Extra Session, the 2003 Second Extra Session, and the 2004 Regular Session. Most local bills are not analyzed in this publication. Significant appropriations matters related to the subject area specified are also included. For an in-depth review of the appropriations and revenue process, please refer to Overview: Fiscal and Budgetary Actions, prepared by the Fiscal Research Division.

The document is organized alphabetically by subject areas. Where feasible, the subject area is further divided into subgroups. Each subject area also includes a listing of legislative, independent, and agency studies. This year we have included in the appendix a list of the studies and reports authorized by the 2004 Session of the 2003 General Assembly. A bill/session law index listing the page number of each summary is at the end of the publication.

This document is the result of a combined effort by the following staff members of the Research Division: Sandra Alley, Dee Atkinson, Cindy Avrette, Dickie Brown, Brenda Carter, Drupti Chauhan, Erika Churchill, Karen Cochrane-Brown, Judy Collier, Tim Dodge, Bill Gilkeson, George Givens, Kory Goldsmith, Trina Griffin, Tim Hovis, Jeff Hudson, Shirley Iorio, Dianna Jessup, Robin Johnson, Sara Kamprath, Theresa Matula, Jennifer McGinnis, Joe Moore, Shawn Parker, Hal Pell, Giles S. Perry, Wendy Graf Ray, Walker Reagan, Barbara Riley, Steve Rose, and Susan Sitze. Theresa Matula is chief editor of this year's publication, and Drupti Chauhan is co-editor. Shawn Parker and Lucy Anders of the Research Division also helped edit this document. The specific staff members contributing to each subject area are listed directly below the chapter heading for that area. Staff members' initials appear after their names and after each summary they contributed. If you would like further information regarding any legislation in the various summaries, please contact the Research Division Office at (919) 733-2578.

This document is also available on the World Wide Web. Go to the General Assembly's homepage at <http://www.ncga.state.nc.us>. Click on "Legislative Publications." It is listed under Research. Each summary is hyperlinked to the final bill text, the bill history, and any applicable fiscal note.

It is hoped that this document will provide a useful source of information for the members of the General Assembly and the public in North Carolina. We would appreciate receiving any suggestions for this publication's improvement.

Yours truly,

A handwritten signature in cursive script that reads "Terrence D. Sullivan". The signature is written in black ink and is positioned below the typed name.

Terrence D. Sullivan
Director of Research

Guide to Staff Initials

(BC)	Brenda Carter
(BG)	Bill Gilkeson
(BR)	Barbara Riley
(CA)	Cindy Avrette
(DA)	Dee Atkinson
(DB)	Dickie Brown
(DC)	Drupti Chauhan
(DJ)	Dianna Jessup
(EC)	Erika Churchill
(GG)	George Givens
(GSP)	Giles S. Perry
(HP)	Hal Pell
(JC)	Judy Collier
(JH)	Jeff Hudson
(JM)	Jennifer McGinnis
(JHM)	Joe Moore
(KCB)	Karen Cochrane-Brown
(KG)	Kory Goldsmith
(RJ)	Robin Johnson
(SA)	Sandra Alley
(SI)	Shirley Iorio
(SK)	Sara Kamprath
(SP)	Shawn Parker
(SR)	Steve Rose
(SS)	Susan Sitze
(TD)	Tim Dodge
(TG)	Trina Griffin
(TH)	Tim Hovis
(TM)	Theresa Matula
(WGR)	Wendy Graf Ray
(WR)	Walker Reagan

TABLE OF CONTENTS

CHAPTER 1: AGRICULTURE AND WILDLIFE	<u>1</u>
ENACTED LEGISLATION.....	<u>1</u>
STUDIES	<u>3</u>
<i>Legislative Research Commission</i>	<u>3</u>
<i>Referrals to Existing Commissions/Committees</i>	<u>3</u>
<i>Referrals to Departments, Agencies, Etc.</i>	<u>3</u>
CHAPTER 2: ALCOHOLIC BEVERAGE CONTROL	<u>4</u>
ENACTED LEGISLATION.....	<u>4</u>
STUDIES	<u>5</u>
<i>Legislative Research Commission</i>	<u>5</u>
CHAPTER 3: CHILDREN AND FAMILIES	<u>6</u>
ENACTED LEGISLATION.....	<u>6</u>
STUDIES	<u>14</u>
<i>New/Independent Studies/Commissions</i>	<u>14</u>
CHAPTER 4: CIVIL LAW AND PROCEDURE	<u>16</u>
ENACTED LEGISLATION.....	<u>16</u>
CHAPTER 5: COMMERCIAL LAW AND CONSUMER PROTECTION	<u>22</u>
ENACTED LEGISLATION.....	<u>22</u>
STUDIES	<u>25</u>
<i>Legislative Research Commission</i>	<u>25</u>
<i>Referrals to Existing Commissions/Committees</i>	<u>26</u>
<i>Referrals to Departments, Agencies, Etc.</i>	<u>26</u>
CHAPTER 6: CONSTITUTION AND ELECTIONS	<u>28</u>
ENACTED LEGISLATION.....	<u>28</u>
STUDIES	<u>33</u>
<i>New/Independent Studies/Commissions</i>	<u>33</u>
CHAPTER 7: COURTS, JUSTICE AND CORRECTIONS	<u>34</u>
ENACTED LEGISLATION.....	<u>34</u>
STUDIES	<u>46</u>
<i>Legislative Research Commission</i>	<u>46</u>
<i>Referrals to Existing Commissions/Committees</i>	<u>46</u>
<i>Referrals to Departments, Agencies, Etc.</i>	<u>47</u>
CHAPTER 8: CRIMINAL LAW AND PROCEDURE	<u>49</u>
ENACTED LEGISLATION.....	<u>49</u>
STUDIES	<u>55</u>

<i>Legislative Research Commission</i>	<u>55</u>
<i>Referrals to Departments, Agencies, Etc.</i>	<u>56</u>
CHAPTER 9: EDUCATION	<u>57</u>
ENACTED LEGISLATION.....	<u>57</u>
<i>Public Schools</i>	<u>57</u>
<i>Higher Education</i>	<u>63</u>
<i>Community Colleges</i>	<u>63</u>
<i>Universities</i>	<u>65</u>
STUDIES	<u>67</u>
<i>Legislative Research Commission</i>	<u>67</u>
<i>New/Independent Studies/Commissions</i>	<u>68</u>
<i>Referrals to Existing Commissions/Committees</i>	<u>68</u>
<i>Referrals to Departments, Agencies, Etc.</i>	<u>69</u>
CHAPTER 10: ENVIRONMENT AND NATURAL RESOURCES	<u>73</u>
ENACTED LEGISLATION.....	<u>73</u>
<i>Coastal Development</i>	<u>73</u>
<i>Environmental Health</i>	<u>74</u>
<i>Fisheries</i>	<u>75</u>
<i>Parks and Public Spaces</i>	<u>78</u>
<i>Underground Storage Tanks</i>	<u>79</u>
<i>Water Quality/Quantity/Groundwater</i>	<u>81</u>
<i>Miscellaneous</i>	<u>84</u>
STUDIES	<u>87</u>
<i>Legislative Research Commission</i>	<u>87</u>
<i>New/Independent Studies/Commissions</i>	<u>87</u>
<i>Referrals to Existing Commissions/Committees</i>	<u>87</u>
<i>Coastal Resources Commission</i>	<u>87</u>
<i>Commission for Health Services</i>	<u>88</u>
<i>Environmental Review Commission</i>	<u>88</u>
<i>Joint Legislative Commission on Seafood and Aquaculture</i>	<u>89</u>
<i>Joint Legislative Growth Strategies Oversight Committee</i>	<u>89</u>
<i>Marine Fisheries Commission</i>	<u>90</u>
<i>Referrals to Departments, Agencies, Etc.</i>	<u>90</u>
CHAPTER 11: FINANCE	<u>92</u>
ENACTED LEGISLATION.....	<u>92</u>
STUDIES	<u>100</u>
<i>Legislative Research Commission</i>	<u>100</u>
<i>Referrals to Existing Commissions/Committees</i>	<u>101</u>
<i>New/Independent Studies/Commissions</i>	<u>102</u>
CHAPTER 12: HEALTH AND HUMAN SERVICES	<u>103</u>
ENACTED LEGISLATION.....	<u>103</u>
STUDIES	<u>112</u>

<i>Legislative Research Commission</i>	<u>112</u>
<i>New/Independent Studies/Commissions</i>	<u>113</u>
<i>Referrals to Existing Commissions/Committees</i>	<u>113</u>
<i>Referrals to Departments, Agencies, Etc.</i>	<u>115</u>
CHAPTER 13: INSURANCE	<u>117</u>
ENACTED LEGISLATION.....	<u>117</u>
STUDIES	<u>119</u>
<i>Legislative Research Commission</i>	<u>119</u>
<i>New/Independent Studies/Commissions</i>	<u>120</u>
CHAPTER 14: LABOR AND EMPLOYMENT	<u>121</u>
ENACTED LEGISLATION.....	<u>121</u>
<i>General Labor and Employment</i>	<u>121</u>
<i>Governmental Employment</i>	<u>125</u>
<i>State Health Plan</i>	<u>128</u>
STUDIES	<u>129</u>
<i>Legislative Research Commission</i>	<u>129</u>
<i>New/Independent Studies/Commissions</i>	<u>130</u>
<i>Referrals to Existing Commissions/Committees</i>	<u>131</u>
<i>Referrals to Departments, Agencies, Etc.</i>	<u>131</u>
CHAPTER 15: LOCAL GOVERNMENT	<u>133</u>
ENACTED LEGISLATION.....	<u>133</u>
STUDIES	<u>135</u>
CHAPTER 16: MILITARY, VETERANS' AND INDIAN AFFAIRS	<u>137</u>
ENACTED LEGISLATION.....	<u>137</u>
<i>Military and Veterans' Affairs</i>	<u>137</u>
<i>Indian Affairs</i>	<u>138</u>
STUDIES	<u>138</u>
<i>New/Independent Studies/Commissions</i>	<u>138</u>
CHAPTER 17: OCCUPATIONAL BOARDS AND LICENSING	<u>140</u>
ENACTED LEGISLATION.....	<u>140</u>
STUDIES	<u>144</u>
<i>Legislative Research Commission</i>	<u>144</u>
<i>Referrals to Departments, Agencies, Etc.</i>	<u>145</u>
CHAPTER 18: PROPERTY, TRUSTS, AND ESTATES	<u>146</u>
ENACTED LEGISLATION.....	<u>146</u>
STUDIES	<u>147</u>
CHAPTER 19: RESOLUTIONS	<u>149</u>
JOINT RESOLUTIONS.....	<u>149</u>

CHAPTER 20: RETIREMENT	<u>151</u>
ENACTED LEGISLATION.....	<u>151</u>
STUDIES	<u>154</u>
<i>Legislative Research Commission</i>	<u>154</u>
<i>Referrals to Departments, Agencies, Etc.</i>	<u>154</u>
CHAPTER 21: SENIOR CITIZENS	<u>156</u>
ENACTED LEGISLATION.....	<u>156</u>
STUDIES	<u>158</u>
<i>Legislative Research Commission</i>	<u>158</u>
<i>New/Independent Studies/Commissions</i>	<u>158</u>
<i>Referrals to Existing Commissions/Committees</i>	<u>159</u>
<i>Referrals to Departments, Agencies, Etc.</i>	<u>159</u>
CHAPTER 22: STATE GOVERNMENT	<u>162</u>
ENACTED LEGISLATION.....	<u>162</u>
<i>Agencies and Departments</i>	<u>162</u>
<i>Boards and Commissions</i>	<u>165</u>
<i>Budget Process and Use of State Funds</i>	<u>166</u>
<i>Capital Facilities and State Property</i>	<u>168</u>
<i>Parks and Recreation</i>	<u>170</u>
<i>Purchase and Contracts</i>	<u>170</u>
<i>Miscellaneous</i>	<u>171</u>
STUDIES	<u>173</u>
<i>Legislative Research Commission</i>	<u>173</u>
<i>New/Independent Studies/Commissions</i>	<u>175</u>
<i>Referrals to Existing Commissions/Committees</i>	<u>176</u>
<i>Referrals to Departments, Agencies, Etc.</i>	<u>177</u>
CHAPTER 23: TECHNOLOGY	<u>179</u>
ENACTED LEGISLATION.....	<u>179</u>
STUDIES	<u>181</u>
CHAPTER 24: TRANSPORTATION	<u>182</u>
ENACTED LEGISLATION.....	<u>182</u>
<i>Department of Transportation</i>	<u>182</u>
<i>License Plates</i>	<u>184</u>
<i>Motor Vehicle Law</i>	<u>185</u>
<i>Public Transportation and Rail</i>	<u>188</u>
<i>Trucks</i>	<u>188</u>
<i>Miscellaneous</i>	<u>189</u>
STUDIES	<u>190</u>
<i>Legislative Research Commission</i>	<u>190</u>
<i>New/Independent Studies/Commissions</i>	<u>190</u>
<i>Referrals to Existing Commissions/Committees</i>	<u>190</u>
<i>Referrals to Departments, Agencies, Etc.</i>	<u>192</u>

CHAPTER 25: UTILITIES	<u>193</u>
ENACTED LEGISLATION.....	<u>193</u>
STUDIES	<u>193</u>
<i>Legislative Research Commission</i>	<u>193</u>
<i>Independent Studies/Commissions</i>	<u>193</u>
CHAPTER 26: VETOED LEGISLATION	<u>194</u>
APPENDIX: STUDIES AND REPORTS AUTHORIZED BY 2004 SESSION	<u>195</u>
INDEX	<u>227</u>

Enacted Legislation

Allow Family Business to Lease Farmland

S.L. 2004-008 ([HB 1465](#)). See **Finance**.

Funds for Farmland Preservation Projects

S.L. 2004-124, Sec. 6.31 ([HB 1414](#), Sec. 6.31) provides that for fiscal year 2004-2005 only, up to \$4,100,000 may be allocated by the Board of Trustees of the Clean Water Management Trust Fund to match federal, State, local, and private farmland preservation and forestland preservation funds and to acquire permanent conservation easements on working farms and forests.

The section also directs the Department of Agriculture and Consumer Services (Department) to prepare a master plan for farmland preservation in the State with the goal of preserving rural landscapes and promoting working farms as a base for the economic, environmental, and social interests of rural North Carolina. In preparing the plan, the Department is to review the Farmland Preservation Enabling Act and other conservation, rural, and economic development programs. The Department is required to report its findings no later than March 31, 2005, to the House Agriculture Committee and the Senate Committee on Agriculture, Environment and Natural Resources.

This section became effective July 1, 2004. (BR)

Sale of Umstead Farm Dairy Herd And Use of Proceeds

S.L. 2004-124, Sec. 11.1 ([HB 1414](#), Sec. 11.1) provides that the Department of Agriculture and Consumer Services may sell the dairy herd at the Umstead Farm Unit in Butner. The funds are to be placed in a non-reverting special revenue fund with the Department. The proceeds from the sale may be used only for the following:

- To relocate the milking parlor equipment and nutrition barn from Umstead Farm to the Piedmont Research Station;
- To purchase additional dairy animals to fully utilize the Piedmont Research Station;
- To purchase or construct grain and feed storage facilities and equipment and supplies necessary for dairy research at Department dairy units;
- To demolish or remove unneeded or obsolete dairy buildings at Umstead Farm or for the closure of any animal waste management system located at the Umstead Farm unit.

Beginning with the 2005-2007 biennium, the special revenue fund will be included in the Governor's recommended budget.

This section became effective July 1, 2004. (BR)

Accounting for Wildlife Resources Commission Revenue

S.L. 2004-124, Sec. 12.4 ([HB 1414](#), Sec. 12.4). See **State Government**.

Wildlife Resources Commission Temporary Exemption of Surplus Property/Recyclable Material Fee

S.L. 2004-124, Sec. 12.5 ([HB 1414](#), Sec. 12.5). See **State Government**.

Cost Share Funds For Limited Resource Farmers Clarifications

S.L. 2004-124, Sec. 12.6 ([HB 1414](#), Sec. 12.6) amends G.S. 143-215.74(b)(9) by adding to the definition of "limited resource farmer" the qualification that the farmer have an adjusted household income in each of the previous two years that is at or below the greater of the county median household income or two times the national poverty level.

This section became effective July 1, 2004. (BR)

Phosphorous Nutrient Management/Animal Feedlots

S.L. 2004-176 ([HB 1112](#)). See **Environment and Natural Resources**.

Amend Environmental Laws – 3/Appointments

S.L. 2004-195 ([SB 823](#)). See **Environment and Natural Resources**.

Dog Day Care Facilities

S.L. 2004-199, Sec. 12 ([SB 1225](#), Sec. 12) amends G.S. 19A-24(1) to clarify that dog day care facilities with a ratio of dogs to workers of not more than 10 to one are not subject to regulations applicable to boarding kennels with respect to separate runs for the dogs, so long as the dogs are not boarded overnight.

This section became effective August 17, 2004. (EC)

Milk Commission Repealed

S.L. 2004-199, Sec. 27 ([SB 1225](#), Sec. 27) repeals the Milk Commission in the Department of Commerce, and makes conforming amendments to that repeal.

This section became effective August 17, 2004 (EC)

Animal Shelters

S.L. 2004-199, Sec. 39 ([SB 1225](#), Sec. 39) amends G.S. 153A-442 and G.S. 160A-493 to require that animal shelters established, equipped, operated or maintained or contributed to by a county or city meet the same standards as animal shelters operated by private organizations regulated under Chapter 19A, Protection of Animals, by the Department of Agriculture.

This section became effective August 17, 2004. (EC)

Studies

Legislative Research Commission

Agribusiness and Agricultural Teaching Fellows Study

S.L. 2004-161, Sec. 2.1(9)j ([SB 1152](#), Sec. 2.1(9)j) authorizes the Legislative Research Commission to study agribusiness and agricultural teaching fellows. The Commission may report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

This section became effective August 2, 2004. (BR)

Referrals to Existing Commissions/Committees

Agriculture and Forestry Awareness Study Commission Studies

S.L. 2004-161, Part XXX ([SB 1152](#), Part XXX) provides a list of topics that the Agriculture and Forestry Awareness Study Commission may study. These topics include:

- Agricultural commodity incentives.
- Food Safety and Security.
- Dairy Industry.

The Commission may report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

This part became effective August 2, 2004. (BR)

Referrals to Departments, Agencies, Etc.

Study Operations, Funding And Efficiencies For Department Of Agriculture Research Stations

S.L. 2004-124, Sec. 11.2 ([HB 1414](#), Sec. 11.2) directs the Department of Agriculture and Consumer Services (Department) and the Agricultural Research Service at North Carolina State University, in consultation with the Fiscal Research Division, to study the 18 research stations within the Department and the differences in how the Department and the Agricultural Research Service fund and operate the stations, allocate federal funds for administration of the stations and the efforts of the two agencies to collaborate on providing necessary funding and management of the research stations. The Department and the Agricultural Research Service, in consultation with the Fiscal Research Division shall report to the House and Senate Appropriations Subcommittees on Natural and Economic Resources no later than December 15, 2004.

This section became effective July 1, 2004. (BR)

For a complete list of the studies and reports authorized by the 2004 Session of the 2003 General Assembly, please refer to the Appendix contained in this publication.

Chapter 2

Alcoholic Beverage Control

Dickie Brown (DB), Brenda Carter (BC), Hal Pell (HP), and Susan Sitze (SS)

Enacted Legislation

NC Vineyard Amendments

S.L. 2004-135 ([SB 74](#)) expands the definition of "unfortified" wine to permit unfortified wineries in this State to use brandy in the manufacturing process. The act amends the definition of "fortified" wine to include wine of more than 16% and no more than 24% alcohol by volume. The definition of "unfortified" wine is amended to include wine of 16% or less alcohol by volume. The act authorizes the holder of an unfortified winery permit to receive and sell at the winery unfortified wine produced under contract with the winery. The contract wine may also be sold at affiliated retail outlets of the winery located on or adjacent to the winery. ABC stores may continue to sell wine products that met the preexisting (July 7, 2004) definition of fortified wine.

This act becomes effective October 1, 2004. (BC)

Use of Alcohol in Culinary Classes

S.L. 2004-199, Sec. 8 ([SB 1225](#), Sec. 8) permits the delivery to, and the possession or consumption of alcoholic beverages, by persons less than age 21 when under the direct supervision of an instructor in a culinary class that is part of established culinary curriculum at an accredited college or university.

This section became effective August 17, 2004. (BC)

Tourism ABC Establishments

S.L. 2004-199, Sec. 9 ([SB 1225](#), Sec. 9) authorizes tourism ABC establishments to sell on-premises fortified wine and mixed beverages without an election. Tourism ABC establishments include restaurants or hotels within 1.5 miles of a ramp of the Blue Ridge Parkway.

This section became effective August 17, 2004. (BC)

Unfortified Wineries/Retail Sales

S.L. 2004-199, Sec. 11 ([SB 1225](#), Sec. 11) specifies that the authority for the holder of an unfortified winery permit to obtain retail permits to sell its wine at other locations in the State, applies only with regard to wine manufactured by the winery or, in limited circumstances, to wine produced under the winery's label from produce owned by the winery.

This section became effective August 17, 2004. (BC)

Township ABC Elections

S.L. 2004-203, Sec. 24 ([HB 281](#), Sec. 24) amends a recently enacted provision that authorizes a township to hold an ABC election if the township is located in a county where the population of all cities in the county, that have previously approved the sale of any kind of alcoholic beverages, comprises more than twenty percent (20%) of the total county population.

The act makes it clear that the provision applies only to malt beverage, unfortified wine, and mixed beverage elections. It does not authorize townships to hold ABC store elections.

This section became effective August 17, 2004. (BC)

Registration Penalty for Malt Beverage & Wine Permits

S.L. 2004-203, Sec. 25 ([HB 281](#), Sec. 25) provides for the revocation of malt beverage, fortified wine, and unfortified wine permits for failure to register and pay the required annual inspection fee, which is not refundable. The act also provides an exception to the statute that prohibits a person from obtaining a subsequent permit within a three-year period following a revocation; a revocation based solely on a permittee's failure to pay the annual registration and inspection fee will not result in the three-year disqualification.

This section became effective August 17, 2004. (BC)

Retail Outlets for Small Breweries

S.L. 2004-203, Sec. 29 ([HB 281](#), Sec. 29) allows a brewery selling fewer than 25,000 barrels produced by it per year to consumers at the brewery, to wholesalers, to retailers, and to exporters to also sell the malt beverages manufactured by the brewery at not more than three other locations in the State upon obtaining the appropriate retail permits. A brewery operating any additional retail location is required to also offer for sale at that location a reasonable selection of competitive malt beverage products.

This section became effective August 17, 2004. (BC)

Studies

Legislative Research Commission

Alcoholic Beverage Control

S.L. 2004-161, Sec. 2.1(1)f ([SB 1152](#), Sec. 2.1(1)f) authorizes the Legislative Research Commission (LRC) to study the topic of Alcoholic Beverage Control. If the LRC decides to study the topic, it may report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

This section became effective August 3, 2004. (BC)

For a complete list of the studies and reports authorized by the 2004 Session of the 2003 General Assembly, please refer to the Appendix contained in this publication.

Chapter 3

Children and Families

Sandra Alley (SA), Drupti Chauhan (DC), Erika Churchill (EC),
Dianna Jessup (DJ), and Wendy Graf Ray (WGR)

Enacted Legislation

Centralize Criminal Record Check Functions

S.L. 2004-124, Sec. 10.1 ([HB 1414](#), Sec. 10.1). See **State Government**.

TANF Benefit Implementation

S.L. 2004-124, Sec. 10.19A ([HB 1414](#), Sec. 10.19A) amends the provision contained in the approved North Carolina Temporary Assistance for Needy Families State Plan FY 2003-2005 that eliminated pay-after-performance as a benefit delivery method for two-parent families so that the provision will only be eliminated if the federal two-parent work participation rate is eliminated.

This section became effective July 1, 2004. (SA)

IV-E Child Caring Institutions

S.L. 2004-124, Sec. 10.19B ([HB 1414](#), Sec. 10.19B) requires the Department of Health and Human Services to work with the federal government and child caring institutions to ensure that adequate funds are available to support child caring institution operations.

This section became effective July 1, 2004. (SA)

Early Intervention Reporting Requirement

S.L. 2004-124, Sec. 10.29 ([HB 1414](#), Sec. 10.29) directs the Department of Health and Human Services, Division of Public Health, to track and report on the number of children referred to the Early Intervention Program by Department of Social Services abuse and neglect agents. The report must include the number and types of services provided to these children and the fiscal impact to the program. The report is due by January 30, 2005 and is to be submitted 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 section became effective July 1, 2004. (DC)

Authorize Child Care Commission To Adopt Rules For Child Care Facilities For Medically Fragile Children

S.L. 2004-124, Sec. 10.35 ([HB 1414](#), Sec. 10.35) expands the powers and duties of the Child Care Commission to include the adoption of rules for child care facilities that provide care for medically fragile children.

This section became effective July 1, 2004. (DC)

Criminal History Record Checks for Local Child Care Centers

S.L. 2004-124, Sec. 10.36 ([HB 1414](#), Sec. 10.36) requires the Division of Child Development to use lapsed salaries to create up to three additional temporary positions during fiscal year 2005 to eliminate the backlog in the conduct of criminal history record checks for local child care centers.

This section became effective July 1, 2004. (EC)

Increase North Carolina Partnership for Children Board Membership

S.L. 2004-124, Sec. 10.37 ([HB 1414](#), Sec. 10.37) increases the membership of the North Carolina Partnership for Children by one. The new member is the Director of the More at Four Pre-Kindergarten Program, or that person's designee.

This section became effective July 1, 2004. (EC)

More at Four Program

S.L. 2004-124, Sec. 10.38 ([HB 1414](#), Sec. 10.38) requires the More at Four Pre-Kindergarten Program (More at Four) to review the number of slots filled by counties on a monthly basis and shift the unfilled slots to counties with waiting lists. Slots remaining unfilled as of January 30, 2005 will be transferred to the Division of Child Development to meet the needs of the waiting list for subsidized child care. The provision also requires the program to establish income eligibility requirements for the program not to exceed seventy-five percent (75%) of the State median income to make the program consistent with the child care subsidy requirements. Up to twenty percent (20%) of children enrolled in More at Four may have family incomes in excess of seventy-five percent (75%) of median income if they have other designated risk factors.

This section became effective July 1, 2004. (DJ)

Agape of North Carolina, Inc./State Funds Program

S.L. 2004-124, Sec. 10.39 ([HB 1414](#), Sec. 10.39) requires the Division of Social Services to include Agape of North Carolina, Inc. (Agape), on its list of member agencies eligible to receive funding from the State Funds Program. Agape is a licensed, private child-placing agency located in Greensboro. Agape will be reimbursed for allowable expenditures from the State Fund For Child Caring Institutions for the uncompensated cost of care. Funding will be based on the current funding methodology applied to other eligible providers that historically have been reimbursed for expenditures with funds from the State Funds Program.

This section became effective July 1, 2004. (DJ)

Adjust New Court Jurisdiction/Amend Magistrate Term

S.L. 2004-128 ([SB 577](#)) makes the changes indicated below.

Section 1 of this act concerns increased jurisdiction by small claims court. For additional information, see **Courts, Justice and Corrections**.

Section 2 of this act concerns jurisdiction for revocation of probation for felony pleas heard in district court. For additional information, see **Courts, Justice and Corrections**.

Section 3 of this act concerns adding a drug treatment court program as intermediate punishment. For additional information, see **Criminal Law and Procedure**.

Sections 4 and 5 of this act concern the notice of a mechanics lien for storage charges for vehicles held under the driving while impaired forfeiture laws. For additional information, see **Civil Law and Procedure**.

Section 6 of this act authorizes the clerk of court to enter judgments by default. For additional information, see **Civil Law and Procedure**.

Sections 7 through 14 of this act concern termination of certain parental rights of persons convicted of first or second degree rape. For additional information, see **Criminal Law and Procedure**.

Section 15 of this act concerns prohibiting the threatening of a witness with the assertion of denial of parental rights. For additional information, see **Criminal Law and Procedure**.

Sections 16 through 18 of this act concern an amendment to the North Carolina Constitution to extent the Magistrate term to four years. For additional information, see **Constitution and Elections**.

Section 19 of this act concerns the number, term, and appointment of magistrates. For additional information, see **Courts, Justice and Corrections**.

Prevent Workplace Violence

S.L. 2004-165 ([SB 916](#)). See **Civil Law and Procedure**.

Strengthen Domestic Violence Laws

S.L. 2004-186 ([HB 1354](#)) makes various changes to strengthen the laws against domestic violence and to provide additional assistance to domestic violence victims.

Part I: Domestic Violence Offender Treatment. – The act requires attendance and completion of an abuser treatment program while on probation if the court finds that the defendant is responsible for acts of domestic violence and there is a program reasonably available to the defendant. If the court makes those findings, the court must order the treatment as a regular condition of probation unless the court finds that it would not be in the best interest of justice.

The act also requires the Department of Correction to establish a domestic violence treatment program for offenders in the custody of the Department whose official record includes a finding by the court that the offender committed acts of domestic violence. The Department must ensure that those inmates complete the domestic violence treatment program prior to being released, unless other requirements deemed critical by the Department prevent program completion. If the inmate does not complete the program, the Department must document, in the inmate's official record, specific reasons why that inmate did not or was not able to complete the program.

This part is effective December 1, 2004 and applies to offenses committed on or after that date.

Part II: Domestic Violence Training for Law Enforcement. – The act requires the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission to establish minimum standards for training of law enforcement officers in domestic violence. The training standards shall be developed for entry-level employment, for in-service training, and for certification of instructors, and shall include training in response to, and investigation of, domestic violence cases, as well as training in investigation for evidence based prosecutions.

The Commissions must have the training in place no later than March 1, 2005 and must report to the General Assembly on or before March 1, 2005 on the exact standards implemented and the date they were implemented.

This part became effective August 12, 2004.

Part III: Study of Anti-Violence Education in Schools and Training for School Personnel. – The act requires the Department of Public Instruction, in collaboration with the State Board of Education, to study the issue of anti-violence programs in schools. The Department is directed to address several questions and to look at different programs used across the country.

The Department is required to issue a preliminary report to the House Select Committee on Domestic Violence and the Joint Legislative Oversight Committee by November 15, 2004, and a final report to Education Oversight and the General Assembly by January 15, 2005.

The act also requires the Department of Public Instruction, in collaboration with the State Board of Education, to study training for school personnel dealing with students who are victims of physical violence and mental or verbal abuse, particularly instances of domestic and relationship violence.

The Department is required to issue a preliminary report to the House Select Committee on Domestic Violence and the Joint Legislative Oversight Committee by November 15, 2004, and a final report to Education Oversight and the General Assembly by January 15, 2005.

This part became effective August 12, 2004.

Part IV: Legal Services for Victims of Domestic Violence. – The act creates a new Domestic Violence Victim Assistance Act to provide legal services to domestic violence victims. This section requires the North Carolina State Bar to disburse funds under this act to legal services organizations that provide legal services to domestic violence victims.

The funds are disbursed to the organizations based on the counties they serve, with each county receiving a fixed 20% amount and the remaining 80% of the funds distributed to the counties based on the rate of actions filed for 50B domestic violence protective orders in that county.

The act creates a \$100 fee for pro hac vice motions in North Carolina. A pro hac vice occurs when an out of state attorney, who is not licensed to practice law in North Carolina, asks a North Carolina court to allow that attorney to appear in court in North Carolina for one particular case. Currently, North Carolina does not charge any fee for these motions, although many states do. The fees collected go to the General Court of Justice.

The act also sends ninety-five cents (\$.95) of each civil and criminal court fee to the State Bar to fund the provisions of Section 4.1 of this act.

The fee for pro hac vice motions becomes effective October 1, 2004, and applies to all motions filed on or after that date. The sections that authorize that \$.95 of each civil and criminal court fee go to the State Bar become effective October 1, 2004, and apply to fees assessed or paid on or after that date. The section that creates a new Domestic Violence Victim Assistance Act became effective August 12, 2004.

Part V: Domestic Violence Advocates on Child Fatality Task Force. – The act adds two domestic violence advocates to the Child Fatality Task Force. This provision removes 2 public members from the task force and adds a representative from the North Carolina Domestic Violence Commission, appointed by the Speaker, and a representative from the North Carolina Coalition Against Domestic Violence, appointed by the President Pro Tempore. The public members being removed must complete their current terms.

This part became effective August 12, 2004.

Part VI: Study of Mental Health Services for Domestic Violence Victims. – The act requires the Department of Health and Human Services to study and develop a plan for serving clients of domestic violence programs with mental health and substance abuse service needs, including providing diagnostic and referral services.

The Department is required to make a preliminary report to the House Select Committee on Domestic Violence and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services by October 1, 2004, and a final report to Mental Health Oversight and the General Assembly by January 15, 2005.

This part became effective August 12, 2004.

Part VII: Study of CLE Credit for Pro Bono Legal Representation. – The act requires the North Carolina State Bar, in cooperation with the North Carolina Bar Association, to study the issue of providing Continuing Legal Education (CLE) credit to active attorneys for providing pro bono legal representation. The Bar is required to make a preliminary report to the House Select Committee on Domestic Violence by October 1, 2004, and a final report to the General Assembly by January 15, 2005.

This part became effective August 12, 2004.

Part VIII: Domestic Relationship Aggravating Factor. – The act amends the portion of the Criminal Procedure Act that applies to aggravating the sentence for a defendant who has been convicted of a felony offense. In felony sentencing, there are three ranges for the sentencing judge to determine a minimum sentence length.

Following is an example of the sentencing options for a person who has been convicted of a Class D felony, and who has no prior record points (no prior offenses):

Aggravated Range: 64-80 Months

Presumptive Range: 51-64 Months

Mitigated Range: 38-51 Months

If a court finds that aggravating or mitigating circumstances exist, it may depart from the presumptive range. If the aggravating factors present outweigh the mitigating factors that may be present, then the court may sentence in the aggravated range (and vice versa). [Note: If a firearm is used, displayed, or threatened to be used in the course of the offense, a separate statute provides that an additional 60 months may be added to the minimum sentence.]

One of the current statutory aggravating factors is set forth at G.S. 15A-1340.16(d)(15): "The defendant took advantage of a position of trust or confidence to commit the offense." The factor generally has been applied to defendants who have been in a fiduciary relationship with the victim, e.g., embezzled money from the victim.

The amendment clarifies that a defendant may also take advantage of the trust or confidence in a domestic relationship to commit the offense. "Domestic relationship" is not defined in the section; however, domestic violence is defined by statute [G.S. 50B-1(a)], and applies to those with whom the defendant has a "personal relationship." G.S. 14-134.3, Domestic Criminal Trespass, has a more restrictive application. It applies to a present or former spouse, or when the parties had lived together as married. The State has the burden of proving that the defendant did, in fact, take advantage of the relationship to commit the offense. If the trial judge sentences in the aggravated (or mitigated) range, then the judge must make written findings.

This part becomes effective December 1, 2004, and applies to offenses committed on or after that date.

Part IX: Create Strangulation Offense. – The act creates a new criminal offense: assault by strangulation. The offense is a Class H felony. The State has the burden of proving that the defendant attempted to strangle the victim, and cause physical injury by the act of strangulation. A first time offender would be subject to community punishment, intermediate punishment, or an active sentence. The presumptive range for an active sentence would be a minimum of 5-6 months.

Although the term "serious bodily injury" is defined by statute, the terms "serious injury" and "physical injury" are not. Whether or not serious or physical injury has occurred is a jury determination, based upon common law.

This part becomes effective December 1, 2004, and applies to offenses committed on or after that date.

Part X: Amend Habitual Misdemeanor Assault Statute. – The act amends the habitual misdemeanor assault statute by:

- Reducing the number of necessary prior convictions from five to two;
- Allowing any prior assault conviction (whether misdemeanor or felony) to count as a prior conviction, with the earlier conviction no more than 15 years prior to the current violation;
- Requiring that the assault involved physical injury to the victim; and

- Providing that a conviction of the statutory offense could not be used as a prior felony conviction for any other habitual offense statute.

Currently, an offender must have five prior misdemeanor convictions, two of which are assault convictions, to qualify as a habitual misdemeanor assault offender on a third assault conviction.

This part becomes effective December 1, 2004, and applies to offenses committed on or after that date. Prosecutions for offenses committed before the effective date of this part are not abated or affected by this part, and the statutory provisions that would be applicable but for this part remain applicable to those prosecutions.

Part XI: Domestic Violence Offense Tracking. – The act adds a new provision to provide for reporting offenses involving domestic violence. In cases involving assault or communicating a threat, the judge will determine whether there was a personal relationship between the offender and the victim. If so, there will be an annotation on the judgment to reflect that the case involved domestic violence. The clerk of court is required to make the appropriate entry into the offender's official criminal record to reflect that the offense involved domestic violence.

- The offender has to be in a personal relationship, as defined by statute.
- The entry will be made in all cases (including a murder), where the underlying conduct was assaultive in nature.
- Any person making a lawful inquiry into a person's criminal history will be able to determine that the person has been convicted of an offense involving domestic violence.

If the judge determines that there was a personal relationship, then the judge is also required to determine whether the defendant should be required to comply with any special conditions of probation. Due to an ambiguity in the statutes, the new provision makes clear that the judge may (but is not required to) sentence the defendant to house arrest with electronic monitoring.

This part is effective December 1, 2004, and applies to offenses committed on or after that date.

Part XII: Study of Misdemeanor Offense Classifications. – The act requires the North Carolina Sentencing and Policy Advisory Commission to study the classification of misdemeanor offenses, and to develop a system for classifying misdemeanor offenses based upon their severity. The Commission is required to examine the classification of assault offenses in relation to property offenses, crimes against society, and felony assault offenses. This section includes a finding by the General Assembly that the classification of assault offenses that cause serious injury as misdemeanors is inconsistent with the Commission's own classification of felonies based upon harm. The Commission is required to report to the 2005 General Assembly, 2005 Regular Session, with its findings and recommendations (status and any completed recommendations). A final report is due to the 2005 General Assembly, 2006 Regular Session.

This part became effective August 12, 2004.

Part XIII: Warrantless Arrest for Violation of Pretrial Release Conditions. – The act amends the law to provide that if a law enforcement officer has probable cause to believe that a person has violated a condition of a pretrial release order in a domestic violence case, then the officer may arrest the defendant without a warrant. The arrest must be based upon a violation of one of the following provisions of a release order issued under G.S. 15A-534.1(2):

- That the defendant stay away from the home, school, business or place of employment of the alleged victim;
- That the defendant refrain from assaulting, beating, molesting, or wounding the alleged victim;
- That the defendant refrain from removing, damaging or injuring specifically identified property; or
- That the defendant may visit his or her child or children at times and places provided by the terms of any existing order entered by a judge.

A pretrial release order in a domestic violence case may be entered where the defendant has been arrested for assault on, communicating a threat to, domestic criminal trespass, or committing various felonies upon a spouse or former spouse, or upon someone with whom the defendant has lived as if married.

This part becomes effective December 1, 2004, and applies to offenses committed on or after that date.

Part XIV: Conform State Firearms Law to Federal Law. – The act amends North Carolina law to provide that a person who is a convicted felon may not possess any firearm. A "firearm" would be defined to parallel the definition of "firearm" under federal law. Current State law allows a convicted felon to own guns with a barrel length that is 18 inches or longer, or an overall length of 26 inches or more. It also allows convicted felons to possess any firearm in their home or "place of business".

This part becomes effective December 1, 2004, 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 statutory provisions that would be applicable but for this act remain applicable to those prosecutions.

Part XV: Specifically Allow Cross Warrants. – The act clarifies that a judicial official cannot refuse to issue a warrant solely because a warrant had been issued for the arrest of another person in the same case.

This part became effective August 12, 2004.

Part XVI: Clarify Nurse's Privilege. – The act clarifies that if a written or printed record (as opposed to live testimony) is otherwise admissible (e.g., not excluded by the hearsay rule), then it may be entered into evidence. The nurse's privilege applies to any information that the nurse acquired that was necessary to render professional nursing services. If the information was not necessary to the rendering of services, then the nurse may be required to disclose the information. A presiding judge may compel the disclosure of evidence if the judge believes that its disclosure is necessary for a proper administration of justice.

The act also makes a technical change to add the nurse's privilege (passed last Session), in the provision that excludes evidence of child abuse from the physician-patient privilege in juvenile proceedings.

This part becomes effective December 1, 2004.

Part XVII: Temporary Child Custody in Domestic Violence Hearings. – The act removes the current limitations under which courts may address temporary custody under Chapter 50B.

Custody under Chapter 50B at the ex parte stage. – The act amends the law regarding ex parte custody orders by allowing the court to enter orders at that stage if the child is exposed to a substantial risk of physical or emotional injury (not "bodily" injury) or sexual abuse. This gives the court more discretion in deciding when a child is at risk.

The changes also require the court, if requested by the aggrieved party, to consider whether the other party should stay away from the child, or return the child to, or not remove the child from, the physical care of a parent or person in loco parentis. If the court decides the other party should have contact with the child, it is required to issue an order specifying the terms of contact to protect the safety of the child and the aggrieved party.

The same provisions apply to an authorized magistrate issuing an ex parte protective order.

Custody under Chapter 50B at a hearing following notice to the other party. – The act creates new requirements for the court when deciding whether to award temporary custody and visitation rights at a hearing under Chapter 50B after the other party has received notice or service of process. Rather than being discretionary, the court is required to consider the issue of custody upon the request of either party. However, it ultimately is within the discretion of the court to decide whether to actually grant an award of custody.

In determining whether custody and visitation should be awarded, the court is required to consider the following listed factors:

- Whether the child was exposed to a substantial risk of physical or emotional injury or sexual abuse.
- Whether the child was present during acts of domestic violence.
- Whether a weapon was used or threatened to be used during any act of domestic violence.
- Whether a party caused or attempted to cause serious bodily injury to the aggrieved party or the child.
- Whether a party placed the aggrieved party or the child in reasonable fear of imminent serious bodily injury.
- Whether a party caused an aggrieved party to engage involuntarily in sexual relations by force, threat, or duress.
- Whether there is a pattern of abuse against an aggrieved party or the child.
- Whether a party has abused or endangered the child during visitation.
- Whether a party has used visitation as an opportunity to abuse or harass the aggrieved party.
- Whether a party has improperly concealed or detained the child.
- Whether a party has otherwise acted in a manner that is not in the best interest of the child.

If the court decides to award temporary custody, then the court is also required to consider visitation. If ordering visitation, the court must provide for the safety and well being of both the child and the aggrieved party. The order must give specific parameters or conditions for the visitation, and may include any of the following:

- Exchange of the child in a protected setting;
- Supervised visitation;
- Treatment for the non-custodial parent;
- Restricting either parent from possessing or consuming controlled substances;
- Requiring the non-custodial parent to pay for supervised visitation;
- Prohibiting overnight visitation;
- Requiring a bond for the return of the child;
- Ordering an investigation or appointment of GAL for the child; and
- Any other conditions deemed necessary.

Duration of orders. – The duration of temporary custody orders entered under Chapter 50B are limited to a maximum of one year. While a protective order can generally be renewed indefinitely, any provisions awarding custody are not eligible for renewal beyond the initial one-year period. In addition, any subsequent custody order entered under Chapter 50 will supersede a temporary order entered under Chapter 50B.

Custody under Chapter 50. – G.S. 50-13.2 is amended so that the new provisions set out in Chapter 50B, requiring courts to consider specific listed factors, apply in all custody cases where the court finds that domestic violence has occurred.

This part becomes effective October 1, 2004, and applies to actions filed on or after that date.

Part XVIII: Prohibit Employment Discrimination Against Domestic Violence

Victims. – The act adds a section to Chapter 50B prohibiting employers from discriminating against an employee for taking reasonable time off to appear in court when he or she is seeking relief under Chapter 50B. The employee is required to follow the employer's usual leave procedures, unless an emergency prevents the employee from doing so. An employer may require documentation of the emergency that prevented advance notice of the time off and/or of the need to appear in court.

This provision will be enforced by the Commissioner of Labor pursuant to Article 21 of Chapter 95 (Retaliatory Employment Discrimination). Under Article 21, if an employee feels that a violation has occurred, he or she may file a complaint with the Commissioner, who will initiate an investigation. If the Commissioner determines that there is reason to believe the allegations are true, the Commissioner may try to resolve the alleged violation through informal methods. If the

Commissioner is unsuccessful, he or she must file a civil action on behalf of the employee or issue a right to sue letter to the employee enabling the employee to bring a civil action. The court may award any or all of the following types of relief:

- An injunction to enjoin continued violation;
- Reinstatement of the employee;
- Reinstatement of full fringe benefits and seniority rights; and
- Compensation for lost wages, lost benefits, and other economic losses. (If the court finds that the violation was willful, the court shall treble the amount of damages awarded.)

This part becomes effective October 1, 2004, and applies to actions filed on or after that date.

Part XIX: Privacy for 50B Intake. – The act requires the clerk of superior court, whenever feasible, to provide a private area for 50B complainants to fill out forms and make inquiries.

This part became effective August 12, 2004.

Part XX: Training for Judges and Court Personnel. – The act requests the North Carolina Supreme Court to adopt rules establishing minimum standards of education and training for district court judges in handling civil and criminal domestic violence cases.

The act also directs the Administrative Office of the Courts to study the issue of training for court personnel in the area of domestic violence, and to report its findings and recommendations to the 2005 Regular Session of the 2005 General Assembly.

This part became effective August 12, 2004. (SS)

Child Restraint Systems Modified

S.L. 2004-191 ([SB 1218](#)). See **Transportation**.

Notice for Child Support Enforcement

S.L. 2004-203, Sec. 42 ([HB 281](#), Sec. 42). See **Civil Law and Procedure**.

Studies

New/Independent Studies/Commissions

Smart Start Funding Study

S.L. 2004-161, Part XXXV ([SB 1152](#), Part XXXV) establishes a Smart Start Funding Study Commission. The Commission shall study the funding of the North Carolina Partnership for Children, Inc. and shall consider the following:

- The current funding system of the North Carolina Partnership for Children, Inc.
- Strategies for achieving full funding and full service for North Carolina's young children and families.
- Funding equity among all counties and local partnerships.
- Any other information the Commission deems relevant.

The Commission is required to make its findings and recommendations in a final report to the 2005 General Assembly. The Commission will terminate upon filing its final report, or the convening of the 2005 General Assembly the Commission.

This part became effective August 2, 2004. (SA)

For a complete list of the studies and reports authorized by the 2004 Session of the 2003 General Assembly, please refer to the Appendix contained in this publication.

Chapter 4

Civil Law and Procedure

Brenda Carter (BC), Karen Cochrane-Brown (KCB), Bill Gilkeson (BG), Kory Goldsmith (KG),
Trina Griffin (TG), Tim Hovis (TH), Robin Johnson (RJ), Hal Pell (HP), Wendy Graf Ray (WGR),
Walker Reagan (WR), Steve Rose (SR), and Susan Sitze (SS).

Enacted Legislation

Increase Service of Process Fees

S.L. 2004-113 ([HB 918](#)) increases the fee for service of process in most civil actions from \$5.00 to \$15.00 and provides that at least 50% of the fees collected will be used by the county to ensure timely service of process within the county, which may include the hiring of additional law enforcement personnel upon the recommendation of the sheriff. The fee was last increased in 1990. No service of process fee is charged in actions related to domestic violence.

This act became effective September 1, 2004, and applies to fees assessed or collected on or after that date. (TG)

Adjust Court Jurisdiction/Amend Magistrate Term

S.L. 2004-128, Secs. 4-6 ([SB 577](#), Secs. 4-6) make the following changes:

- **Notice of Mechanics Lien on Driving While Impaired.** – Sections 4 and 5 of the act amend the mechanics lien statutes relevant to storage charges for vehicles held under the driving while impaired forfeiture laws. This change requires a judge to include in any order releasing the vehicle from the seizure notice to the owner, that the owner must notify the Division of Motor Vehicles (DMV) if they wish a hearing to contest the amount of the storage charges. If this notice is included in the order served on the owner, DMV is not able to serve notice otherwise on the owner of the amount of the lien by registered or certified mail, and if the owner does not request a hearing before DMV on the mechanics lien, the mechanic may proceed to sell the vehicle to satisfy the lien without having to serve notice of the sale by publication and without having a default hearing before the clerk.

These sections become effective October 1, 2004.

- **Entry by Clerk of Default Judgment for Absolute Divorce.** – Section 6 of the act authorizes the clerk of court to enter judgments by default in divorce actions when the only claim is for divorce, or divorce and resumption of a former name, and the defendant fails to answer the complaint, or answers the complaint by admitting to the allegations, and the defendant is not incompetent.

This section becomes effective October 1, 2004.

Section 1 of this act concerns increased jurisdiction by small claims court. For additional information, see **Courts, Justice and Corrections**.

Section 2 of this act concerns jurisdiction for revocation of probation for felony pleas heard in district court. For additional information, see **Courts, Justice and Corrections**.

Section 3 of this act concerns adding a drug treatment court program as intermediate punishment. For additional information, see **Criminal Law and Procedure**.

Sections 7 through 14 of this act concern termination of certain parental rights of persons convicted of first or second degree rape. For additional information, see **Criminal Law and Procedure**.

Section 15 of this act concerns prohibiting the threatening of a witness with the assertion or denial of parental rights. For additional information, see **Criminal Law and Procedure**.

Sections 16 through 18 of this act concern an amendment to the North Carolina Constitution to extend the Magistrate term to four years. For additional information, see **Constitution and Elections**.

Section 19 of this act concerns the number, term, and appointment of magistrates. For additional information, see **Courts, Justice and Corrections**. (WR)

Compensation of Trustees/Other Fiduciaries

S.L. 2004-139 ([SB 470](#)). See **Property, Trusts, and Estates**.

Clarifications Regarding Mediation

S.L. 2004-154, Secs. 1 and 2 ([SB 52](#), Secs. 1 and 2) make mediations regarding a personnel matter by The University of North Carolina or a constituent institution subject to the same rules as mediations in district or superior court matters. Evidence of the statements made or conduct occurring during the mediation would not be admissible as evidence in any proceeding on the same claim, except a claim to enforce a signed settlement agreement and the evidence would not be public record. A mediator, person training to become a mediator, or a mediation participant could not be required to testify regarding the mediation, except to attest to the signing of a settlement agreement. Finally, the drafting of a mediation summary would not be considered practicing law.

This section became effective August 2, 2004.

Sections 3 through 12 of this act concern open discovery in criminal cases. For additional information, see **Criminal Law and Procedure**. (KG)

Venue for Juvenile Hearings

S.L. 2004-155 ([HB 1665](#)). See **Courts, Justice & Corrections**.

Crime Victims Financial Recovery Assistance Act

S.L. 2004-159 ([HB 1519](#)), which is a modified "Son of Sam" law, better enables crime victims to satisfy restitution orders and civil judgments entered against their offenders from the offender's assets by providing notice of the assets to the victims and by reviving the statute of limitations for a civil action once assets are discovered. More specifically, the act contains the following substantive provisions:

Declaration of Purpose. – The act declares as a matter of public policy that no person who commits a crime should thereafter gain monetary profit as the result of committing the crime. Furthermore, the act declares that convicted felons do not possess equitable title to profit from their crimes, and that the property is subject to seizure by the State for the benefit of the victims. The act identifies the compelling State interests, recognized as such by the United States Supreme Court, ensuring that persons convicted of crimes do not profit from those crimes and that victims of crime are compensated by those who have harmed them.

Notice of Profit from Crime or Funds of an Offender. – The act requires the following entities that knowingly contract for, pay, or agree to pay (i) profit from crime, or (ii) funds of an offender, to notify and submit a copy of the contract to the Commission:

- The contracting party;
- The State or a subdivision of the State whenever the payment or obligation to pay involves funds of an offender in excess of \$10,000 that a superintendent, sheriff, or municipal officer receives or will receive on behalf of an inmate serving a sentence with the Department of Correction or a prisoner confined at a local correctional facility; and

- The State or a subdivision of the State when it makes a payment or has an obligation to pay funds of an offender in excess of \$10,000.

In all other instances where the payment or obligation to pay involves funds of an offender and the value of the funds exceeds or will exceed \$10,000, the offender who receives or will receive the funds shall give written notice to the Commission.

"Profit from crime" is defined as any income, assets, or property generated from the commission of a crime for which the offender was convicted, including any income generated from the sale of crime memorabilia or obtained through unique knowledge during the commission of the crime. Crime memorabilia is defined as tangible property belonging to or that belonged to an offender prior to conviction, the value of which is increased by the offender's notoriety.

"Funds of an offender" is defined as all funds and property received from any source by an offender, excluding child support and earned income, where the offender is (i) an inmate serving a sentence with the Department of Corrections or a prisoner confined at a local correctional facility or federal correctional institute, or (ii) a person serving a sentence of probation, conditional discharge, or post-release supervision.

Penalty for Failure to Notify. – A person who willfully fails to provide notice as required would be subject to an assessment in the amount of the payment or obligation to pay, to be levied after notice and opportunity to be heard, plus a civil penalty in the amount of \$1,000 or 10% of the obligation to pay, whichever is greater. Once collected, the assessment would be placed in escrow for the benefit of eligible persons who would be notified of their right to bring a civil action. The proceeds of the civil penalty would be remitted to the Civil Penalty and Forfeiture Fund. The act also provides for the return to the respondent of any unclaimed funds held in escrow upon the expiration of the three-year statute of limitations period and upon final determination of all pending claims.

Notice to Eligible Persons by Commission. – The Commission must notify all "eligible persons of the existence of the contract. An "eligible person" means (1) a victim of the crime for which the offender was convicted; (2) a surviving spouse, parent, or child of a deceased victim of the crime for which the offender was convicted; or (3) any other person dependent for the person's principal support upon a deceased victim of the crime for which the offender was convicted. However, "eligible person" does not include the offender or an accomplice to the offender.

Revival of Statute of Limitations; Notice of Civil Action. – If the eligible person has already obtained a civil judgment against the offender for damages arising out of the offense for which the offender was convicted, the eligible person may proceed to execute against those assets as provided for by current law. If the eligible person has not obtained a civil judgment, this act provides that the person has three years from the notice of the profit from crime or funds of the offender to bring a civil action for damages arising out of the offense for which the offender was convicted, even if the original statute of limitations for the cause of action has expired. The eligible person must submit a copy of the lawsuit to the Commission, which, in turn, would attempt to notify all other eligible persons of the lawsuit.

Responsibilities of and Authority of the Commission. –

Notice to Eligible Persons. – The Commission, upon receipt of notice of a contract or agreement to pay profit from crime or funds of an offender, must notify all known eligible victims of the existence of the contract or agreement.

Notice of Civil Action. – The Commission, upon notice of the filing of a civil action, must notify all other eligible victims of the filing.

Authority to Avoid Wasting of Assets. – The Commission has standing and, acting on its own behalf or on behalf of all eligible persons, has the right to apply for any and all provisional remedies that are also otherwise available to the plaintiff in the civil action, including attachment, injunction, constructive trust, and receivership.

Subrogation by Commission. – Claims on profit from crime or funds of an offender are subject to subrogation by the Crime Victims Compensation Fund.

This act becomes effective October 1, 2004, and applies to contracts entered into on or after that date or to funds that accrue on or after that date. (TG)

Prevent Workplace Violence

S.L. 2004-166 ([SB 916](#)), as amended by S.L. 2004-199, Sec. 58 ([SB 1225](#), Sec. 58), creates a new procedure to allow an employer to obtain civil no-contact orders against a person who has harmed, threatened to harm, or stalked an employee of the employer.

Upon a finding that the employee has been the victim of unlawful conduct, the court is authorized to issue temporary or permanent orders restraining the conduct of the perpetrator. "Unlawful conduct" is defined to include bodily injury, attempted bodily injury, stalking and communicating a threat.

Permissible remedies include ordering the perpetrator not to:

- Visit, assault, molest or interfere with the employee or the employer at the workplace;
- Stalk the employee at the workplace;
- Harass, abuse or injure the employee or employer at the workplace; and
- Contact the employee or employer by any means at the workplace.

Temporary orders may be granted for periods of up to 10 days and may be issued ex parte and after normal business hours under certain circumstances. Permanent orders may be granted for periods of up to one year. All orders may be renewed. Violations of an order are punished as contempt of court.

This act becomes effective December 1, 2004. (WR)

Strengthen Domestic Violence Laws

S.L. 2004-186, Parts XVI, XVII, and XIX ([HB 1354](#), Parts XVI, XVII, and XIX) make changes to clarify nurse's privilege; to temporary child custody in domestic violence hearings and to privacy for 50B intake. The act is divided into the Parts listed below.

Part I: Domestic Violence Offender Treatment.

Part II: Domestic Violence Training for Law Enforcement.

Part III: Study of Anti-Violence Education in Schools and Training for School Personnel.

Part IV: Legal Services for Victims of Domestic Violence.

Part V: Domestic Violence Advocates on Child Fatality Task Force.

Part VI: Study of Mental Health Services for Domestic Violence Victims.

Part VII: Study of CLE Credit for Pro Bono Legal Representation.

Part VIII: Domestic Relationship Aggravating Factor.

Part IX: Create Strangulation Offense.

Part X: Amend Habitual Misdemeanor Assault Statute.

Part XI: Domestic Violence Offense Tracking.

Part XII: Study of Misdemeanor Offense Classifications.

Part XIII: Warrantless Arrest for Violation of Pretrial Release Conditions.

Part XIV: Conform State Firearms Law to Federal Law.

Part XV: Specifically Allow Cross Warrants.

Part XVI: Clarify Nurse's Privilege.

Part XVII: Temporary Child Custody in Domestic Violence Hearings.

Part XVIII: Prohibit Employment Discrimination Against Domestic Violence Victims.

Part XIX: Privacy for 50B Intake.

Part XX: Training for Judges and Court Personnel.

See **Children and Families** for the summary of the entire act.

Create Civil No-Contact Protective Orders

S.L. 2004-194 ([HB 951](#)), as amended by S.L. 2004-199, Sec. 50 ([SB 1225](#), Sec. 50), authorizes courts to issue protective orders, similar to domestic violence orders under Chapter 50B of the General Statutes, in situations where a person has been a victim of stalking or nonconsensual sexual conduct committed by a person with whom the victim is not in a domestic relationship.

Upon a finding that the victim has suffered unlawful conduct, the court is authorized to issue temporary or permanent orders restraining the conduct of the perpetrator. "Unlawful conduct" is defined to include nonconsensual sexual conduct and stalking. "Nonconsensual sexual conduct" is defined as any intentional or knowing touching, fondling or sexual penetration by a person, directly or through clothing, of the sexual organs of another for the purpose of sexual gratification or arousal where consent is not freely given. A "victim" is defined as a person against who unlawful conduct is committed other than in a situation where an action could be brought under the domestic violence laws.

Under this law, the victim, or a person acting on the behalf of an incompetent victim, may bring an action. The act allows an action under this law to be brought without paying filing fees to the clerk of court or service fees to the sheriff. The act restricts the admissibility of the victim's prior sexual activities to the same standards as permitted in criminal cases.

If the court finds that the victim suffered unlawful conduct, the court may order the perpetrator not to visit, assault, molest or otherwise interfere with the victim, and order the perpetrator to cease stalking, harassing, abusing, injuring, or contacting the victim by telephone, written communication or electronic means. The court may also order the perpetrator to stay away from the victim including prohibitions against entering the victim's residence, school, place of employment or other specified places at times when the victim is present.

Temporary orders may be granted for periods of up to 10 days and may be issued ex parte and after normal business hours under certain circumstances. Permanent orders may be granted for periods of up to one year. All orders may be renewed. Violations of an order are punished as contempt of court.

This act becomes effective December 1, 2004. (WR)

Court Filing Requirements

S.L. 2004-199, Sec. 5 ([SB 1225](#), Sec. 5) amends Rule 5(d) of the Rules of Civil Procedure to exempt subpoenas and objections to subpoenas from court filing requirements in civil actions. Changes made in 2003 expanding notice requirements to parties in civil actions inadvertently required these documents to also be filed in the court files.

This section becomes effective October 1, 2004, and applies to all pending cases and cases filed on or after that date. (RJ)

Repeal Statute of Limitations for Challenge to Presumption of Ownership of Abandoned Railroad Easement

S.L. 2004-203, Sec. 14 ([HB 281](#), Sec. 14) repeals the statute of limitations currently required for persons who claim ownership contrary to the presumption that upon abandonment of a railroad easement, all right, title and interest in that land is presumed vested in persons who own lots or parcels of land adjacent to the abandoned easement.

This section became effective August 17, 2004. (RJ)

Notice for Child Support Enforcement

S.L. 2004-203, Sec. 42 ([HB 281](#), Sec. 42) amends the law governing agreements between the Department of Health and Human Services and financial institutions for the purpose of facilitating the enforcement of child support obligations. This section allows a financial institution to agree with the Child Support Enforcement Agency that notice of levies on bank accounts for child support arrears may be sent to the institution in a manner different from formal service under Rule 4 of the Rules of Civil Procedure if the institution agrees in writing to a different method before notice of the service. This would allow the institution to have the notice sent directly to the appropriate department and would allow the notice to be sent by email or fax.

This section became effective August 17, 2004. (RJ)

For a complete list of the studies and reports authorized by the 2004 Session of the 2003 General Assembly, please refer to the Appendix contained in this publication.

Chapter 5

Commercial Law and Consumer Protection

Karen Cochrane Brown (KCB), Wendy Graf Ray (WGR), Tim Hovis (TH),
Walker Reagan (WR), and Steve Rose (SR)

Enacted Legislation

Notice Period for Sales and Use Tax Refunds

S.L. 2004-22 ([HB 1448](#)). See **Finance**.

Emergency Funding/Continuing Provisions

S.L. 2004-88 ([HB 1352](#)). See **Finance**.

Limit Use of Impervious Parking Surfaces for Sale of Nursery Stock

S.L. 2004-124, Sec. 6.29 ([HB 1414](#), Sec. 6.29). See **Environment and Natural Resources**.

Regional Partnerships Vision Plans

S.L. 2004-124, Sec. 13.6 ([HB 1414](#), Sec. 13.6) appropriates \$1,750,000 to the North Carolina Partnership for Economic Development Inc. to be equally allocated to seven regional economic development partnerships for development and implementation of strategic economic development plans. In developing and implementing these plans, the partnerships must:

- Perform a comprehensive study of the region's resources and existing businesses located in the region to determine what business clusters exist and the boundaries of those clusters, to develop ways to strengthen those clusters, and to determine in what areas the region has a competitive advantage that could lead to the development of future clusters.
- Ensure that the benefits of the economic development plan are widely dispersed and that the plan provides real opportunities in rural areas as well as in urban and suburban areas.
- Develop focused and targeted economic development initiatives related to the recruitment and development of new businesses and the retention of existing businesses.
- Provide a mechanism for continuous monitoring of the regional economy and competitiveness indicators and for updating the strategic economic development plan to take account of changing economic conditions.
- Recommend infrastructure investments to meet the region's current and anticipated future needs.
- Integrate the North Carolina Community College System and The University of North Carolina into economic development efforts and planning.
- Create leadership networks that span the public and private sectors and that facilitate communication within clusters, between members of complementary clusters, and between members of the public and private sectors.

The section also repeals S.L. 2002-126, Sec. 8.3 which directed the State Board of Community Colleges, the Board of Governors of The University of North Carolina, and the Department of Commerce, in conjunction with the North Carolina Board of Economic Development and the seven regional economic development commissions to adopt a joint policy that required the development of a five-year vision plan for each of the economic development regions in the State.

This section became effective July 1, 2004. (TM)

Transfer Business License Information Office Functions and Duties to the Department of Commerce

S.L. 2004-124, Sec. 13.9A ([HB 1414](#), Sec. 13.9A). See **State Government**.

Housing Finance Agency Shall Create the North Carolina Home Protection Pilot Program and Loan Fund in Order to Assist North Carolina Workers Who Have Lost Jobs as a Result of Changing Economic Conditions in North Carolina When the Workers are in Need of Temporary Assistance to Avoid Losing Their Homes to Foreclosure

S.L. 2004-124, Sec. 20A.1 ([HB 1414](#), Sec. 20A.1) directs the North Carolina Housing Finance Agency to develop and administer the North Carolina Home Protection Pilot Program and Loan Fund (Program) to assist North Carolina workers who have lost jobs as a result of changing economic conditions and are in need of assistance to avoid losing their homes to foreclosure. The Agency is also authorized to make loans secured by liens on residential property, fund nonprofit counseling agencies that assist in implementing the Program, and develop and fund enhanced methods by which workers are notified of foreclosure mitigation services and the availability of loans from the Agency. The Agency must report to the General Assembly on the effectiveness of the Program no later than May 1, 2005.

The North Carolina Housing Finance Agency is further directed to convene meetings of experts to study the problem of increasing foreclosure filings statewide, possible improvements to the laws regarding foreclosure procedures, and the benefits and feasibility of creating a foreclosure avoidance loan fund. The Agency must report its recommendations to the General Assembly no later than May 1, 2005.

The section also provides certain protections to mortgagors who apply for loan assistance under this provision. Mortgagees are prohibited from:

- Accelerating the maturity of a mortgage obligation;
- Commencing or continuing any legal action, including foreclosure;
- Taking possession of any security of the mortgagor;
- Procuring or receiving a deed in lieu of foreclosure;
- Entering judgment by confession pursuant to a note accompanying a mortgage; and
- Proceeding to enforce the mortgage obligation for a period of 120 days after filing of the application.

The Agency must notify the mortgagee within five business days of its receipt of an application.

The Agency is exempt from rulemaking under the Administrative Procedure Act solely with respect to adopting procedures for qualifying for assistance under the pilot program. However, the Agency must publish the procedures in the North Carolina Register for at least 30 days, hold at least one public hearing, and accept oral and written comments on the procedures.

This section became effective July 1, 2004. (KCB)

Monetary Comp/Outdoor Advertising

S.L. 2004-152 ([HB 1213](#)). See **Local Government**.

Tanning Salons/Restrictions on Use

S.L. 2004-157 ([SB 657](#)) requires operators of tanning equipment and owners of tanning facilities to comply or ensure compliance with the following:

- Provide a warning statement to each consumer defining the potential hazards and consequences of exposure to ultraviolet radiation. Before a consumer's initial use of the equipment, the operator must obtain the consumer's signature on the warning statement.
- Prohibit the use of tanning equipment by persons 13 years of age or younger without a written prescription from the person's medical physician specifying the nature of the medical condition requiring treatment, the number of visits, and the time of exposure for each visit.
- Prohibit claims or the distribution of promotional materials claiming that the use of tanning equipment is safe or free from risk or will result in medical or health benefits.

The Radiation Protection Commission is authorized to adopt rules implementing the act. Rules adopted pursuant to the act are enforced by the Department of Health and Human Services and are in addition to existing rules and regulations that do not conflict with the act.

The act also defines the terms "consumer," "tanning facility," and "tanning equipment". This act becomes effective October 1, 2004. (TH)

Revise Banking Laws of North Carolina

S.L. 2004-171 ([SB 676](#)) makes technical and clarifying changes to the banking laws of the State. Many of the changes are intended to maintain competitive equality among banks, regardless of whether they are chartered by North Carolina, another state or the federal government. The act also makes several changes to the Mortgage Lending Act to enhance the Commissioner of Banks' enforcement authority.

Additionally, the act authorizes the Legislative Research Commission to study whether more comprehensive changes to the banking laws are warranted. The Commission is required to make recommendations to the 2005 General Assembly, prior to the convening of the 2006 Regular Session.

This act becomes effective October 1, 2004, and applies to acts occurring and transactions or agreements entered into on or after that date. (KCB)

Repeal UCC Article on Bulk Transfers.

S.L. 2004-190 ([SB 230](#)) repeals Article 6 of Chapter 25 of the General Statutes – Bulk Transfers of the Uniform Commercial Code, and makes conforming changes to other statutes. Article 6 required that prior to the bulk sale of inventory of businesses, notice must be given to all potential creditors in order to be assured of clear title to the inventory. More recent changes in recording security interests, credit reporting and the ability to get jurisdiction to collect debts have made Article 6 unnecessary. North Carolina joins 44 other states that have repealed Article 6.

This act becomes effective January 1, 2005. (WR)

Studies

Legislative Research Commission

Regulating Ticket Brokers

S.L. 2004-161, Sec. 2.1(1)b ([SB 1152](#), Sec. 2.1(1)b) authorizes the Legislative Research Commission to study the effectiveness of the regulation of ticket brokers and address any issues that relate to the registration of ticket brokers.

The Commission may report its findings, together with any recommended legislation to the 2005 General Assembly.

This section became effective August 2, 2004. (KCB)

Debt Collection Practices

S.L. 2004-161, Sec. 2.1(3) ([SB 1152](#), Sec. 2.1(3)) authorizes the Legislative Research Commission to study current debt collection practices in order to determine how to minimize mistakes in correctly identifying debtors and what remedies should be available for persons wrongly identified as debtors.

The Commission may report its findings, together with any recommended legislation to the 2005 General Assembly.

This section became effective August 2, 2004. (KCB)

Pawnbrokers Study

S.L. 2004-161, Sec. 2.1(d) ([SB 1152](#), Sec. 2.1(d)) authorizes the Legislative Research Commission to study the laws regulating pawnbrokers and those non-regulated retail outlets engaging in similar business and acting as pawnbrokers. If undertaken by the Commission, the Commission may examine how the following procedures would impact pawnbrokers, non-regulated retail outlets, and existing law. The Commission may also examine how the following modifications would more effectively aid in the recovery of stolen property:

- Picture identification of sellers or pledgers;
- Thumbprints on each pawn or sales receipt;
- Machine-printed or otherwise legible pawn and sales receipt;
- Requirements for time and date on pawn or sales receipts;
- Recordation of any visible owner-applied numbers or markings on property;
- Prohibition on receipt and sale of new property;
- Authorization of fees to support local pawnbroker-related law enforcement;
- Computerization of pawnshop records; and
- Requirement that pawnbroker records be made available to law enforcement.

The Legislative Research Commission may report its findings to the 2005 General Assembly.

This section became effective August 2, 2004. (JHM)

Equity-Building Homes

S.L. 2004-161, Sec. 2.1(k) ([SB 1152](#), Sec. 2.1(k)) authorizes the Legislative Research Commission to study methods to substantially increase the number of North Carolinians who own equity-building homes. The term "equity-building home" means a residential structure that will be the purchaser's primary residence and that meets the State and local building code standards. An

equity-building home will also have characteristics that are likely to cause it to appreciate in value over time.

The Commission may report its findings, together with any recommended legislation to the 2005 General Assembly.

This section became effective August 2, 2004. (KCB)

Revise Banking Laws of North Carolina

S.L. 2004-171 ([SB 676](#)). The Legislative Research Commission is authorized to study whether more comprehensive changes to the banking laws are warranted. For additional information, see summary under **Enacted Legislation** this chapter.

Referrals to Existing Commissions/Committees

Electronic Recordation and Revision of Notary Laws

S.L. 2004-161, Sec. 6.1 ([SB 1152](#), Sec. 6.1) directs the General Statutes Commission to study the issue of electronic recordation, specifically with regard to real property documents and other documents filed with the registers of deeds. The Commission must study methods for establishing uniform legal standards for the receipt, recordation, authentication, preservation, and retrieval of electronic documents.

The Commission must report its findings and recommendations and any legislative proposals to the 2005 General Assembly.

This section became effective August 2, 2004. (KCB)

Uniform Unincorporated Nonprofit Association

S.L. 2004-161, Sec. 7.1 ([SB 1152](#), Sec. 7.1) directs the General Statutes Commission to study the Uniform Unincorporated Nonprofit Association Act in consultation with interested parties and to report to the 2005 General Assembly on the Commission's recommendations and legislative proposals.

This section became effective August 2, 2004. (KCB)

Referrals to Departments, Agencies, Etc.

Housing Finance Agency Shall Create the North Carolina Home Protection Pilot Program and Loan Fund in Order to Assist North Carolina Workers Who Have Lost Jobs As a Result of Changing Economic Conditions in North Carolina When the Workers Are in Need of Temporary Assistance to Avoid Losing Their Homes to Foreclosure

S.L. 2004-124, Sec. 20A.1 ([HB 1414](#), Sec. 20A.1). The North Carolina Housing Finance Agency is directed to study various issues related to foreclosure. For additional information, see summary under **Enacted Legislation** this chapter.

Electronic Recordation and Revision of Notary Laws

S.L. 2004-161, Sec. 6.2 ([SB 1152](#), Sec. 6.2) directs the Secretary of State to study the issue of amending the notary public laws in order to modernize and simplify their administration. The study must also address the issue of electronic notarization.

The Secretary must report any findings and recommendations, including legislative proposals to the 2005 General Assembly

This section became effective August 2, 2004. (KCB)

Regional Partnerships Vision Plans

S.L. 2004-124, Sec. 13.6 ([HB 1414](#), Sec. 13.6) appropriates \$1,750,000 to the North Carolina Partnership for Economic Development Inc. to be equally allocated to seven regional economic development partnerships for development and implementation of strategic economic development plans. In developing and implementing these plans, the partnerships must:

- Perform a comprehensive study of the region's resources and existing businesses located in the region to determine what business clusters exist and the boundaries of those clusters, to develop ways to strengthen those clusters, and to determine in what areas the region has a competitive advantage that could lead to the development of future clusters.
- Ensure that the benefits of the economic development plan are widely dispersed and that the plan provides real opportunities in rural areas as well as in urban and suburban areas.
- Develop focused and targeted economic development initiatives related to the recruitment and development of new businesses and the retention of existing businesses.
- Provide a mechanism for continuous monitoring of the regional economy and competitiveness indicators and for updating the strategic economic development plan to take account of changing economic conditions.
- Recommend infrastructure investments to meet the region's current and anticipated future needs.
- Integrate the North Carolina Community College System and The University of North Carolina into economic development efforts and planning.
- Create leadership networks that span the public and private sectors and that facilitate communication within clusters, between members of complementary clusters, and between members of the public and private sectors.

This section also repeals S.L. 2002-126, Sec. 8.3 which directed the State Board of Community Colleges, the Board of Governors of The University of North Carolina, and the Department of Commerce, in conjunction with the North Carolina Board of Economic Development and the seven regional economic development commission to adopt a joint policy that required the development of a five-year vision plan for each of the economic development regions in the State.

The section became effective July 1, 2004. (TM)

For a complete list of the studies and reports authorized by the 2004 Session of the 2003 General Assembly, please refer to the Appendix contained in this publication.

Chapter 6

Constitution and Elections

Erika Churchill (EC) and Bill Gilkeson (BG)

Note: For legislation affecting voting, the legislation cannot be implemented until it has received approval from the United States Department of Justice under Section 5 of the Voting Rights Act of 1965. Approval is most commonly obtained administratively from the United State Attorney General. This requirement applies to legislation affecting any of the 40 North Carolina counties covered by Section 5, including all statewide legislation. Unless otherwise indicated, the effective date stated is the effective date as it is in the legislation. It may be that Section 5 Voting Rights Act approval has not yet been obtained, and therefore the act cannot be implemented until such approval is forthcoming.

Enacted Legislation

House Redistricting Plan

S.L. 2003-434, 2003 Extra Session ([HB 3](#), 2003 Extra Session) establishes districts for the North Carolina Senate and House and makes related changes to the election laws. For additional information on redistricting in North Carolina, see the *2003 Redistricting Guide, Fourth Edition, Corrected Copy*, and the *2002 Summaries of Substantive Ratified Legislation*.

Briefly, the events in the year prior to the enactment of S.L. 2003-434 are:

- **November 5, 2002:** General election held in North Carolina. In the Senate, the Democratic Party retains control with 28 of the 50 seats. In the House, the Republican Party gains control with 61 of the 120 seats.
- **March 10, 2003:** The North Carolina Supreme Court hears oral arguments in the appeal of May 31, 2002, trial court order in *Stephenson v. Bartlett*.
- **March 14, 2003:** The North Carolina Supreme Court orders trial court Judge Knox Jenkins to provide detailed findings of fact and conclusions of law to support his decision to hold Sutton 5 and Senate Fewer Divided Counties unconstitutional in *Stephenson v. Bartlett*.
- **April 17, 2003:** Judge Jenkins responds to the North Carolina Supreme Court in the *Stephenson* matter by submitting additional findings of fact and conclusions of law.
- **July 16, 2003:** The North Carolina Supreme Court issues an opinion affirming Judge Jenkins's May 31, 2002, order holding Sutton 5 and Senate Fewer Divided Counties unconstitutional, thereby triggering the need for the General Assembly to enact new districting plans for the House and Senate.
- **November 24, 2003:** General Assembly convenes in Extra Session to enact new House and Senate districting plans.
- **November 25, 2003:** HB 3 is ratified and signed by Governor Easley. The act became Ch. S.L. 2003-434 Extra Session.

The act sets forth new district lines for the North Carolina House and the North Carolina Senate. Maps of the districts can be obtained by contacting the Research Division. The act also contains the following:

- Grants authority to the State Board of Elections to delay the primary election for the 2004 election cycle, if needed; the ability to adopt temporary rules as needed to accomplish that election; and made other conforming changes. (The State Board of Elections delayed the primary until July 20, 2004.)

- Amends the General Statutes to provide that if a primary date is delayed for the State House or State Senate, then all primaries must be held on the same day.
- Amends the General Statutes to provide for a three judge panel for redistricting challenges as follows:
 - Any redistricting challenge to State legislative or congressional districts must be filed in Wake County Superior Court.
 - Upon filing of the redistricting challenge, the Chief Justice of the Supreme Court is to be notified, and the Chief Justice is to appoint a three judge panel to hear the action.
 - The three judge panel appointed by the Chief Justice is to consist of the senior resident superior court judge of Wake County, one resident superior court judge from the First through Fourth Judicial Divisions, and one resident superior court judge from the Fifth through Eighth Judicial Divisions. No member of the panel may be a former member of the General Assembly.
- Amends the General Statutes to provide that:
 - Any order declaring unconstitutional, or otherwise invalid, any redistricting act of the General Assembly must find with specificity all facts supporting the declaration.
 - The General Assembly must first be given an opportunity to remedy any defects in a redistricting act before a court may substitute its redistricting plan.
 - Appeal of redistricting challenges is directly to the North Carolina Supreme Court.
 - The Attorney General seeks pre-clearance under Section 5 of the Voting Rights Act for acts of the General Assembly that district State legislative or congressional districts.
 - The ban on moving precinct lines would be extended until December 31, 2004.

This act became effective November 25, 2003, and the United States Department of Justice issued a letter on March 31, 2004, stating they would not object to the implementation of the plans. (EC)

Constitutional Limits

S.L. 2004-125 ([HB 737](#)) parallels the federal law regarding reporting of spending for "electioneering communications" during federal campaigns elections, applying similar requirements for elected statewide State offices and General Assembly seats.

The act requires that every individual, committee, association, or any other organization or group of individuals that makes a disbursement for the direct costs of producing and airing electioneering communications in an aggregate amount in excess of ten thousand dollars (\$10,000) during any calendar year must, within 24 hours of each disclosure date, file with the State Board of Elections a statement containing the following information:

- The identification of the entity making the disbursement, of any entity sharing or exercising direction or control over the activities of that entity, and of the custodian of the books and accounts of the entity making the disbursement;
- The principal place of business of the entity making the disbursement if the entity is not an individual;
- The amount of each disbursement of more than \$1,000 during the period covered by the statement and the identification of the entity to which the disbursement was made;
- The elections to which the electioneering communications pertain and the names, if known, of the candidates identified or to be identified;
- If the disbursements were paid out of a segregated bank account that consists of funds contributed solely by individuals directly to that account for electioneering communications, the names and addresses of all contributors who contributed an

aggregate amount of more than \$1,000 during the period beginning on the first day of the preceding calendar year and ending on the disclosure date; and

- If the disbursements were paid out of funds not in a segregated bank account that consist of funds contributed solely by individuals directly to that account for electioneering communications, the names and addresses of all contributors who contributed an aggregate amount of more than one thousand dollars (\$1,000) to the entity making the disbursement during the period beginning on the first day of the preceding calendar year and ending on the disclosure date.

The act defines the term "electioneering communication" as follows:

- Any broadcast, cable, or satellite communication that has all the following characteristics:
 - Refers to a clearly identified candidate for a statewide office or the General Assembly;
 - Is made within one of the following time periods:
 1. 60 days before a general or special election for the office sought by the candidate,
 2. 30 days before a primary election or a convention of a political party that has authority to nominate a candidate for the office sought by the candidate; and
 - Is targeted to the relevant electorate.
- Any mass mailing or telephone bank that has all the following characteristics:
 - Refers to a clearly identified candidate for a statewide office or the General Assembly;
 - Is made within one of the following time periods:
 1. 60 days before a general or special election for the office sought by the candidate, or
 2. 30 days before a primary election or a convention of a political party that has authority to nominate a candidate for the office sought by the candidate; and
 - Is targeted to the relevant electorate.

The act excepts both radio/TV provision and mass mail/phone bank communications made during a session of the General Assembly that urge the audience to communicate with a legislator or legislators concerning that piece of legislation. The act also provides that electioneering communications that are coordinated with a candidate or party are contributions, and are subject to the limits and bans of the regular North Carolina Campaign Finance Act (NCCFA), and makes conforming changes to the NCCFA.

This act became effective July 20, 2004, and criminal penalties are not applicable until October 1, 2004. The United States Department of Justice issued a letter on August 26, 2004, stating they do not object to the implementation of the act. (EC)

Election Law Changes

S.L. 2004-127 ([HB 1119](#)) contains a number of purely technical changes to the election laws, plus several substantive changes. The main substantive changes are as follows:

Precinct Boundaries and Names. – Under existing law, the county boards of elections have the basic authority to establish and change precinct boundaries, so long as the boundaries follow Census block lines, and exceptions may be allowed to the Census block rule. Until Dec. 31, 2004, a freeze has been placed on precinct boundary changes. Current law gives counties a free hand in how they can name precincts. The bill lifts the boundary freeze 4½ months early – on August 15, 2004, but at that time imposes a stricter rule for counties in how they can change precinct boundaries. ***They may divide a precinct either while leaving the outer boundaries the same, or merge one or more precincts, leaving the outer boundaries the same.*** The only other way to change a precinct line would be to move a line that is not now

on a Census block boundary to a Census block boundary. Since very few precinct lines are not on Census block lines, this third power would be rarely used. Precinct changes for the 2004 general election would have to be completed by Sept. 17, 2004. As for precinct names, the act prohibits a county from using a new precinct a name, that in the past has been used for a precinct for different territory. The State Board of Elections (State Board) would be responsible for enforcing the requirement. The "recycling" of precinct names in certain counties has been a vexation for people who try to keep up with voter registration and election data. The duty to check to see if a name has been used in the past only goes back to January 1, 1999. Before that, the State Board does not have precinct names available electronically.

Change of Superior Court Judge District 14A in Durham. – The act makes a small boundary change in Superior Court District 14A in Durham County. The district would include a house into which the incumbent, Judge Orlando Hudson, plans to move. Judge Hudson is running for re-election this year unopposed.

Benchmark for number of signatures on petitions. – The act sets voter registration as of January 1st of the election year, as the benchmark for calculating the number of signatures needed on petition for unaffiliated candidacy. Prior law said an unaffiliated candidate must collect signatures from registered voters equal to certain percentages of registered voters as of "most recent" voter registration report by State Board. That was written when the State Board produced such a report twice a year. Now, with its statewide, computerized voter registration system, the State Board keeps constant track of number of registered voters, so the benchmark has become a moving target. This provision fixes the target at January 1.

Scanned documents. – The act allows transmission of voter registration forms and overseas absentee ballot applications by emailing a scanned document, as well as faxed, mailed, and in person transmission.

New party petition wording. – This act removes from the statutory wording of a new party petition the current language that the undersigned voters "INTEND TO ORGANIZE" the new party. A federal court indicated in 1995 in a lawsuit brought by Libertarians that the language might violate the First Amendment as an unreasonable burden on the rights of new-party organizers, but the court did not rule on the language then because the Libertarians presented no evidence that the language had hindered their efforts. The ACLU-NC says it has 30 affidavits produced by the Green Party from voters saying they would have signed a petition to admit the Green Party to the ballot except for the language on the petition saying they intended to organize the party. They said they did not intend to organize the party, but they did want to help it get on the ballot if all they had to do was sign the petition.

Birthdate privacy. – Currently the statute requires a voter to provide date of birth as an identifier. Election officials find it useful to distinguish many people with names like John Jones, some of whom live at the same address. The date of birth on a voter registration record is a public record. Some county boards of elections (Durham, for example) make a voter's date of birth available on their websites through a search of the records, if you plug in the voter's name. The State Board of Elections provides date of birth and address on the voter records searchable on its website, but it only provides those items if the searcher already knows the date of birth. This section would make date of birth a confidential item not only on elections websites but also on voter registration records. Candidates, elected officials, and challenged voters would be exempted from the protection, as would any voter who waived the date-of-birth privacy. Disclosure of the age of any voter would not violate the date-of-birth confidentiality requirement. This section would become effective June 1, 2005.

This act became effective on July 26, 2004; except for the precinct changes, which become effective August 15, 2004, and apply to precincts established on or after that date; and the birth date privacy changes, which become effective June 1, 2005. (BG)

Adjust Court Juris./Amend Magistrate Term

S.L. 2004-128, Secs. 16-18 ([SB 577](#), Secs. 16-18) place a proposed constitutional amendment to change the terms of magistrates on the November 2, 2004 ballot. Under the current constitutional provision, all magistrates' terms are two years. Under the proposal, a magistrate's first term would be two years but subsequent terms would be four years. The amendment would also give the General Assembly discretion in determining how magistrate vacancies would be filled.

These sections became effective July 17, 2004.

Sections 1 and 2 of this act address jurisdictional issues in small claims courts and the superior courts. For additional information, see **Courts, Justice and Corrections**.

Section 3 of this act concerns adding a drug treatment court program as intermediate punishment. For additional information, see **Criminal Law and Procedure**.

Sections 4 and 5 of this act concern the notice of a mechanics lien for storage charges for vehicles held under the driving while impaired forfeiture laws. For additional information, see **Civil Law and Procedure**.

Section 6 of this act authorizes the clerk of court to enter judgments by default. For additional information, see **Civil Law and Procedure**.

Sections 7 through 14 of this act concern termination of certain parental rights of persons convicted of first or second degree rape. For additional information, see **Criminal Law and Procedure**.

Section 15 of this act concerns prohibiting the threatening of a witness with the assertion or denial of parental rights. For additional information, see **Criminal Law and Procedure**.

Section 19 of this act concerns the number, term, and appointment of magistrates and becomes effective only if the constitutional amendment is approved. For additional information, see **Courts, Justice and Corrections**. (BG)

Clarify Who May Hear Elections Directors' Dismissal

S.L. 2004-203, Sec. 58 ([HB 281](#), Sec. 58) amends G.S. 163-35(b) to allow the State Board of Elections, by a vote of all the remaining members, to delegate to one or more of its members the authority to hear and decide on the dismissal of a county election director, whether that dismissal proceeding was initiated by the county board or by the State Board.

This section became effective August 17, 2004. (EC)

Account Numbers Confidential Clarifications

S.L. 2004-203, Sec. 59 ([HB 281](#), Sec. 59) amends G.S. 163-278.7(b)(7) to clarify that any account number included in any report required to be filed with the board under Article 22A of Chapter 163, Regulating Contributions and Expenditures in Political Campaigns, and filed after March 1, 2003, must be kept confidential. The "board" is the State Board of Elections for candidates for State, legislative, and judicial offices and the county or municipal board of elections for candidates for county and municipal offices.

This section became effective January 1, 2003. (EC)

Judicial Campaign Reform Clarifications

S.L. 2004-203, Sec. 60 ([HB 281](#), Sec. 60) amends the Judicial Campaign Reform Act to clarify the criteria that the State Board of Elections must use in establishing guidelines for permissible expenditures of public campaign funds. The act requires that the State Board of

Elections differentiate expenditures that reasonably further a candidate's campaign, from expenditures for personal use that would be incurred in the absence of the candidacy.
This section became effective August 17, 2004. (EC)

Studies

New/Independent Studies/Commissions

Electronic Voting systems Study Commission

S.L. 2004-161, Part XII ([SB 1152](#), Part XII) establishes the Electronic Voting Systems Study Commission. The Commission is to study whether direct record electronic (DRE) voting systems should be prohibited in North Carolina unless each unit of the system produces a voter-verifiable paper record that is suitable for a recount or a manual audit and that is equivalent or superior to the paper record produced by a paper ballot system. The Commission will include nine members: four appointed by the President Pro Tempore of the Senate, four appointed by the Speaker of the House, and the Executive Director of the State Board of Elections. The President Pro Tempore's appointments must include a county commissioner, a county election director, and a person who has been an active advocate on the issue of prohibiting DRE equipment without voter-verifiable paper records. The Speaker's appointment must include a member of the State Board of Elections, a member of a county board of elections, and an expert on computer security. The Commission is required to report to the 2005 General Assembly when it convenes. Upon making its report, the Commission will terminate.

This section became effective August 2, 2004. (BG)

For a complete list of the studies and reports authorized by the 2004 Session of the 2003 General Assembly, please refer to the Appendix contained in this publication.

Chapter 7

Courts, Justice and Corrections

Brenda Carter (BC), Tim Hovis (TH), and Hal Pell (HP)

Enacted Legislation

Involuntary Commitment Warrant Classification

S.L. 2004-23 ([HB 1366](#)) amends several statutes related to involuntary commitment in Chapter 122C of the General Statutes, to clarify that a custody order related to involuntary commitment that is issued by a clerk of court, magistrate, or court is valid throughout the State.

This act became effective June 25, 2004. (BC)

Mental Health Treatment Courts

S.L. 2004-124, Sec. 10.27 ([HB 1414](#), Sec. 10.27) directs the Administrative Office of the Courts (AOC) to establish pilot programs in judicial districts 15B (Chatham), 26 (Mecklenburg), and 28 (Buncombe), that add a mental health treatment component to the existing drug treatment courts in those districts. The pilot programs will expand those courts into therapeutic court programs aimed at providing treatment to repeat adult offenders with needs for either mental health or substance abuse services. The AOC is to collaborate with the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, on a plan for the structure of the court process, treatment services provided by area authorities or county programs and other appropriate mental health service providers, and administration of the pilot programs. The AOC is required to report to specified appropriations committees by March 1, 2005, on the implementation of the therapeutic treatment court pilot programs and the feasibility and desirability of expanding the existing drug treatment court program into a statewide therapeutic court program.

Funds appropriated for the 2004-2005 fiscal year include: (i) \$36,161 to AOC to cover administrative costs and \$20,000 to the Judicial Department for obtaining an independent evaluation of the effectiveness of the pilot programs and (ii) \$137,940 to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for mental health treatment services to repeat adult offenders within the targeted population for mental health, developmental disabilities, and substance abuse services. A county may appropriate county or other non-State funds to expand mental health services to adult repeat offenders served by the pilot programs.

This section became effective July 1, 2004. (BC)

Collection of Worthless Check Funds

S.L. 2004-124, Sec. 14.2 ([HB 1414](#), Sec. 14.2) authorizes the Judicial Department to use up to \$500,000 in receipts collected from the Worthless Check Program to create up to 10 positions in district attorneys' offices that are establishing or expanding programs for the collection of worthless checks. The Judicial Department is to report to specified appropriations subcommittees of the General Assembly on implementation of the expansion by March 1, 2005.

This section became effective July 1, 2004. (BC)

Plan to Continue Drug Court Services

S.L. 2004-124, Sec. 14.2B ([HB 1414](#), Sec. 14.2B) directs the Administrative Office of the Courts (AOC) to develop a plan to continue providing drug treatment court services in districts currently offering those services through time-limited non-State funding. This plan is to include a long-range plan for provision of drug treatment court services in any district where feasible and needed. The AOC is to report on this plan to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by March 1, 2005.

This section became effective July 1, 2004. (BC)

Office of Indigent Defense Services/Expansion Funds/ Juvenile Defender

S.L. 2004-124, Sec. 14.3 ([HB 1414](#), Sec. 14.3) authorizes the Office of Indigent Defense Services to use up to \$1,250,637 in appropriated funds for the expansion of existing offices currently providing legal services to the indigent population under the oversight of the Office of Indigent Defense Services. Prior to using funds for this purpose, the Office of Indigent Defense Services must report to the Chairs of the House and the Senate Appropriations Subcommittees on Justice and Public Safety on the proposed expansion.

The Office of Indigent Defense Services is also authorized to use up to \$177,500 in appropriated funds for the creation of an Office of the Juvenile Defender.

This section became effective July 1, 2004. (BC)

Establish Public Defender's Offices in the First and Tenth Defender Districts

S.L. 2004-124, Sec. 14.4 ([HB 1414](#), Sec. 14.4) establishes an office of public defender in the First Defender District (Camden, Chowan, Currituck, Dare, Gates, Pasquotank, and Perquimans) effective July 1, 2004; \$600,000 is appropriated to establish the office. An office of public defender is established in the Tenth Defender District (Wake) effective July 1, 2005. (BC)

Pilot Program for Provision of Courtroom Testimony of Lab Analysts by Videoconference/Study Feasibility of Statewide Program

S.L. 2004-124, Sec. 14.5 ([HB 1414](#), Sec. 14.5) directs the Administrative Office of the Courts (AOC) to conduct a pilot program in Superior Court District 27B (Cleveland County) for the provision of State Bureau of Investigation (SBI) lab analyst testimony by videoconference, and authorizes lab analysts with the SBI to provide courtroom testimony by means of videoconferencing to courtrooms in Superior Court District 27B for purposes of participating in the pilot project. The Judicial Department is directed to use up to \$93,229 for the 2004-2005 fiscal year for equipment and other expenses to conduct the pilot program. The Department of Justice is directed to use up to \$48,450 for equipment, set-up charges, telecommunication charges, and other expenses associated with providing lab analyst testimony by videoconference from the SBI laboratory.

The Judicial Department, in consultation and cooperation with the Department of Justice, will study the feasibility of statewide implementation of the program, determine the most efficient and cost-effective means of providing remote testimony, and agree upon the appropriate equipment needed for the provision of testimony in that manner. The Departments will report

their findings and recommendations to designated Appropriations Committees by January 1, 2005.

This section became effective July 1, 2004. (BC)

Additional Superior Court Judges, District Court Judges, and Assistant District Attorneys

S.L. 2004-124, Sec. 14.6 ([HB 1414](#), Sec. 14.6) provides for additional superior court judges, district court judges, and assistant district attorneys to enhance enforcement of domestic violence laws, prosecution of methamphetamine cases, and enforcement of other recent changes in criminal penalties.

Effective December 1, the act authorizes the Governor to appoint a special superior court judge to serve a term expiring five years from the date the judge takes office.

The act provides for one additional resident superior court judge in Superior Court District 3B (Carteret, Craven, Pamlico) and in Superior Court District 15B (Orange Chatham). The two resident superior court judges will be appointed by the Governor to serve until December 31, 2006; successors to the judges will be elected in the 2006 election.

The act provides for an additional district court judge in District 5 (New Hanover, Pender), District 17B (Stokes, Surry), District 21 (Forsyth), and District 29 (Henderson, McDowell, Polk, Rutherford, Transylvania). The new district court judge in District 17B will be elected in the 2004 general election to serve a 4-year term beginning December 6, 2004; the Governor will appoint the new district court judges in the other three districts, and their terms will begin December 15, 2004. Successors to the three appointed district court judges will be elected in the 2006 general election. The statutory provisions authorizing the additional district court judgeships became effective July 20, 2004.

The act provides for additional assistant district attorneys in the following Prosecutorial Districts: District 1 (Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans), District 2 (Beaufort, Hyde, Martin, Tyrrell, Washington), District 7 (Edgecombe, Nash, Wilson), District 9 (Franklin, Granville, Vance, Warren), District 10 (Wake), District 13 (Bladen, Brunswick, Columbus), District 16B (Robeson), District 18 (Guilford), District 25 (Burke, Caldwell, Catawba), District 26 (Mecklenburg), District 27B (Cleveland, Lincoln), District 28 (Buncombe), District 30 (Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain).

Except as noted, this section becomes effective December 1, 2004. (BC)

Additional Investigatorial Assistant

S.L. 2004-124, Sec. 14.7 ([HB 1414](#), Sec. 14.7) authorizes the district attorney in Prosecutorial District 16A (Scotland, Hoke) to hire one investigatorial assistant.

This section becomes effective January 1, 2005. (BC)

Reduce Backlog of Rape Kits/Admissibility of Forensic Evidence

S.L. 2004-124, Sec. 15.2 ([HB 1414](#), Sec. 15.2) adds several provisions addressing the analysis of forensic evidence and the backlog of rape kits currently held in storage by local law enforcement.

Section 15.2(c) adds a new provision to the General Statutes dealing with the admissibility of a forensic analysis in a criminal prosecution. This section provides that a laboratory report of a written forensic analysis, including a DNA analysis, that is sworn to and signed by the person performing the analysis is admissible in evidence without the testimony of the analyst. To be admissible, the analysis, including the analyses and typing results of DNA

samples, must be performed in accordance with the rules or procedures adopted by the State Bureau of Investigation (SBI), or by a laboratory certified by the American Society of Crime Laboratory Directors (ASCLD). The analyst must complete a sworn affidavit attached to the laboratory report stating the following:

- That he or she is qualified by education, training, and experience to perform the analysis;
- The name and location of the laboratory where the analysis was performed;
- That performing the analysis is part of that person's regular duties; and
- That the tests were performed in accordance with established and accepted ASCLD standards while in the custody of the laboratory.

The affidavit constitutes prima facie evidence of the person's qualifications and must be provided to the investigating officer and district attorney.

The district attorney must serve a copy of the laboratory report and affidavit on the defendant no later than five business days after receiving the report and affidavit, or 30 business days before any proceeding in which the report may be used, whichever occurs first.

Upon receiving the report, the defendant has 15 business days to file a written objection to the use of the report. If the defendant fails to file a written objection, the report and affidavit may be admitted in evidence without the testimony of the analyst, subject to a ruling otherwise by the presiding judge.

Section 15.2(c) becomes effective December 1, 2004.

Sections 15.2(a), (b) and (d) make several directives to the Department of Justice. Section 15.2(a) provides that, of the monies appropriated to the Department of Justice, \$250,000 must be used to contract with private entities to reduce the backlog of rape kits in storage as of July 1, 2004. The Department is also required to maximize the use of federal grant funds to expedite the elimination of this backlog.

Section 15.2(b) requires the Department to submit a report by May 1, 2005 to the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety on the number of rape kits analyzed by private entities and the number of analyses resulting in arrests or convictions.

Section 15.2(d) requests the Department to hire only non-sworn personnel to fill vacant positions in the SBI laboratory for which regular duties do not include serving warrants, responding to crimes prior to the crime scene being secured, or entering hazardous situations that may require the use of force, unless there is compelling reason to employ sworn agents in these positions. No less than 30 days prior to filling these positions with sworn agents, the Department is required to consult with the Joint Legislative Commission on Governmental Operations and report to the Chairs of the House and Senate Appropriations Committees and the Appropriations Subcommittees on Justice and Public Safety. The Department is not prevented from promoting sworn personnel who were hired prior to July 1, 2004 to these positions.

Sections 15.2 (a), (b) and (d) became effective July 1, 2004. (TH)

State Funds May be Used as Federal Grant Matching Funds

S.L. 2004-124, Sec. 16.1 ([HB 1414](#), Sec. 16.1) extends a provision originally enacted in 2003 to provide that funds appropriated to the Department of Juvenile Justice and Delinquency Prevention for the 2004-2005 fiscal year may be used as matching funds for the Juvenile Accountability Incentive Block Grants. The Office of State Budget and Management, the Governor's Crime Commission, and the Department of Juvenile Justice and Delinquency Prevention must report to the Appropriations Committees of the Senate and House and the Joint Legislative Commission on Governmental Operations prior to the allocation of any federal funds. The report must identify the amount of funds to be received for the 2004-2005 fiscal year, the amount of funds anticipated for the 2005-2006 fiscal year, and the allocation of funds by program and purpose.

This section became effective July 1, 2004. (TH)

Planning for New Youth Development Centers

S.L. 2004-124, Sec. 16.3 ([HB 1414](#), Sec. 16.3) requires the Department of Juvenile Justice and Delinquency Prevention and the Department of Administration, State Construction Office to continue planning and design for a maximum of 512 youth development center beds. A final plan must be submitted to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, the Chairs of the House and Senate Appropriations Committees, and the Chairs of the House and Senate Appropriations Subcommittees by November 1, 2004.

The plan must include the following:

- The recommended number of facilities and beds, including plans for up to 512 beds at 13 sites, and alternative plans for 512 beds at fewer sites;
- The project schedule for the new facilities;
- A detailed schematic for a prototype facility;
- A facility staffing plan, including the number of positions by job class, the unit cost per position, and job descriptions of the positions;
- A detailed transition plan for recruiting and establishing new positions and converting current positions;
- The recommended site locations;
- A comparison of the cost of constructing and operating a center in North Carolina to the costs in other states;
- A description of major facility programs;
- An explanation of security components; and
- Recommendations for new initiatives to provide community-based programs that will reduce center populations.

The Department of Administration and the Department of Juvenile Justice and Delinquency Prevention may not solicit bids for construction of new facilities until either February 1, 2005, or at least 30 days after submission of the plan, whichever is later.

The Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee must report to the 2005 General Assembly on its recommendations for new centers.

This section became effective July 1, 2004. (TH)

Youth Development Center Staffing

S.L. 2004-124, Sec. 16.4 ([HB 1414](#), Sec. 16.4) makes changes addressing the staffing of Youth Development Centers.

The section authorizes the Department of Juvenile Justice and Delinquency Prevention, with the approval of the Office of State Personnel and the Office of State Budget and management, to:

- Reclassify vacant positions and use salary reserves to establish up to 18 new positions in new job positions at the Stonewall Jackson and the Samarkand Youth Development Centers.
- Use salary reserves to reclassify up to 68 existing positions to 58 youth counselors and 10 youth counselor supervisors.

The section also requires the Department of Juvenile Justice and Delinquency Prevention to prepare a long-range plan establishing a therapeutic staffing model for use in all youth development centers prior to establishing new positions or reclassifying positions under the provision above. The plan must include the following:

- A report on the proposed implementation of the 18 new positions at the Stonewall Jackson and the Samarkand Youth development Centers.
- An outline of the cost and benefits of the proposed model for juveniles in Department custody and a summary of available research regarding the use of therapeutic staffing models.

- An action plan and time line for reclassifying current counselor technicians, behavioral specialists, cottage parents or other positions to youth counselor or youth counselor supervisor positions, or other positions that are progressive steps towards youth counselor positions.
- Job specifications, salary grades, and operating costs for each new job class.
- Recommended staffing for and qualifications of teachers and teacher assistants and evaluation standards for these teachers in youth development centers.

Finally, the section requires the Department to report by December 1, 2004, to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, the Chairs of the House and Senate Appropriations Committees, and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety on the long range plan required under this section and the costs for statewide implementation of the therapeutic staffing model.

This section became effective July 1, 2004. (TH)

Juvenile Recidivism

S.L. 2004-124, Sec. 16.5 ([HB 1414](#), Sec. 16.5) requires the North Carolina Sentencing and Policy Advisory Commission to prepare biennial reports on juvenile recidivism in the State. The Commission must consult with the Department of Juvenile Justice and Delinquency Prevention and the Fiscal Research Division of the General Assembly to develop methodology for measuring juvenile recidivism and must report the proposed methodology to the 2005 General assembly by March 1, 2005. A timeline for completing an initial analysis and any proposed legislation or recommendations must be included in the report.

This section became effective July 1, 2004. (TH)

Education of Juveniles Committed to the Department of Juvenile Justice and Delinquency Prevention

S.L. 2004-124, Sec. 16.8 ([HB 1414](#), Sec. 16.8) directs the Department of Juvenile Justice and Delinquency Prevention, in consultation with the State Board of Education and the Community Colleges System Office, to report to the Chairs of the House and Senate Appropriations Committees and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety on curricula, education plans, and alternative education programs for juveniles committed to the Department. The report must be submitted on or before March 1, 2005.

This section became effective July 1, 2004. (TH)

Shift Pay for Security Staff

S.L. 2004-124, Sec. 17.1 ([HB 1414](#), Sec. 17.1). See **Labor and Employment**.

Department of Correction Security Staffing Formulas

S.L. 2004-124, Sec. 17.2 ([HB 1414](#), Sec. 17.2). See **Labor and Employment**.

Federal Grant Matching Funds

S.L. 2004-124, Sec. 17.4 ([HB 1414](#), Sec. 17.4) authorizes the Department of Correction to use up to \$650,000 in the 2004-2005 fiscal year to provide funds needed as a State match to receive federal grants. Prior to using State funds, the Department must report to the Chairs of

the Senate and House Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the use of these monies.

Of the \$650,000 authorized under this section, the Department may use up to \$290,000 in the 2004-2005 fiscal year to provide the State match needed for the following federal grants:

- Enhanced Offender Information for Law Enforcement to provide new software to facilitate recovery of prison escapees;
- Job Start II to assist offenders with securing and retaining jobs; and
- Security Threat Group Management Unit to establish nine time-limited positions and funding to respond to security threat groups (gangs) in prison and in communities.

This section became effective July 1, 2004. (TH)

Energy Committed to Offenders/Contract and Report

S.L. 2004-124, Sec. 17.5 ([HB 1414](#), Sec. 17.5) deletes a requirement that Energy Committed to Offenders, Inc., a group authorized under existing law to provide prison beds for minimum security female inmates, report to the Joint Legislative Commission on Governmental Operations on the rearrest rate and the return to prison rate for inmates participating in the program. The group must continue to report under existing law on the annual cost per inmate and the average daily inmate population compared to bed capacity.

This section became effective July 1, 2004. (TH)

Inmate Custody and Classification System

S.L. 2004-124, Sec. 17.6 ([HB 1414](#), Sec. 17.6) requires the Department of Correction (DOC) to review the current inmate custody and classification system. The primary focus is on the custody classification instrument, and the policies and practices regarding the overriding of an assessed custody level. Specific focus should be on determining the effectiveness of the custody classification instrument, analysis of the current override rate by custody level, and assessment of any need for changes in the override policy. The DOC must report its findings and recommendations to the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety no later than April 15, 2005.

This section became effective July 1, 2004. (HP)

Confidentiality of Identities of Persons Involved with State Executions

S.L. 2004-124, Sec. 17.6A ([HB 1414](#), Sec. 17.6A). See **Criminal Law and Procedure**.

Provide that Columbus County Prison Shall be Constructed with Same North Carolina State Building Code Under Which the Prisons in Scotland, Anson, Alexander, Greene, and Bertie Counties were Constructed

S.L. 2004-124, Sec. 17.6B ([HB 1414](#), Sec. 17.6B). See **State Government**.

Reports On Nonprofit Programs

S.L. 2004-124, Sec. 17.7 ([HB 1414](#), Sec. 17.7) amends the reporting requirement for Harriet's House to include the number of clients who were rearrested within three years of successfully completing the program.

This section became effective July 1, 2004. (HP)

Electronic Monitoring Request For Proposals

S.L. 2004-124, Sec. 17.8 ([HB 1414](#), Sec. 17.8) requires the Department of Correction (DOC) to issue a Request for Proposal (RFP) for the electronic house arrest and electronic monitoring programs. The RFP must require separate bids for equipment, maintenance, and technical support, plus one RFP that would include all of the foregoing items plus monitoring services.

The DOC must also issue an RFP for passive and active Global Positioning devices for use as an intermediate sanction. The RFP must require separate bids for equipment, maintenance, and technical support, plus one RFP that would include all of the foregoing items plus monitoring services.

The DOC must report the responses to the RFPs by March 1, 2005, to the Chairs of the House of Representatives and Senate Appropriations Committees, and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety.

This section became effective July 1, 2004. (HP)

Report on Inmates Eligible For Parole

S.L. 2004-124, Sec. 17.9 ([HB 1414](#), Sec. 17.9) adds a new reporting requirement for the Post-Release Supervision and Parole Commission. The Commission must report the projected number of parole-eligible inmates to be paroled or released by the end of each of the next five fiscal years, beginning with the 2004-2005 fiscal year.

This section became effective July 1, 2004. (HP)

Post-Release Supervision And Parole Commission/Report On Staffing Reorganization And Reduction

S.L. 2004-124, Sec. 17.10 ([HB 1414](#), Sec. 17.10) requires the Post-Release Supervision and Parole Commission to report on the plan for restructuring the organization and operation of the Commission, to include:

- The number of parole reviews, paroles, and post-release supervision reviews conducted per analyst per year for the past five years; and
- The percentage of each analyst's time that was devoted to post-release supervision cases during each of the past five years.

The act also requires the North Carolina Sentencing and Policy Advisory Commission to review the post-release supervision sentencing system and alternatives for transferring the responsibility for administering post-release supervision to another division within the Department of Correction, the Judicial Department, or both.

The Commission is required to make written recommendations to the Chairs of the House of Representatives and Senate Appropriations Committees, the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, and the

Joint Legislative Commission on Governmental Operations. The recommendations are due no later than March 1, 2005.

This section became effective July 1, 2004. (HP)

Criminal Justice Partnership Program

S.L. 2004-124, Sec. 17.11 ([HB 1414](#), Sec. 17.11) amends provisions on the oversight of the Criminal Justice Partnership Program. The Program allows for State grants to participating counties that may be used for correction programs, including residential programs and day reporting centers. The act amends the reporting oversight provision to require the Department of Correction to evaluate programs based upon evaluation standards designed by the Division of Community Corrections.

The section also provides that program funding for the 2004-2005 fiscal year is established at the same amounts as for the 2003-2004 fiscal year. The Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee must review the Partnership Program funding formula and make any recommendations for changes to the 2005 General Assembly.

This section became effective July 1, 2004. (HP)

Collection of Offender Fees

S.L. 2004-124, Sec. 17.12 ([HB 1414](#), Sec. 17.12) amends the reporting requirements for the collection rate of offender fees for probationers and for nonprobationers sentenced to community service. The Department of Correction (DOC) and the Judicial Department are required to report on the following for each judicial district:

- The total offender fees collected;
- The total fines and restitution collected;
- The number of offenders ordered to supervised probation;
- The number and percentage of supervised probation cases in which no payment was made;
- The number and percentage of unsupervised probation cases in which no payment was made; and
- Whether the district enters offender information into the financial management system for all offenders required to make payments, or whether the data is entered only when the offender makes a payment.

The Judicial Department must use new deputy clerk positions to ensure that offender accounts payable information is entered into the financial management system in a reasonable time period after sentencing. The Department must also review the use of its financial management system to determine whether there are methods of streamlining or expediting the entry of offender accounts payable information into the system.

The DOC and the Judicial Department must report by March 1, 2005, to the Chairs of the House of Representatives and Senate Appropriations Committees, and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety. The report must include the success of efforts to improve the collection rate of offender fees for probationers and for non-probationers sentenced to community service and on any recommendations for statutory or procedural changes that will improve collections.

This section became effective July 1, 2004. (HP)

Victims Compensation/Medical Treatment

S.L. 2004-124, Sec. 18.1 ([HB 1414](#), Sec. 18.1) amends the North Carolina Crime Victims Compensation Act. The term "allowable expense" is re-defined to provide a limit of sixty-six and

two-thirds percent (66 2/3%) of the amount usually charged by the provider for treatment or care. A provider accepting compensation under the Act agrees that the compensation is payment in full for the treatment or care, and shall not hold a claimant liable for any costs in addition to the amount of the allowable expense.

This section became effective July 1, 2004. (HP)

Report on Viper System

S.L. 2004-124, Sec. 18.4 ([HB 1414](#), Sec. 18.4) provides that the Criminal Justice Information Network (CJIN) Governing Board and the Department of Crime Control and Public Safety must report on the Voice Interoperability Plan for Emergency Responders (VIPER) to the Joint Legislative Transportation Oversight Committee and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee. The report shall include:

- A detailed plan for the VIPER system;
- The projected costs to the State for the system;
- The revenue sources to fund the system;
- The amount of total State funding, including Highway Fund support, recommended by the CJIN Board and the Department; and
- The potential cost to, and any other impact on, county and local governments.

The report is due on or before December 1, 2004.

This section became effective July 1, 2004. (HP)

Continuing Education Requirements for Bail Bondsmen

S.L. 2004-124, Sec. 21.3 ([HB 1414](#), Sec. 21.3). See **Occupational Boards and Licensing**.

Modify Youth Facility Debt Authorization

S.L. 2004-126 ([HB 1795](#)). See **Finance**.

Adjust Court Jurisdiction/Amend Magistrate Term

S.L. 2004-128, Secs. 1, 2, and 19 ([SB 577](#), Secs. 1, 2, and 19) makes changes to the General Statutes in several subject areas. Sections of the act that are relevant to this Chapter are summarized below. At the end of this summary are cross-references to sections of the act that are summarized in other Chapters.

- Section 1 increases the amount in controversy in small claims actions from four thousand dollars (\$4,000) to five thousand dollars (\$5,000).

This provision becomes effective October 1, 2004.

- Section 2 provides that the Superior Court has exclusive jurisdiction to hold probation revocation hearings where the defendant had plead guilty or no contest to a felony charge in District Court. If the State and the defendant agree, the District Court has jurisdiction to hold the probation revocation hearing.

This section became effective July 26, 2004.

- Section 19 provides that the number of magistrates in a county, within the quota set by law, is determined by the Administrative Office of the Courts after consultation with the chief district court judge for the district in which the county is located. A magistrate's initial term is two years, and subsequent terms are four years.

This section becomes effective on January 1, 2005, if the proposed amendment to the State constitution providing for an extension of the magistrate's terms has been approved by the voters.

Section 3 of the act concerns adding a drug treatment court program as intermediate punishment. For additional information, see **Criminal Law and Procedure**.

Sections 4 and 5 of the act concern the notice of a mechanics lien for storage charges for vehicles held under the driving while impaired forfeiture laws. For additional information, see **Civil Law and Procedure**.

Section 6 of the act authorizes the clerk of court to enter judgments by default. For additional information, see **Civil Law and Procedure**.

Sections 7 through 14 of the act concern termination of certain parental rights of persons convicted of first or second degree rape. For additional information, see **Criminal Law and Procedure**.

Section 15 of the act concerns prohibiting the threatening of a witness with the assertion or denial of parental rights. For additional information, see **Criminal Law and Procedure**.

Sections 16 through 18 of this act concern an amendment to the North Carolina Constitution to extend the magistrate term to four years. For additional information, see **Constitution and Elections**. (HP)

Compensation of Trustees/Other Fiduciaries

S.L. 2004-139 ([SB 470](#)). See **Property, Trusts and Estates**.

Venue for Juvenile Hearings

S.L. 2004-155 ([HB 1665](#)) provides that when a proceeding in which a juvenile is alleged to be delinquent or undisciplined is commenced in a district other than the juvenile's residence, and the juvenile is in residential treatment or foster care in that district, they must also be held in that district. The presiding judge may transfer the dispositional hearing to another district if the judge finds that a transfer would serve the ends of justice or is in the best interests of the juvenile.

This act becomes effective October 1, 2004. (TH)

Locksmith Criminal History Record Check Fee

S.L. 2004-177 ([SB 1128](#)). See **Occupational Boards and Licensing**.

Increase Methamphetamine Penalties

S.L. 2004-178 ([SB 1054](#)). See **Criminal Law and Procedure**.

Strengthen Domestic Violence Laws

S.L. 2004-186, Parts II, IV, XII, and XX ([HB 1354](#), Parts II, IV, XII, and XX) make changes to domestic violence training for law enforcement, and to legal services for victims of domestic violence. The Parts also provide for a study of misdemeanor offense classifications and specify training for judges and court personnel. The act is divided into the Parts listed below.

Part I: Domestic Violence Offender Treatment.

Part II: Domestic Violence Training for Law Enforcement.

Part III: Study of Anti-Violence Education in Schools and Training for School Personnel.

Part IV: Legal Services for Victims of Domestic Violence.

Part V: Domestic Violence Advocates on Child Fatality Task Force.

Part VI: Study of Mental Health Services for Domestic Violence Victims.

Part VII: Study of CLE Credit for Pro Bono Legal Representation.

Part VIII: Domestic Relationship Aggravating Factor.
Part IX: Create Strangulation Offense.
Part X: Amend Habitual Misdemeanor Assault Statute.
Part XI: Domestic Violence Offense Tracking.
Part XII: Study of Misdemeanor Offense Classifications.
Part XIII: Warrantless Arrest for Violation of Pretrial Release Conditions.
Part XIV: Conform State Firearms Law to Federal Law.
Part XV: Specifically Allow Cross Warrants.
Part XVI: Clarify Nurse's Privilege.
Part XVII: Temporary Child Custody in Domestic Violence Hearings.
Part XVIII: Prohibit Employment Discrimination Against Domestic Violence Victims.
Part XIX: Privacy for 50B Intake.
Part XX: Training for Judges and Court Personnel.
See **Children and Families** for the summary of the entire act.

Excessive Speeding/Limited Driving Privilege

S.L. 2004-919, Sec. 13(a) ([SB 1225](#), Sec. 13(a)) allows district court judges, instead of resident superior court judges, to issue limited driving privileges to persons whose drivers licenses are suspended in this State for an out-of-state speeding violation of more than 15 miles per hour above the speed limit and in excess of 55, or in excess of 80 miles per hour.

This section became effective August 17, 2004. (TH)

Workers Compensation Subrogation Determination

S.L. 2004-199, Sec. 13(b) ([SB 1225](#), Sec. 13(b)) allows any presiding judge in the district where the cause of action arose or the injured employee resides to sign a subrogation order.

This section became effective August 17, 2004. (TH)

Local Confinement Facility Reimbursement for Inmate Expenses

S.L. 2004-203, Sec. 54 ([HB 281](#), Sec. 54), as amended by S.L. 2004-199, Sec. 48 ([SB 1225](#), Sec. 48), requires local confinement facilities to submit an invoice to the Department of Correction for reimbursement of the cost of providing food, clothing, personal items, supervision and medical expenses. The invoice must be submitted to the Department within 90 days of the date of commitment by the sentencing court.

Existing law provided for the reimbursement of these expenses. However, these sections require that, to receive reimbursement, the local confinement facility must submit an invoice within the required time period of 90 days.

S.L. 2004-203, Sec. 54 ([HB 281](#), Sec. 54) became effective August 17, 2004. S.L. 2004-199, Sec. 48 ([HB 281](#), Sec. 54) became effective August 17, 2004. (TH)

Studies

Legislative Research Commission

Fire Safety in Local Confinement Facilities Study

S.L. 2004-161, Sec. 2.1(1)a ([SB 1152](#), Sec. 2.1(1)a) authorizes the Legislative Research Commission to study fire safety in local confinement facilities. The Commission may study this topic and may report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

This section became effective August 2, 2004. (TH)

Referrals to Existing Commissions/Committees

Mediation Funding Study

S.L. 2004-124, Sec. 14.2A ([HB 1414](#), Sec. 14.2A) directs the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee to study the funding formula used for the provision of State funding to community mediation centers.

The Committee is to report its findings and any recommendations to the 2005 General Assembly.

This section became effective July 1, 2004. (BC)

Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee Studies

S.L. 2004-161, Part XXIX ([SB 1152](#), Part XXIX) authorizes the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee to study the following issues:

- The issue of persons who escape from the custody of the Department of Juvenile Justice and Delinquency Prevention and the appropriate sanctions for these persons, including a statutory scheme through which both juveniles and persons who are over the age of 16 will be punished for an escape.
- The State's current system of structured sentencing compared with the federal system including a comparison of the role and responsibilities of the State Commission to its federal counterpart, the effectiveness of the state and federal systems in adjusting the sentencing grid and factors considered to allow appropriate flexibility for the court, and the effect of structured sentencing at the State and federal level on the number of prison beds and whether periodic adjustments of the sentencing structure provide a more equitable and economic criminal justice system.
- The confinement of inmates who are irreversibly, physically incapacitated due to chronic illness or disability.

The Committee must report its findings no later than the convening of the 2005 General Assembly.

This section became effective August 2, 2005. (TH)

North Carolina Sentencing and Policy Advisory Commission Study

S.L. 2004-161, Part XLIV ([SB 1152](#), Part XLIV) directs the North Carolina Sentencing and Policy Advisory Commission to study the North Carolina Structured Sentencing Act in light of the United States Supreme Court's decision in [Blakely v. Washington](#).

The Commission must report its findings, including any proposed legislation, to the 2005 General Assembly upon its convening.

This section became effective August 2, 2004. (TH)

Referrals to Departments, Agencies, Etc.

Study Magistrate Funding

S.L. 2004-124, Sec. 14.1(b) ([HB 1414](#), Sec. 14.1 (b)) directs the Administrative Office of the Courts (AOC) to evaluate the need for magistrates across the State and to reexamine the caseload formula it uses to assign priority to that need, considering county population, warrant workload, and automation levels.

The AOC is to report its findings to the General Assembly by March 15, 2005.

This section became effective July 1, 2004. (BC)

Pilot Program for Provision of Courtroom Testimony of Lab Analysts by Videoconference/Study Feasibility of Statewide Program

S.L. 2004-124, Sec. 14.5 ([HB 1414](#), Sec. 14.5). See [Enacted Legislation](#) this chapter.

Study Cost of DCI-PIN System

S.L. 2004-124, Sec. 15.1 ([HB 1414](#), Sec. 15.1) directs the Office of State Budget and Management, in consultation with the Department of Justice, to study the cost of the DCI-PIN system. As noted in this section, the DCI-PIN system allows State and local law enforcement agencies to access criminal information from desktop terminal and mobile laptops installed in vehicles. The study must include an assessment of operational, personnel, and overhead cost on a per-unit basis and a survey of funding sources used by other states for similar systems.

The Office of State Budget and Management must report its findings to the Chairs of the Senate and House Appropriations Committees, the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety, and the Fiscal Research Division on or before March 1, 2005.

This section became effective July 1, 2004. (TH)

Electronic Monitoring of Juveniles

S.L. 2004-124, Sec. 16.6 ([HB 1414](#), Sec. 16.6) directs the Department of Juvenile Justice and Delinquency Prevention, in consultation with the Fiscal Research Division of the General Assembly, to study the use of electronic monitoring programs and electronic house arrest programs for juvenile offenders. The study must include the following:

- Information on current usage and available capacity of these programs by district;
 - The criminal histories of juveniles in these programs and a comparison of criminal histories with juveniles committed to youth development centers;
 - An analysis of the costs and benefits of passive and active global positioning systems for monitoring juvenile offenders;
 - A comparison of electronic monitoring programs for juvenile offenders in other states; and
 - Recommendations on ways to expand the use of electronic monitoring programs.
- This section became effective July 1, 2004. (TH)

Administrative Office of the Courts/Department of Correction Study

S.L. 2004-161, Part XXVI ([SB 1152](#), Part XXVI) directs the Administrative Office of the Courts and the Department of Correction to jointly study the processes for the collection and payment of restitution and to determine methods for reducing the number of restitution payments that go unclaimed.

The Administrative Office of the Courts and the Department must report their findings to the 2005 General Assembly upon its convening.

This section became effective August 2, 2004. (TH)

North Carolina Central University Study

S.L. 2004-161, Part XLVIII ([SB 1152](#), Part XLVIII) authorizes North Carolina Central University, in conjunction with its Department of Sociology, to study whether there is an overrepresentation of minority youth in youth development centers. If the study is undertaken, the University must do the following:

- Compile and analyze data of youth development centers commitments for the years 1992 through 2002.
- Survey all programs that serve as prevention programs and alternatives to commitment.
- Assess the availability and accessibility of prevention programs and alternative programs in all 100 counties in the State, including the percentage of minority and at-risk youth placed in programs that serve as alternatives to commitment.
- Provide test data for variables contributing to minority youth overrepresentation in youth development centers, including data related to the court system's role in committing juveniles or placing them in alternative programs.

If the study is undertaken, the University must present its findings, including recommendations and legislative proposals to the Department of Juvenile Justice and Delinquency Prevention and the General Assembly on or before January 15, 2005.

This section became effective August 2, 2004. (TH)

For a complete list of the studies and reports authorized by the 2004 Session of the 2003 General Assembly, please refer to the Appendix contained in this publication.

Chapter 8

Criminal Law and Procedure

Brenda Carter (BC), Trina Griffin (TG), Hal Pell (HP), Jeff Hudson (JH),
Wendy Graf Ray (WGR), Walker Reagan (WR), and Susan Sitze (SS)

Enacted Legislation

Increase Penalty – Transit Operator Assault

S.L. 2004-26 ([HB 1373](#)) increases the classification for an assault of a private contractor employed as public transit system bus driver/operator from a Class 2 misdemeanor to a Class A1 misdemeanor, the same penalty applied to an assault of a public employee performing the same job.

This act becomes effective December 1, 2004, and applies to offenses committed on or after that date. (BC)

Unauthorized Use of CB Equipment

S.L. 2004-72 ([HB 257](#)). See **Utilities**.

Camera Defeating License Covers illegal

S.L. 2004-79 ([HB 26](#)). See **Transportation**.

Condominium and Planned Community Clarifications – Secret Peeping Changes

S.L. 2004-109, Secs. 7 and 8 ([SB 1167](#), Secs. 7 and 8) amend the secret peeping statute to provide for a Class 1 misdemeanor for any person who secretly or surreptitiously peeps underneath or through the clothing being worn by another person, through the use of a mirror or other device, for the purpose of viewing the body, or the undergarments worn by, that other person without their consent.

These sections become effective December 1, 2004, and apply to offenses committed on or after that date.

Sections 1-6 of this act clarify the laws on the powers of condominium unit owners' associations and planned community owners' associations. For additional information on these sections, see **Property, Trusts, and Estates**. (SS)

Change Effective Date – Private Plates on Public Vehicles

S.L. 2004-124, Sec. 6.5 ([HB 1414](#), Sec. 6.5). See **Transportation**.

Confidentiality of Identities of Persons Involved With State Executions

S.L. 2004-124, Sec. 17.6A ([HB 1414](#), Sec. 17.6A) provides that identifying information of witnesses or persons designated to carry out executions is confidential and exempted from the

Public Records Act. The information is not subject to discovery in any court action, and may not be introduced into evidence. The Senior Resident Superior Court Judge for Wake County may order disclosure after making findings of fact that support a conclusion that the information is necessary for a proper administration of justice.

This section became effective July 1, 2004. (HP)

Passenger Vehicles Towing Other Vehicles to Keep Right

S.L. 2004-124, Sec. 30.6 ([HB 1414](#), Sec. 30.6). See **Transportation**.

Adjust Court Jurisdiction/Amend Magistrate Term

S.L. 2004-128, Secs. 3, 7-14, and 15 ([SB 577](#), Secs. 3, 7-14, and 15) make the following changes:

- **Drug Treatment Court Program Added as Intermediate Punishment.** – Section 3 of the act amends the law to add drug treatment court programs as an intermediate criminal punishment that a court may utilize. The drug treatment court program, previously authorized under Article 62 of Chapter 7A of the General Statutes, may include court supervision, drug testing and drug or alcohol treatment programs.

This section became effective July 26, 2004.

- **Terminate Certain Parental Rights of Persons Convicted of First or Second Degree Rape.** – Sections 7 through 14 amend the law to terminate certain parental rights of persons convicted of first or second degree rape related to a child conceived as a result of the commission of the crime. These provisions take away the defendant's rights to custody of the child and inheritance from the child. These provisions also take away the right to notice in adoption proceedings for the child and prohibit a criminal defendant from threatening a witness in the case by use of parental rights.

These sections become effective December 1, 2004.

- **Prohibit Threat of Parental Rights to Intimidate a Witness.** – Section 15 amends the law to prohibit a criminal defendant from threatening a witness in the case by use of parental rights. This section makes clarifying changes that a defendant who threatens a witness in the defendant's case with the assertion or denial of parental rights is in violation of the intimidating a witness statute. A violation is a Class H felony.

This section becomes effective December 1, 2004.

Section 1 of the act concerns increased jurisdiction by small claims court. For additional information, see **Courts, Jurisdiction and Corrections**.

Section 2 of the act concerns jurisdiction for revocation of probation for felony pleas heard in district court. For additional information, see **Courts, Justice and Corrections**.

Sections 4 and 5 of the act concern the notice of a mechanics lien for storage charges for vehicles held under the driving while impaired forfeiture laws. For additional information, see **Civil Law and Procedure**.

Section 6 of the act authorizes the clerk of court to enter judgments by default. For additional information, see **Civil Law and Procedure**.

Sections 16 through 18 of the act concern an amendment to the North Carolina Constitution to extend the magistrate term to four years. For additional information, see **Constitution and Elections**.

Section 19 of the act concerns the number, term, and appointment of magistrates. For additional information, see **Courts, Justice and Corrections**. (WR)

Require Payment of Restitution for Expunction

S.L. 2004-133 ([HB 1518](#)) requires a petitioner seeking expunction to pay any outstanding restitution orders or civil judgments representing amounts ordered for restitution before the petitioner may be granted an expunction of his record. Under prior law, a petitioner was only required to show, through affidavits, that (1) he has not been convicted of any felony or misdemeanor, other than a traffic violation, prior to the conviction in question or during the two-year period following that conviction, and (2) that he is of good character and reputation in the community in which he lives.

This act became effective September 1, 2004, and applies to petitions for expunction filed on or after that date. (TG)

Special Officers Authority/DOT Tech. Corr.

S.L. 2004-148 ([HB 1345](#)). See **Transportation**.

Clarifications Regarding Mediation

S.L. 2004-154, Secs. 3-12 ([SB 52](#), Secs. 3-12) provide changes to both mediation practices and criminal discovery procedures.

- **Statutory Discovery.** – Section 3 provides that if the parties agree, in writing, to abide by the statutory discovery procedures, then the parties need not file any requests or motions for discovery with the court.
- **Disclosure.** – Section 4 deletes the current law regarding State disclosure to the defendant. The statute is rewritten to require the State to make available to the defendant the complete files of all law enforcement and prosecutorial agencies involved in the investigation of the crimes committed or the prosecution of the defendant. The new law also:
 - Defines the term "file" to include the defendant's statements, any codefendant's statements, witness statements, investigating officer's notes, results of tests or examinations, or any other matter or evidence obtained by the State.
 - Requires the State to give notice of any expert witness that it reasonably expects to call as a trial witness.
 - Requires the State to provide copies of the expert's report of the result of any tests or examinations.
 - Requires the State to furnish a copy of the expert's opinion, and the underlying basis for the opinion.
 - Requires the State to provide the defendant, at the time of jury selection, with a written list of witnesses that the State reasonably expects to call at the trial. The State may seek a waiver of the disclosure provision if it certifies that the information may subject the witness or others to physical or substantial economic harm or coercion, or some other compelling reason why the information should not be disclosed.
- The previous law concerning the non-disclosure of internal memoranda and documents is deleted. The new provision states that the State is not required to disclose written materials drafted by the State attorneys or staff for their own use at trial, including witness examinations, voir dire questions, opening statements, and closing arguments. In addition, the following matters, to the extent that they contain opinions, theories, strategies, or conclusions of the State attorneys or staff, are exempt from disclosure: legal research or records, correspondence, reports, memoranda, or trial preparation interview notes.

The State may make voluntary disclosures, and a court is not prohibited from finding that a waiver of the non-disclosure provisions has occurred. The statute also states that the law has no effect on the State's duty to otherwise comply with federal or State constitutional disclosure requirements.

- The section amends the current law that requires the disclosure by the defendant of documents and reports of examinations and tests. The amendment requires the defendant, upon motion by the State, to provide:
 - Notice to the State of the following defenses: alibi, duress, entrapment, insanity, mental infirmity, diminished capacity, self-defense, accident, automatism, involuntary intoxication, or voluntary intoxication. The notice must be provided within 20 working days after the date the case is set for trial.
 - Notice to the State of any expert witnesses that the defendant reasonably expects to call as trial witnesses. The defendant must furnish a copy of the results of tests or examinations, the expert's opinion, and the underlying basis for the opinion.
 - Notice to the State, at the beginning of jury selection, with a written list of witnesses that the State reasonably expects to call at the trial. The State may seek a waiver of the disclosure provision if it certifies that the information may subject the witness or others to physical or substantial economic harm or coercion, or some other compelling reason why the information should not be disclosed.
- Section 7 makes a conforming change to the statute that imposes a continuing duty on the parties to make required disclosures.
- Section 8 provides that the parties may apply ex parte (without the other party present) for a court order that denies, restricts, or defers the disclosure of information. The grounds for the order include that the information would create a substantial risk to any person of physical harm, intimidation, bribery, economic reprisals, or unnecessary annoyance or embarrassment. The opposing party must receive notice that the order was entered, but without disclosure of the subject matter of the order.
- **Compliance with Discovery Provisions.** – Section 9 amends the law relating to sanctions for failing to comply with discovery provisions. The new provision states that prior to a finding that sanctions are appropriate, the court must consider the materiality of the subject matter and the totality of the circumstances surrounding the alleged failure to comply with the discovery law or any order issued by the court.
- **Insanity Defense Conforming Change.** – Section 10 makes a conforming change to the statute that provides for notice of the insanity defense by the defendant to the State.
- **Duties upon an Arresting Officer.** – Section 11 is a new provision that imposes duties upon an arresting officer. Upon arrest, a law enforcement officer must make available to the State, on a timely basis, all materials and information acquired in the course of all felony investigations. The responsibility is a continuing affirmative duty.

Sections 3 through 12 become effective October 1, 2004, and apply to cases where the trial date is set for October 1, 2004, and thereafter.

Sections 1 and 2 of this act make clarifications regarding mediation. For additional information on these sections, see **Civil Law and Procedure**. (HP)

Crime Victims Financial Recovery Assistance Act

S.L. 2004-159 ([HB 1519](#)). See **Civil Law and Procedure**.

Fortify Against Unauthorized Insurance

S.L. 2004-166 ([HB 1107](#)). See **Insurance**.

Increase Penalties for Failure to Yield

S.L. 2004-172 ([HB 965](#)). See **Transportation**.

Increase Methamphetamine Penalties

S.L. 2004-178 ([SB 1054](#)) makes the following changes to the law regarding the manufacture and distribution of methamphetamine:

- Provides that the unlawful distribution of methamphetamine that proximately results in the death of a person is second-degree murder. Under current law, the unlawful distribution of opium or cocaine proximately resulting in the death of a person is second-degree murder.
- Makes it an aggravating factor to manufacture methamphetamine in a location that endangers a child.
- Increases the criminal penalty from a Class H felony to a Class C felony for the unlawful manufacture of methamphetamine. Assuming no prior convictions, the presumptive minimum sentence for a person convicted of a Class C felony is 58-73 months active punishment. The act retains the lower offense classification for persons who violate the law by packaging or repackaging, or labeling or re-labeling methamphetamine.
- Increases the criminal penalty from a Class H felony to a Class F felony for the possession of precursor substances and adds several methamphetamine precursors. A Class F felony is punishable by an absolute minimum of 10 months intermediate punishment and an absolute maximum of 59 months active, depending on the defendant's prior record. A precursor is a substance designated by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services as being the principal compound used in the manufacture of a controlled substance.
- Imposes an enhanced sentence of an additional 24 months for conviction of manufacture of methamphetamine if the offense results in serious injury to a law enforcement officer, probation or parole officer, EMS employee, or firefighter.

The act requires the Commission for Health Services to adopt rules that establish decontamination standards for certain property used for the manufacture of methamphetamine. The act further requires owners and lessees of property used for the manufacture of methamphetamine to comply with these rules.

The act also provides immunity from civil and criminal liability for certain good faith actions of a person participating in the Methamphetamine Watch Program, such as filing a report with law enforcement or cooperating in a law enforcement investigation concerning the manufacture of methamphetamine.

The increased penalties become effective December 1, 2004, and apply to offenses committed on or after that date. After August 3, 2004, when the bill became law, the Commission of Health Services may adopt rules regarding decontamination standards for property on which methamphetamine has been manufactured. The provision requiring property owners and lessees to comply with those rules becomes effective January 1, 2005. (TG)

Gun Sale Legal with Concealed Handgun Permit

S.L. 2004-183 ([HB 817](#)) provides that a person who possesses a valid concealed handgun permit, and is a North Carolina resident, may purchase a pistol. Previous law required a

purchaser or receiver of a handgun to first obtain a license or permit from the sheriff in the county in which the purchaser or receiver resided.

This act became effective August 10, 2004. (HP)

Repeal Unconstitutional Crimes of Practicing Phrenology, Palmistry, Fortune Telling and Clairvoyance.

S.L. 2004-203, Sec. 21 ([HB 281](#), Sec. 21), repeals the crime of practicing the art of phrenology, palmistry, clairvoyance and fortune telling.

G.S. 14-401.5, a criminal statute, prohibited non-amateur phrenology, palmistry, fortune telling, or clairvoyance in 61 named counties. The statute exempted the amateur practice of those arts, provided it is done in connection with school or church socials in school or church buildings. A Superior Court in Haywood County and a District Court in Buncombe County held the statute to be a violation of the State Constitution, specifically Article II, Section 24(j) (non-statewide law regulating trade) and of Article II, Section 14 (freedom of speech). The District Court additionally found the statute violated the freedom of religion and due process protections of the U.S. and State Constitutions. The Haywood Superior Court case was *Somers v. Alexander*, 00 CVS 255 (2001) and the Buncombe District Court case was *State v. Rajaniemi*, 99-CR-8818 (1999).

This section became effective August 17, 2004. (WR)

Due Process Procedure for Destruction of Illegal Gaming Items.

S.L. 2004-199, Sec. 47 ([SB 1225](#), Sec. 47) amends the law governing the destruction and disposal of illegal gaming items. The act establishes a due process procedure to govern retention or destruction of gaming devices found to be unlawful to possess. After notice to all relevant parties, including the owner of the device, and a hearing by the court, if the court determines that the device is illegal to possess, the court may order the destruction of the device by law enforcement. If the court determines the device is not illegal to possess, the item is to be released to the lawful owner. Evidence in a criminal case may be held until the criminal matter is concluded.

This change was made in response to a federal court of appeals ruling in *Helton v. Hunt*, 302 F3rd 242 (2003), that G.S. 14-298 was unconstitutional for lack of due process.

This section becomes effective October 1, 2004. (WR)

Discharging Firearm on School Property

S.L. 2004-198 ([HB 1453](#)) makes it a Class F felony to willfully discharge a firearm on educational property. "Educational property" includes any school building or bus, school campus, grounds, recreational area, athletic field, or other property owned, used, or operated by any board of education or school board of trustees, or directors for the administration of any public or private school, university, college or community college.

This act becomes effective December 1, 2004, and applies to offenses committed on or after that date. (BC)

Strengthen Domestic Violence Laws

S.L. 2004-186, Parts VIII-XI and XIII-XV ([HB 1354](#), Parts VIII-XI and XIII-XV) make various changes to strengthen the laws against domestic violence and to provide additional assistance to domestic violence victims. The act is divided into the Parts listed below.

Part I: Domestic Violence Offender Treatment.
Part II: Domestic Violence Training for Law Enforcement.
Part III: Study of Anti-Violence Education in Schools and Training for School Personnel.
Part IV: Legal Services for Victims of Domestic Violence.
Part V: Domestic Violence Advocates on Child Fatality Task Force.
Part VI: Study of Mental Health Services for Domestic Violence Victims.
Part VII: Study of CLE Credit for Pro Bono Legal Representation.
Part VIII: Domestic Relationship Aggravating Factor.
Part IX: Create Strangulation Offense.
Part X: Amend Habitual Misdemeanor Assault Statute.
Part XI: Domestic Violence Offense Tracking.
Part XII: Study of Misdemeanor Offense Classifications.
Part XIII: Warrantless Arrest for Violation of Pretrial Release Conditions.
Part XIV: Conform State Firearms Law to Federal Law.
Part XV: Specifically Allow Cross Warrants.
Part XVI: Clarify Nurse's Privilege.
Part XVII: Temporary Child Custody in Domestic Violence Hearings.
Part XVIII: Prohibit Employment Discrimination Against Domestic Violence Victims.
Part XIX: Privacy for 50B Intake.
Part XX: Training for Judges and Court Personnel.
See **Children and Families** for the summary of the entire act.

Aggressive Driving

S.L. 2004-193 ([HB 1046](#)). See **Transportation**.

Studies

Legislative Research Commission

Various Criminal Law Studies

S.L. 2004-161, Secs. 2.1(5) and 2.1(9) ([SB 1152](#), Secs. 2.1(5) and 2.1(9)) authorize the Legislative Research Commission to study the following criminal law issues:

- Review of sentencing guidelines.
- Judicial approval for pleas in certain cases.
- Reclassify statutory rape.
- Amend habitual felon law.
- Restructure prior criminal record points.
- Sentence lengths.
- Adjust penalties for B1 to E offenses.
- Arson offenses.
- Drug trafficking laws.
- Giving notice of rights to contest mechanic's lien storage charges of vehicles seized under the DWI forfeiture laws.
- Youthful offenders.
- Street gang terrorism prevention.
- Immigration.
- Casino nights for nonprofit organizations.
- Trafficking of persons.
- Charitable bingo/beach bingo.

The Legislative Research Commission may study and may report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

This act became effective August 2, 2004. (SS)

Referrals to Departments, Agencies, Etc.

Study of Various Ways to Promote Government Efficiency and Savings in State Spending

S.L. 2004-161, Secs. 16.1(5) and 16.2 ([SB 1152](#), Secs. 16.1(5) and 16.2) direct the University of North Carolina, the Judicial Branch, the Executive Branch, the Legislative Branch, the Community College System, and the Department of Public Instruction to jointly study the formation of additional public defender offices throughout the state, as recommended by the Governor's Commission to Promote Government Efficiency and Savings on State Spending. The Department of Administration is directed to report the results of the study to the Legislative Research Commission by January 15, 2005.

This section became effective August 2, 2004. (TM)

For a complete list of the studies and reports authorized by the 2004 Session of the 2003 General Assembly, please refer to the Appendix contained in this publication.

Chapter 9

Education

Dee Atkinson (DA), Drupti Chauhan (DC), Shirley Iorio (SI)
Robin Johnson (RJ), and Sara Kamprath (SK)

Enacted Legislation

Public Schools

State Board of Education to Study Use of At-Risk Funds

S.L. 2004-73 ([HB 1456](#)) directs the State Board of Education (SBE) to recommend a specified percentage of the Alternative Schools/At-Risk Student allotment to be used to provide services for students who have been suspended from school for more than 10 days. The SBE must report by December 15, 2004 to the Joint Legislative Education Oversight Committee on its recommendation.

The act became effective July 8, 2004. (RJ)

State Board of Education to Study Alternative Learning Program Funding

S.L. 2004-76 ([HB 1455](#)) requires the State Board of Education to develop and recommend a formula for allotting funds to alternative learning programs and alternative schools based on the number of students who are (i) suspended from school for more than 10 days or expelled from school, and (ii) assigned to an alternative learning program or alternative school. The State Board should consider as a basis for this formula the existing funding formulas used for students with disabilities, academically or intellectually gifted students, and students with limited English proficiency. The State Board must recommend this formula to the Joint Legislative Education Oversight Committee by December 15, 2004.

The act became effective July 8, 2004. (SI)

Retirement/Teacher Exchange Programs

S.L. 2004-81 ([HB 1478](#)). See **Retirement**.

School Information/Meningitis and Influenza

S.L. 2004-118 ([SB 444](#)), known as Garrett's Law, ensures that information concerning meningitis and influenza, and their vaccines, is available at the beginning of every school year for public schools, charter schools, and non-public schools, including home schools, to provide to parents and guardians.

The act became effective July 1, 2004, and applies beginning with the 2004-2005 school year. (SI)

K-2 Assessment

S.L. 2004-124, Sec. 7.11 ([HB 1414](#), Sec. 7.11) allows the State Board of Education to use standardized tests for first and second grades only when it is required as a condition of receiving

a federal grant under the Reading First Program. Currently the State Board is prohibited from using standardized tests for first and second grade students. However, the State Board does provide to local school administrative units developmentally appropriate individualized assessment instruments for first and second grades, rather than standardized tests.

This section became effective July 1, 2004. (SI)

Evaluate Validity of ABC Accountability System

S.L. 2004-124, Sec. 7.12 ([HB 1456](#), Sec. 7.12) amends the law that directs the State Board of Education (SBE) to adopt annual performance goals as part of the School-Based Management and Accountability Program (also known as the ABCs program). The section directs the SBE, during the 2004-2005 school year, and at least every five years after that, to evaluate the ABCs program by reviewing, where available, historical trend data on student academic performance on State tests. If necessary, the SBE must modify the testing standards so they continue to reasonably reflect the level of performance needed to be successful at the next grade level or in more advanced studies. The SBE must complete its first evaluation and implement any needed testing modifications no later than the 2005-2006 school year.

This section became effective July 1, 2004. (RJ)

Restore Vocational Education Funding

S.L. 2004-124, Sec. 7.15 ([HB 1414](#), Sec. 7.15) allows the funding for vocational and technical education to again be used for students in the seventh grade but priority must be given to provide vocational and technical education to students in 8th grade through 12th grade.

This section became effective July 1, 2004. (SK)

Healthful School Food Choices/Pilot Program

S.L. 2004-124, Sec. 7.17 ([HB 1414](#), Sec. 7.17) directs the State Board of Education (SBE) to develop and implement a pilot program to support the efforts of local school administrative units to provide only healthful and nutritious food choices to students. The SBE is to seek the advice and assistance of the North Carolina School Food Service Association and the Academy of Family Physicians in the development of the program. The SBE will select up to eight local school administrative units from different geographic locations throughout the State to participate in the pilot program and will set the standards for the food choices offered to students. Priority must be given to those local school administrative units that volunteer to be in the pilot program. The selected local school administrative units are directed to implement the program in elementary schools for the 2004-2005 school year. If the SBE finds at the end of the 2004-2005 school year that a pilot local school administrative unit experienced a decrease in food service revenues because students chose not to buy the healthful, nutritious food choices offered by the local school administrative unit's school food service, then the SBE must reimburse the local school administrative unit for that decrease in revenue.

This section became effective July 1, 2004. (DC)

State Board of Education Authority to Set Certification Standards for Teachers

S.L. 2004-124, Sec. 7.19 ([HB 1414](#), Sec. 7.19) removes the statutory requirement for a standard examination for all applicants for a North Carolina teaching license. The State Board of Education may require an applicant for a teaching license to take and achieve a prescribed minimum score on a standard examination appropriate and adequate for that purpose.

This section also makes a technical change to the law by adding the phrase "any required" in reference to a standard examination for certain individuals employed by a local board under a provisional certificate, and retains the September 1, 2006 expiration date for this provision.

This section became effective July 1, 2004. (SI)

Maintain 12-Month Vocational Agriculture Teacher Positions

S.L. 2004-124, Sec. 7.20 ([HB 1414](#), Sec. 7.20) prohibits local boards of education from reducing the term of employment for any vocational agriculture teacher who had a position that was 12 calendar months for the 2003-04 school year.

This section became effective July 1, 2004. (SK)

Accountability Assessment For Agricultural Education

S.L. 2004-124, Sec. 7.20A ([HB 1414](#), Sec. 7.20A) requires the State Board of Education (SBE) to submit an amended State Career-Technical Education Plan to the United States Department of Education. The State Career-Technical Education Plan will do the following:

- Allow the SBE to field test the North Carolina Agricultural Education Program Standards and collect data on these Standards for two years;
- Allow the use of data collected under the field test as an alternative to the end-of-course tests in the Vocational Education Competency Achievement Tracking System (VoCATS) and authorize the use of that data to satisfy the technical attainment requirement for continued Carl D. Perkins funding;
- Require the Department of Public Instruction and the Department of Agricultural Education at North Carolina State University to monitor the program to ensure compliance with all Standards; and
- Permit the SBE to determine whether to use the North Carolina Agricultural Education Program Standards on a statewide basis if the two years of field testing are successful.

The Department of Public Instruction and the Department of Agricultural Education at North Carolina State University must report on the field test to the Joint Legislative Education Oversight Committee by October 15, 2006.

This section became effective July 1, 2004. (DC)

Additional Teacher Positions for Third Grade

S.L. 2004-124, Sec. 7.21 ([HB 1414](#), Sec. 7.21) reduces the teacher to student allotment ratio for third grade from 1:22.23 to 1:18. Local school administrative units must use these additional teacher positions to reduce class size in third grade.

This section became effective July 1, 2004. (SI)

High School Workforce Development Program

S.L. 2004-124, Sec. 7.22 ([HB 1414](#), Sec. 7.22), as amended by S.L. 2004-199, Sec. 53 ([SB 1225](#), Sec. 53), directs the Department of Public Instruction (DPI) to use designated appropriated funds for a high school workforce development program. The DPI is directed to use these funds to establish five pilot projects in which school systems, institutions of higher education, and local employers work together to meet the needs of the participating employers. The program is to identify students who do not plan, or who may not be prepared, to attend post-secondary programs and will provide them with assistance to earn an Associate Degree the year after their senior year of high school. The DPI is to work closely with the Education Cabinet

and the New Schools Project in administering this program. Notwithstanding any other law or rule, a local school administrative unit and two- and four-year colleges and universities must agree upon the minimum age of the students who participate in the pilot projects.

S.L. 2004-124, Sec. 7.22 ([HB 1414](#), Sec. 7.22) directs the State Board of Education (SBE) is also directed to evaluate this program annually. The evaluation must include an assessment of the program's overall impact on student achievement, retention, and employability, an accounting of the utilization of funds and resources and how this has impacted students, and recommendations for the program's continuation and improvement.

The SBE must report to the Office of State Budget and Management, the Joint Legislative Education Oversight Committee, and the Fiscal Research Division by September 15 of each year.

S.L. 2004-124, Sec. 7.22 ([HB 1414](#), Sec. 7.22) became effective July 1, 2004. S.L. 2004-199, Sec. 53 ([SB 1225](#), Sec. 53), which addresses the minimum age of students who participate, became effective August 17, 2004. (RJ)

Implementation of Alternate Competency Tests

S.L. 2004-124, Sec. 7.27 ([HB 1414](#), Sec. 7.27) amends the effective date of S.L. 2003-275 so that the State Board of Education (SBE) must implement, no later than the 2004-05 school year, the law allowing students with disabilities who fail to pass the required competency test to take an alternate test. The (SBE) must adopt or develop alternate tests for the competency test no later than April 15, 2005 and shall implement the alternate tests starting with the 2005-06 school year.

This section became effective July 1, 2004. (SK)

Enhance Nutrition in School Food Program

S.L. 2004-124, Sec. 7.29 ([HB 1414](#), Sec. 7.29) provides that for nutritional reasons, the public schools are not allowed to use cooking oils that contain trans-fatty acids in their school food programs nor are they allowed to sell processed foods containing trans-fatty acids that were formed during the commercial processing of the foods.

This section became effective July 1, 2004. (DC)

Children's Trust Fund

S.L. 2004-124, Sec. 7.33 ([HB 1414](#), Sec. 7.33) directs the Department of Public Instruction to collaborate with the Division of Social Services, Department of Health and Human Services and with statewide child abuse and neglect prevention experts on the following while carrying out the State's Program on Prevention of Abuse and Neglect:

- Best practices in child abuse and neglect prevention programs and policies;
- Exploring additional sources of revenue; and
- Educational programs to ensure awareness of the purpose and mission of the Children's Trust Fund across the State.

The Department of Public Instruction must make an annual report to the Joint Legislative Commission on Governmental Operations on the revenues and expenditures of the Children's Trust Fund.

This section became effective July 1, 2004. (SK)

Education of Juveniles Committed to the Department of Juvenile Justice and Delinquency Prevention

S.L. 2004-124, Sec. 16.8 ([HB 1414](#), Sec. 16.8). See **Courts, Justice and Corrections**.

Retired Teachers Returning to Classroom Without Loss of Retirement Benefits/Option Extended

S.L. 2004-124, Sec. 31.18A ([HB 1414](#), Sec. 31.18A). See **Retirement**.

Charter School Retirement Election

S.L. 2004-164 ([HB 1723](#)). See **Retirement**.

School Calendar Changes

S.L. 2004-180 ([HB 1464](#)) makes changes to the school calendar by eliminating teacher workdays, requiring that schools open for students no earlier than August 25 and close no later than June 10 except in unusual circumstances or in year round schools, and changes the daily rate of pay. The act applies to school years beginning with the 2005-2006 school year and applies in all 100 counties and all local school administrative units.

Teacher Workdays. – The act reduces the number of days in the school calendar from 220 days to 215 days by eliminating 5 teacher workdays from the school calendar. Of the remaining 15 teacher workdays, 5 must be designated by the local boards of education as protected days for teachers to complete instructional and classroom administrative duties. Local school administrative units cannot impose any additional duties on these protected days. One of these days must be scheduled at the beginning of the school year and one at the end of each academic quarter. The local boards of education are to designate on which of these days teachers with accumulated vacation leave may take that leave.

The local boards of education, in consultation with each school's principal, will schedule the remaining nine to ten teacher workdays. Before the school principal consults with the local board of education, the principal must first work with the school improvement team to determine days to be scheduled and purposes for those days. The days may be scheduled for use as teacher workdays, additional instructional days, or other lawful purposes, including vacation days for teachers with accumulated vacation leave. In addition, the local boards of education may designate any of these remaining days as make-up days for days missed due to school closings for inclement weather.

First and Last Instructional Day. – The act further requires local boards of education to set the first instructional day of school no earlier than August 25 and the last day no later than June 10 for all schools except for year-round schools. A local board of education may ask the State Board of Education for a waiver from this requirement if it can show good cause. Good cause exists if the schools in any local school administrative unit in a county have been closed for eight days per year during any four of the last ten years because of severe weather conditions, energy shortages, power failures, or other emergency situations. In addition, the State Board of Education may also grant waivers from the start and stop date requirements for an educational purpose. To request a waiver for educational purposes, a local school administrative unit must establish a need to adopt a different calendar based on one of the following reasons:

- To accommodate a special program at a school that is offered generally to the student body of that school;
- To serve a special population of students at a school; or
- To accommodate a defined program at a school.

In granting the waiver based on one of these three reasons, the State Board of Education must find that the educational purpose is reasonable, necessary, and not an attempt to circumvent the otherwise mandatory opening and closing dates. The waiver requests cannot be used to accommodate system-wide scheduling preferences.

The required opening and closing dates do not apply to any school that a local board of education designated as having a modified calendar for the 2003-2004 school year or to any

school that was a 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.

Rate of Pay, Pay Cycles. – The act changes the daily rate of pay for teachers from 1/22 of the monthly rate of pay to a daily rate that is midway between 1/21 and 1/22 of the monthly rate of pay but does not reduce the yearly pay. The annual rate of pay for certified and non-certified employees cannot be reduced as a result of the act and nothing in the act is to be interpreted to change the pay cycle for non-certified employees. The State Board of Education is required to report annually to the Joint Legislative Education Oversight Committee on compliance with these prohibitions. The first pay date for teachers must be no later than August 31 except for those employed in year-round schools or who are paid in accordance with a year-round calendar. Subsequent pay dates must be spaced no more than one month apart and must include a full month's pay.

Appropriation or Expenditure of Additional Funds. – The act specifically states that nothing in the act requires the General Assembly to appropriate funds to implement the act or requires a local school administrative unit to spend additional funds to implement it.

The act became effective August 9, 2004. (DC)

See also **Studies** in this chapter.

Discharging Firearm on School Property

S.L. 2004-198 ([HB 1453](#)). See **Criminal Law and Procedure**.

Taking Indecent Liberties with a Student

S.L. 2004-203, Sec. 19 ([HB 281](#), Sec. 19) modifies the definition of the term "same school" for the purposes of G.S. 14-202.4. The criminal statute provides that a defendant who is a teacher, school administrator, student teacher, school safety officer, or coach of any age or is other school personnel at least four years older than the victim and takes indecent liberties with a victim who is a student while the defendant and victim were in the "same school". This section changes "same school" to mean a school at which the student is enrolled or is present for a school-sponsored or school-related activity and the school personnel is employed, volunteers, or is present for a school-sponsored or school-related activity.

This section becomes effective December 1, 2004 and applies to offenses committed on or after that date. (DC)

Charter Schools Law Changes

S.L. 2004-203, Sec. 45 ([HB 281](#), Sec. 45) allows the State Board of Education (SBE) to grant the initial charter for a charter school for a period not to exceed ten years and allows the SBE to renew the charter upon the request of the chartering entity for subsequent periods not to exceed ten years. The SBE is directed to review the operations of each charter school at least once every five years in order to ensure that the school is meeting the expected academic, financial, and governance standards. This section applies to charters granted or renewed on or after the effective date of the act.

This section also adds the requirement that all charter school teachers in grades 6 through 12 must be college graduates if they teach in the core subject areas of mathematics, science, social studies, and language arts. This requirement applies to persons employed by charter schools for the 2004-2005 school year and subsequent school years.

This section became effective August 17, 2004. (DC)

Beverages Contracts

S.L. 2004-199, Sec. 38 ([SB 1225](#), Sec. 38). See **State Government**.

Higher Education

The University of North Carolina & Community Colleges Tuition/Military Students

S.L. 2004-130 ([SB 1058](#)) amends the laws governing tuition rates for individuals who are not residents of the State. The act provides that any active duty member (member) of the armed services qualifying for admission to a constituent institution of The University of North Carolina or to a community college, but not qualifying as a resident for tuition purposes, must be charged the in-State tuition rate and applicable fees while abiding in North Carolina incident to active military duty here. So long as the member continues to be enrolled in the same degree or other program after the member is reassigned out of the State, the member continues to be eligible for the in-State tuition rate.

The act provides that eligibility for the in-State tuition rate that has been available to a dependent relative (dependent) of a member who is abiding in the State will continue after the member is reassigned outside of North Carolina so long as the dependent is continuously enrolled in the degree or other program in which the dependent was enrolled when the member is reassigned.

The act also provides that any individual who is not a State resident, but who is a member of a North Carolina National Guard (Guard) unit in either a reserve or active duty status, is eligible for the in-State tuition rate. This individual must pay the full in-State tuition rate and applicable mandatory fees.

In addition, the act amends the law that prohibits employers and prospective employers from discriminating or taking retaliatory action against persons who serve in the Guard by extending that law's protections to members of the Guard who are called into active duty.

The act became effective August 1, 2004. (RJ)

Beverages Contracts

S.L. 2004-199, Sec. 38 ([SB 1225](#), Sec. 38). See **State Government**.

Community Colleges

Modify Reporting Requirement for New and Expanding Industry Training Program

S.L. 2004-124, Sec. 8.4 ([HB 1414](#), Sec. 8.4) modifies the reporting requirement for the New and Expanding Industry Training Program. The State Board of Community Colleges is required to report on September 1st of each year to the Joint Legislative Education Oversight Committee regarding the expenditures for the New and Expanding Industry Training Program.

This section became effective July 1, 2004. (DC)

Center for Applied Textile Technology/Modify Board Membership

S.L. 2004-124, Sec. 8.6 ([HB 1414](#), Sec. 8.6) removes the President of the North Carolina Community College System from the board of trustees of the North Carolina Center for Applied Textile Technology.

This section became effective July 1, 2004. (SI)

Report on the Adequacy of Multicampus and Off-Campus Center Funds

S.L. 2004-124, Sec. 8.9 ([HB 1414](#), Sec. 8.9) directs the multicampus colleges and colleges with off-campus centers to make an annual report to the Community Colleges System Office on all expenditures by line item that support the multicampuses and off-campus centers. This annual report begins September 1, 2005. The System Office shall make an annual report by October 1 on the expenditures to the House and Senate Education Subcommittees, the Office of State Budget and Management, and the Fiscal Research Division.

This section became effective July 1, 2004. (SK)

Statewide Military Business Center and Homeland Security Business Incubator

S.L. 2004-124, Sec. 8.17 ([HB 1414](#), Sec. 8.17), as amended by S.L. 2004-199, Sec. 55 ([SB 1225](#), Sec. 55), requires that the funds appropriated to the Community College System Office for a military business center to provide for a statewide system of military procurement must be used as follows:

Homeland Security Business Incubator. – The North Carolina Electronics and Information Technologies Association, in conjunction with MCNC, must create a proposal for the development and operation of a homeland security business incubator, and report on this proposal to the Joint Legislative Education Oversight Committee by February 28, 2005. There is \$200,000 available for this purpose.

Military Business Center. – Fayetteville Technical Community College must use the remaining funds to develop and operate a military business center to provide services to residents and businesses throughout the State. These funds must be used for:

- The development and operation of a statewide business assistance center to serve as a coordinator and facilitator for small- and medium-sized businesses throughout the State seeking to win and complete military contracts.
- The development and maintenance of an Internet-based system to match the knowledge, skills, and abilities of active-duty military personnel, veterans, and their families throughout the State with the needs of North Carolina businesses.
- The study of community resources and existing business capacity to meet the current and future needs of the military and the creation of proposals for further developing community resources and developing or recruiting new businesses to meet those needs.
- The marketing of the services provided by the military business center.
- The planning and implementation of the development of an industrial park to house military contractors.

This section provides that the Umstead Act, which makes it illegal for the State or its agencies to undertake activities that are in competition with private business, unless there is a specific exemption, shall not prohibit the operation of a military business center by a community college. The term "military business center" means a facility that serves to coordinate and facilitate

interactions between the United States Armed Forces; military personnel, veterans, and their families; and private business. No request for proposals needs to be issued for any contract under a State military business center developed and operated by Fayetteville Technical Community College.

Fayetteville Technical Community College must report to the Joint Legislative Education Oversight Committee by September 1, 2005 on the expenditure of these funds. These funds do not revert at the end of the fiscal year.

Section 8.17 of S.L. 2004-124 became effective July 1, 2004. Section 55 of S.L. 2004-199, which addresses the need for request for proposals, became effective August 17, 2004. (SI)

Regional Partnerships Vision Plans

S.L. 2004-124, Sec. 13.6 ([HB 1414](#), Sec. 13.6). See **Commercial Law and Consumer Protection**.

Education of Juveniles Committee to the Department of Juvenile Justice and Delinquency Prevention

S.L. 2004-124, Sec. 16.8 ([HB 1414](#), Sec. 16.8). See **Courts, Justice and Corrections**.

Local Government Employees/457 Plan

S.L. 2004-137 ([SB 1312](#)). See **Labor and Employment**.

Universities

William Friday Institute for Higher Education Leadership

S.L. 2004-124, Sec. 6.28 ([HB 1414](#), Sec. 6.28) directs the Board of Governors of The University of North Carolina to establish the William Friday Institute for Higher Education Leadership (Institute) along with an advisory board for the Institute. The purpose of the Institute is to provide students, faculty, and administrators on the campuses of The University of North Carolina the opportunity to learn more about careers in academic administration and gain skills, insight, information, contacts, and experience through ongoing professional leadership development programs.

This section became effective July 1, 2004. (DC)

Fayetteville State University and North Carolina School of the Arts Retain Real Property Proceeds

S.L. 2004-124, Sec. 9.5 ([HB 1414](#), Sec. 9.5) allows Fayetteville State University and the North Carolina School of the Arts to retain the proceeds from the sale of their respective chancellor's residences. These institutions may use these proceeds and any other non-appropriated funds to construct or otherwise acquire new chancellor's residences.

This section became effective July 1, 2004. (RJ)

UNC-Chapel Hill Continue to Operate Horace Williams Airport

S.L. 2004-124, Sec. 9.7 ([HB 1414](#), Sec. 9.7) requires the University of North Carolina at Chapel Hill (UNC-CH) to continue to operate the Horace Williams Airport and continue air transportation support for the Area Health Education Center and the public from the current location, until a replacement facility that is accessible to UNC-CH becomes operational. UNC-CH must report to the Joint Legislative Commission on Governmental Operations by July 1, 2006, and biannually thereafter, on the progress of locating a replacement facility. The Departments of Administration and Transportation shall assist UNC-CH as needed to secure a replacement facility.

This section became effective July 1, 2004. (DC)

North Carolina School of the Arts Exempt from the Umstead Act

S.L. 2004-124, Sec. 9.13 ([HB 1414](#), Sec. 9.13) grants an exemption to the North Carolina School of the Arts from the Umstead Act. The Umstead Act makes it illegal for the State or its agencies to undertake activities that are in competition with private business, unless there is a specific exemption. Under this exemption, the North Carolina School of the Arts can make agreements for the use of their facilities, equipment, and services of students, faculty and staff for the creation of commercial materials and productions that may be unrelated to educational purposes so long as the proceeds from those agreements are used for the benefit of the educational mission of the North Carolina School of the Arts.

This section became effective July 1, 2004. (SI)

Report on Proposed Unified Leave Policy

S.L. 2004-124, Sec. 31.16C ([HB 1414](#), Sec. 31.16C). See **Labor and Employment**.

Clarifications Regarding Mediation

S.L. 2004-154, Secs. 1 and 2 ([SB 52](#), Secs. 1 and 2). See **Civil Law and Procedure**.

Internal Auditors within The University of North Carolina and its Constituent Institutions

S.L. 2004-203, Sec. 46 ([HB 281](#), Sec. 46) adds a new section to the law governing higher education. This section provides that internal auditors within The University of North Carolina (The University) and its constituent institutions must supply independent reviews and analyses of various functions and programs within The University that will provide management information to promote accountability, integrity, and efficiency within The University.

An internal auditor:

- Must have access to any records, data, or other information of The University or the relevant constituent institution that the internal auditor considers necessary to carry out the internal auditor's duties; and
- Must maintain, for 10 years, a complete file of all audit reports and reports of other examinations, investigations, surveys, and reviews issued under the internal auditor's authority. Audit work papers and other evidence and related supportive material directly pertaining to the work of that auditor's office must be retained in accordance with the public records laws. Audit work papers related to issued audit reports must

be, unless otherwise prohibited by law, made available for inspection by authorized representatives of the State and federal governments.

Except as otherwise provided in this subsection, or upon subpoena issued by a court, audit work papers must be kept confidential and must not be open to examination or inspection under public records law. Audit reports must be public records to the extent that they do not include information that, under State laws, is confidential and exempt from the public records laws or would compromise the security systems of The University.

This section became effective August 17, 2004. (SI)

Clarify Tuition Grants for Graduates of School of Science and Mathematics

S.L. 2004-203, Sec. 47 ([HB 281](#), Sec. 47) amends the statute that provides a full tuition grant for a State resident who graduates from the School of Science and Mathematics and who enrolls in a constituent institution of The University of North Carolina. This section clarifies that the tuition grant is limited to the cost of tuition and must be reduced by other scholarships and grants that the student may receive for tuition.

This section became effective August 17, 2004. (RJ)

UNC Nonappropriated Capital Projects

S.L. 2004-181 ([HB 1699](#)). See **Finance**.

Studies

Legislative Research Commission

Study Various Transportation Issues – Purchasing Alternative-Fuel or Low-Emission School Buses

S.L. 2004-161, Sec. 2.1(2)a ([SB 1152](#), Sec. 2.1(2)a). See **Transportation**.

VoCATS Program

S.L. 2004-161, Sec. 2.1(f) ([SB 1152](#), Sec. 2.1(f)) authorizes the Legislative Research Commission to study the accountability system for vocational education courses. The Commission may report its findings, together with any recommended legislation, to the 2005 General Assembly.

This section became effective August 2, 2004. (DA)

School Calendar

S.L. 2004-161, Sec. 2.1(p) ([SB 1152](#), Sec. 2.1(p)) authorizes the Legislative Research Commission to study whether the first instructional day of the school year should be later than the current practice. The Commission also may study the number of teacher workdays and the value and use of the teacher workdays now included in the school calendar. The Commission may report its findings, together with any recommended legislation, to the 2005 General Assembly.

This section became effective August 2, 2004. (DA)

New/Independent Studies/Commissions

Local School Construction Financing Study Commission

S.L. 2004-124, Sec. 7.32 ([HB 1414](#), Sec. 7.32) establishes the Local School Construction Financing Study Commission to examine the present system of local financing for school facilities and to study alternative options for financing local school construction, renovation, repair, and maintenance. The Commission shall make an interim report to the 2005 General Assembly by January 31, 2005, and a final report to the 2006 General Assembly by March 31, 2006. The Commission shall terminate on March 31, 2006.

This section became effective July 1, 2004. (DA)

UNC Board of Governor's Study Commission

S.L. 2004-161, Part XXII ([SB 1152](#), Part XXII) establishes the UNC Board of Governors Study Commission to study the method of election or appointment of members of the Board of Governors, the length of members' terms, the number of terms a member may serve, and the size of the Board of Governors. The Commission shall report its findings and any recommendations to the 2005 General Assembly. The Commission shall terminate upon the filing of its final report.

This part became effective August 2, 2004. (DA)

Referrals to Existing Commissions/Committees

Joint Legislative Education Oversight Committee Studies

The Joint Legislative Education Oversight Committee (JLEOC) shall study the following issue and make recommendations to the 2005 General Assembly by January 15, 2005:

- Strategies for Facilitating Student Participation in Teacher Preparation Programs. S.L. 2004-124, Sec. 7.19A ([HB 1414](#), Sec. 7.19A)

The JLEOC may study the following issues and report its findings to the 2005 General Assembly:

- The Efficacy of Providing for Staff Development Through Regional Education Service Alliances. S.L. 2004-124, Sec. 7.31 ([HB 1414](#), Sec. 7.31)
- Teacher Assistant Salary Schedule. S.L. 2004-161, Sec. 13.2 ([SB 1152](#), Sec. 13.2)
- Rural Schools. S.L. 2004-161, Sec. 13.3 ([SB 1152](#), Sec. 13.3)
- Physical Restraints/Seclusion in Schools. S.L. 2004-161, Sec. 13.4 ([SB 1152](#), Sec. 13.4)
- High School Graduation Rate Incentives. S.L. 2004-161, Sec. 13.5 ([SB 1152](#), Sec. 13.5)
- At-Risk Students Single Funding Stream. S.L. 2004-161, Sec. 13.6 ([SB 1152](#), Sec. 13.6)
- Close Achievement Gap. S.L. 2004-161, Sec. 13.7 ([SB 1152](#), Sec. 13.7)
- E-textbooks for Students. S.L. 2004-161, Sec. 13.8 ([SB 1152](#), Sec. 13.8)
- Attracting Teachers to Become Coaches. S.L. 2004-161, Sec. 13.9 ([SB 1152](#), Sec. 13.9)
- Kindergarten Admission Requirements. S.L. 2004-161, Sec. 13.10 ([SB 1152](#), Sec. 13.10)
- Update the Job Description for School Counselors. S.L. 2004-161, Sec. 13.11 ([SB 1152](#), Sec. 13.11)
- Testing Reform. S.L. 2004-161, Sec. 13.12 ([SB 1152](#), Sec. 13.12)

- Total Teacher Program. S.L. 2004-161, Sec. 13.13 ([SB 1152](#), Sec. 13.13)
- School Construction. S.L. 2004-161, Sec. 13.14 ([SB 1152](#), Sec. 13.14)
- Computer-based Math and Literacy Programs for Children Under Age Six. S.L. 2004-161, Sec. 13.15 ([SB 1152](#), Sec. 13.15)
- Appropriate Education for Students on Long-Term Suspension. S.L. 2004-161, Sec. 13.16 ([SB 1152](#), Sec. 13.16)
- School Nutrition/Physical Activity. S.L. 2004-161, Sec. 13.17 ([SB 1152](#), Sec. 13.17)
- Adequacy of Low-Wealth School Funds. S.L. 2004-161, Sec. 13.18 ([SB 1152](#), Sec. 13.18)

Referrals to Departments, Agencies, Etc.

State Board of Education to Study Use of At-Risk Funds

S.L. 2004-73 ([HB 1456](#)). See **Enacted Legislation** this chapter.

State Board of Education to Study Alternative Learning Program Funding

S.L. 2004-76 ([HB 1455](#)). See **Enacted Legislation** this chapter.

Teacher Preparation Programs

S.L. 2004-116 ([HB 1459](#)) directs the State Board of Education to study whether teacher preparation programs should require courses in diversity training, anger management, conflict resolution, and classroom management. The State Board of Education shall report its findings and recommendations to the Joint Legislative Education Oversight Committee by December 15, 2004.

The act became effective July 17, 2004. (SK)

Accountability Assessment for Agricultural Education

S.L. 2004-124, Sec. 7.20A ([HB 1414](#), Sec. 7.20A). See **Enacted Legislation** this chapter.

High School Workforce Development Program

S.L. 2004-124, Sec. 7.22 ([HB 1414](#), Sec. 7.22), as amended by S.L. 2004-199, Sec. 53 ([SB 1225](#), Sec. 53). See **Enacted Legislation** this chapter.

Children's Trust Fund

S.L. 2004-124, Sec. 7.29 ([HB 1414](#), Sec. 7.29). See **Enacted Legislation** this chapter.

Study of the North Carolina Center for Applied Textile Technology

S.L. 2004-124, Sec. 8.6A ([HB 1414](#), Sec. 8.6A) directs the State Board of Community Colleges (Board) to study the North Carolina Center for Applied Textile Technology (Center) to

determine whether the Center should (i) remain an independent institution under the Community College System, (ii) be administered by a community college, (iii) be dissolved, or (iv) be otherwise administered. The Board must consult with the Education Subcommittee of the Joint Legislative Commission on Governmental Operations and must make a written report by October 30, 2004, to the Office of State Budget and Management (OSBM), the chairs of the Joint Legislative Education Oversight Committee, and the chairs of the finance committees of the Senate and House of Representatives. The Board must, in consultation with OSBM, implement the results of this study by January 1, 2005.

This section became effective July 1, 2004. (RJ)

Report on the Adequacy of Multi-Campus and Off-Campus Center Funds

S.L. 2004-124, Sec. 8.9 ([HB 1414](#), Sec. 8.9). See **Enacted Legislation** this chapter.

Study of FTE Funding Formula

S.L. 2004-124, Sec. 8.13 ([HB 1414](#), Sec. 8.13) directs the State Board of Community Colleges (SBCC) to consider modifications to its funding formulas to ensure that the local community colleges have sufficient funds to adequately serve students when enrollments increase. In conducting the study, the SBCC must consider methods of accurately projecting enrollment for the upcoming academic year; using projected enrollment in its funding formulas; and modifications to its funding formulas to ensure adequate funding for high-cost programs. The results of the study must be reported to the Joint Legislative Education Oversight Committee and to the chair of the appropriations committees of the Senate and House of Representatives by January 15, 2005.

This section became effective July 1, 2004. (DC)

Evaluate Science & Math School Tuition Grants

S.L. 2004-124, Sec. 9.6A ([HB 1414](#), Sec. 9.6A) directs the North Carolina School of Science and Mathematics to collect data on the median family income of its students and report to the Joint Legislative Education Oversight Committee. The UNC Board of Governors must study the provision, enacted in 2003, which provided a four-year tuition grant to any North Carolina resident who graduated the school and enrolls as a full-time student in any constituent institution of The University of North Carolina. The Board must report its findings and recommendations to the Joint Legislative Education Oversight Committee and the Committee shall report its recommendations regarding the continuation of the tuition grant to the 2005 General Assembly.

This section became effective July 1, 2004. (SK)

Study of Various Ways to Promote Government Efficiency and Savings in State Spending

S.L. 2004-161, Secs. 16.1(2) and 16.2 ([SB 1152](#), Secs. 16.1(2) and 16.2). See **Labor and Employment**.

Forgiveness of Student Debt Program

S.L. 2004-161, Part XXVII ([SB 1152](#), Part XXVII) authorizes the Board of Governors of The University of North Carolina, in conjunction with the North Carolina Education Assistance

Authority, to study the feasibility of a program that would forgive student indebtedness for teachers who have continuing certification in and are teaching in the disciplines of math, science, or special education. The Board must report the results of its study to the Joint Legislative Education Oversight Committee by January 15, 2005.

This part became effective August 2, 2004. (DA)

Teacher Retention Task Force

S.L. 2004-161, Part XXVIII ([SB 1152](#), Part XXVIII) directs the State Board of Education to form a Task Force to study issues related to effective recruitment and retention of North Carolina public school teachers. The State Board of Education must report its findings and recommendations to the Joint Legislative Education Oversight Committee prior to February 15, 2005.

This part became effective August 2, 2004. (DA)

Craven and Pamlico Technical High School Task Force Studies

S.L. 2004-161, Sec. 43.1 ([SB 1152](#), Sec. 43.1) authorizes the State Board of Community Colleges, the State Board of Education, Craven Community College, and the Craven County Schools to establish a task force to develop a plan to expand students' educational opportunities within the public school system by creating a technical high school. If the task force is established, the task force must report to the Joint Legislative Education Oversight Committee by January 15, 2005.

S.L. 2004-161, Sec. 43.2 ([SB 1152](#), Sec. 43.2) authorizes the State Board of Community Colleges, the State Board of Education, Pamlico Community College, and the Pamlico County Schools to establish a task force to develop a plan to expand students' educational opportunities within the public school system by creating a technical high school. If the task force is established, the task force shall report to the Joint Legislative Education Oversight Committee by January 15, 2005.

These sections became effective August 2, 2004. (DA)

North Carolina Central University Study

S.L. 2004-161, Part XLVIII ([SB 1152](#), Part XLVIII). See **Courts, Justice and Corrections**.

Finance Vital Projects/Studies

S.L. 2004-179, Part 6 ([HB 1264](#), Part 6), as amended by S.L. 2004-199, Sec. 51 ([SB 1225](#), Sec. 51), directs the Board of Governors of The University of North Carolina and the State Board of Community Colleges to contract with a consultant to study the mission and educational programming needs for the University and Community College Systems and to analyze facility needs related to the identified program needs.

The Boards and their consultant are required to make a preliminary report to the Joint Legislative Education Oversight Committee and the General Assembly by April 15, 2005, and to make a final report by December 31, 2005. The Joint Legislative Education Oversight Committee may create a higher education programming subcommittee to monitor this study.

This part became effective August 5, 2004.

Parts 2-4 of this act concern parks renovation and acquisition, recreation, preservation of natural heritage, and clean water conservation. For additional information, see **Environment**.

Parts 5 and 7 of this act concern the Debt Affordability Advisory Committee and the Innovative State Financing Study. For additional information, see **Finance**. (SK)

School Calendar Changes

S.L. 2004-180 ([HB 1464](#)) directs the State Board of Education to study the scheduling of and purposes for noninstructional teacher workdays and report the findings to the Joint Legislative Education Oversight Committee by December 15, 2004.

The act became effective August 9, 2004.

See also **Enacted Legislation** this chapter. (DC)

Strengthen Domestic Violence Laws

S.L. 2004-186, Part III ([HB 1354](#), Part III) directs the Department of Public Instruction, in collaboration with the State Board of Education, to study the issue of antiviolence programs in the schools; and training for school personnel dealing with students who are victims of physical violence and mental or verbal abuse. The Department must make a preliminary report to the House Select Committee on Domestic Violence and to the Joint Legislative Education Oversight Committee by November 15, 2004, and a final report to the Joint Legislative Education Oversight Committee and the General Assembly by January 15, 2005.

This part became effective August 12, 2004.

Additionally, S.L. 2004-186 makes various changes to strengthen the laws against domestic violence and to provide additional assistance to domestic violence victims. The act is divided into the Parts listed below.

Part I: Domestic Violence Offender Treatment.

Part II: Domestic Violence Training for Law Enforcement.

Part III: Study of Anti-Violence Education in Schools and Training for School Personnel.

Part IV: Legal Services for Victims of Domestic Violence.

Part V: Domestic Violence Advocates on Child Fatality Task Force.

Part VI: Study of Mental Health Services for Domestic Violence Victims.

Part VII: Study of CLE Credit for Pro Bono Legal Representation.

Part VIII: Domestic Relationship Aggravating Factor.

Part IX: Create Strangulation Offense.

Part X: Amend Habitual Misdemeanor Assault Statute.

Part XI: Domestic Violence Offense Tracking.

Part XII: Study of Misdemeanor Offense Classifications.

Part XIII: Warrantless Arrest for Violation of Pretrial Release Conditions.

Part XIV: Conform State Firearms Law to Federal Law.

Part XV: Specifically Allow Cross Warrants.

Part XVI: Clarify Nurse's Privilege.

Part XVII: Temporary Child Custody in Domestic Violence Hearings.

Part XVIII: Prohibit Employment Discrimination Against Domestic Violence Victims.

Part XIX: Privacy for 50B Intake.

Part XX: Training for Judges and Court Personnel.

See **Children and Families** for the summary of the entire act. (DA)

For a complete list of the studies and reports authorized by the 2004 Session of the 2003 General Assembly, please refer to the Appendix contained in this publication.

Chapter 10

Environment and Natural Resources

Tim Dodge (TD), George F. Givens (GG), Jeff Hudson (JH), and Jennifer McGinnis (JM)

Enacted Legislation

Coastal Development

Hatteras Village/Temporary Unvegetated Beach Area

S.L. 2004-1 ([HB 1411](#)) designates certain oceanfront areas on Hatteras Island as temporary unvegetated beach areas. The affected properties include the oceanfront areas on Hatteras Island west of the new inlet breach in Dare County where the vegetation line was destroyed by Hurricane Isabel on September 18, 2003, and by the construction of an emergency berm. The act allows oceanfront setbacks for new development or redevelopment to be measured from the vegetation line that is depicted in Dare County orthophotographs dated February 4, 2002 through February 10, 2002. The designation will continue until stable, natural vegetation is reestablished or until the Coastal Resources Commission permanently designates the area as an unvegetated beach area by rule.

This act became effective May 26, 2004. (TD)

New Urban Waterfront Development Pilot

S.L. 2004-117 ([SB 732](#)) directs the Coastal Resources Commission (CRC) to implement a pilot project under which one county may designate an area as a new urban waterfront (NUW). A NUW area, as defined by the act, is an area designated for development that includes a mixture of residential and commercial uses, recreational areas, and facilities for governmental or other civic purposes; provides for pedestrian access to residential, commercial, civic, and recreational areas; and incorporates open space for recreational and other public purposes. Under the pilot project, a developer could submit an application for a major development permit pursuant to the Coastal Area Management Act of 1974 (CAMA) for development in the NUW area subject to certain requirements, including obtaining a National Pollutant Discharge Elimination System (NPDES) permit for stormwater management prior to commencement of any construction of the development.

Current rules adopted under CAMA define urban waterfronts as areas that lie wholly within the corporate limits of a municipality and are located in either a central business district where there is minimal undeveloped land, mixed land uses, and urban level services such as water, sewer, and streets, or in an industrial zoned area adjacent to a central business district. These rules subject development in urban waterfronts to special use standards with regard to requirements for riparian buffers along shorelines and limits on construction of impervious surfaces. Current rules do not allow for the creation of additional urban waterfronts.

The act authorizes development in the NUW area to the same extent and subject to the same use standards and permitting requirements as development within areas designated as urban waterfronts under rules adopted under CAMA, except that the NUW area must be located outside of the corporate limits of any municipality and development in the NUW area must comply with a 30-foot buffer requirement along all natural shorelines.

If the development in the NUW area fails to include commercial development, civic development, and open space substantially in accordance with the development proposed in the application for the major development permit within six years of the date of issuance of the

major development permit, the act provides that the developer must provide mitigation for encroachment into riparian buffers that would otherwise be required under standards adopted by the CRC for development on public trust and estuarine shorelines.

The act also directs the CRC to evaluate the impacts on water quality and other environmental impacts from the development, and the costs and benefits of the development and annually report its interim findings and recommendations to the Environmental Review Commission beginning October 1, 2005, and to report its final findings and recommendations no later than October 1, 2010.

This act became effective July 17, 2004. (JM, GG)

Environmental Health

Septic System Setbacks for Pre-1977 Lots

S.L. 2004-140 ([SB 1202](#)) reduces the minimum horizontal separation distance requirements between two subsurface wastewater disposal systems from 20 feet to 10 feet under certain circumstances. The act allows the installation and operation of a subsurface wastewater disposal system that will be located 10 feet or more from an existing subsurface wastewater disposal system if the lot or tract of land on which the new system will be located meets the following criteria:

- The lot was platted prior to July 1, 1977.
- The system will be operated in Soil Group I soils (sandy texture soils, which are primarily found in the Coastal Plain and in the Sandhills area of the State).
- The lot is of insufficient size to allow the minimum horizontal separation distance requirements for a conventional wastewater system.
- The system will receive sewage from only one single-family residence not to exceed four bedrooms.
- The residence is not capable of being served by a public or community wastewater system at the time construction of the system commences.

This act became effective July 29, 2004, and applies to applications for permits made on or after that date. If the Commission for Health Services adopts a permanent rule to implement the provisions of the act, the act will expire when the permanent rule becomes effective. (TD)

Water Conservation/Submeters

S.L. 2004-143 ([HB 1083](#)) modifies the requirements for landlords who submeter and charge tenants for providing water or sewer service in apartment complexes, mobile home parks, and other multi-family housing units. The act authorizes the Utilities Commission (Commission) to adopt procedures to allow landlords to submeter and charge for providing water or sewer service. All charges for water or sewer service must be based on the tenant's metered consumption of water and not by any partial measurement of water consumption, unless specifically authorized by the Commission. The rate charged by the landlord may not exceed the unit consumption rate charged by the supplier of water or sewer service. The landlord may, however, charge a reasonable administrative fee for providing water or sewer service.

The act directs the Commission to develop an application that landlords must submit for authority to charge for water or sewer service. The Commission must approve or disapprove an application within 30 days of the filing of a completed application with the Commission. If the Commission has not issued an order disapproving a completed application within 30 days, the application shall be deemed approved. In order to change the rate or administrative fee, a provider must file a notice of revised schedule of rates and fees with the Commission. A notification of revised schedule of rates and fees becomes effective upon 14 days notice to the

Commission, unless otherwise suspended or disapproved by an order issued by the Commission within 14 days after filing.

The act also:

- Prohibits landlords from disconnecting or terminating a tenant's water or sewer service due to the tenant's nonpayment of the costs for water and sewer services.
- Prohibits landlords from charging tenants a late fee because of the tenant's failure to pay for water or sewer services.
- Restates that landlords may not use nonpayment of the costs for water or sewer services owed by a tenant as a basis for termination of a lease or eviction.
- Requires a landlord to notify tenants of any violations of water quality standards under the North Carolina Drinking Water Act if the landlord is charging for the cost of providing water or sewer service and has knowledge of the contamination.
- Clarifies the responsibility for monitoring, analysis, and record keeping, as well as for the operation, maintenance, or repair of the providing water system.
- Exempts landlords that submeter and charge for providing water and sewer service from certain bonding and reporting requirements generally required by the Commission.

This act became effective August 1, 2004. (TD, GG)

Fisheries

Under Dock Oyster Culture Program

S.L. 2004-124, Sec. 12.7B ([HB 1414](#), Sec. 12.7B) establishes the Under Dock Oyster Culture Permit Program (Program), which authorizes the holder of a permit to attach up to 90 square feet of oyster cultivation containers to a dock or pier owned by the permit holder. Permit applications must be submitted to the Director of the Division of Marine Fisheries who will issue a permit only if the Director determines that:

- The dock or pier is not located in polluted waters.
- The applicant has satisfied training requirements adopted by the Marine Fisheries Commission.
- The oyster culture activities are compatible with all lawful uses by the public of other marine and estuarine resources, such as navigation, fishing, and recreation.

It is unlawful for a permit holder to sell oysters cultivated under the permit and a permit will be revoked if the permit holder fails to comply with the requirements of the Program.

This section became effective July 1, 2004. (JH)

Amend Fishery Management Plan Requirements

S.L. 2004-160 ([HB 1429](#)) amends the requirements for development of Fishery Management Plans (FMPs) so that each FMP will include:

- Conservation and management measures that will attain a "sustainable harvest" rather than an "optimal yield." "Sustainable harvest" is the amount of fish that can be taken from a fishery on a continuing basis without reducing the stock biomass of the fishery or causing the fishery to become overfished.
- A specific time period for ending overfishing and achieving a sustainable harvest. This provision only applies to fisheries that are overfished and does not apply to a fishery where the biology of the fish or the environmental conditions would make ending overfishing and achieving a sustainable harvest within 10 years impracticable.

This act became effective August 2, 2004. (JH)

Amend Shellfish Laws

S.L. 2004-150 ([HB 1427](#)) makes the following changes to the law governing shellfish cultivation leases:

- Changes shellfish cultivation lease fees as follows:
 - Increases the initial application filing fee for a bottom shellfish cultivation lease from \$100.00 to \$200.00.
 - Increases the renewal application filing fee for a bottom shellfish cultivation lease from \$50.00 to \$100.00.
 - Increases the annual rental fee for a bottom shellfish cultivation lease from \$5.00 per acre to \$10.00 per acre.
 - Alters the annual rental fee for a 5-year water column shellfish cultivation lease from \$100.00 for the first four years and \$500.00 for the fifth year to \$100.00 per year for all five years.
- Directs the Marine Fisheries Commission (MFC) to adopt rules to establish training requirements for persons who apply for shellfish cultivation leases. The training requirements will be designed to encourage the productive use of shellfish cultivation leases. The training requirements will not apply to a person who already holds a shellfish cultivation lease that is meeting shellfish production requirements.
- Adds failure to comply with the training requirements to the list of conditions for which a shellfish cultivation lease may be terminated.
- Authorizes the MFC to study whether and how to establish a process by which shellfish cultivation leases that have been terminated may be leased without reverting to public bottom.
- Authorizes the MFC to study issues related to corporate ownership of shellfish cultivation leases.

The provisions changing the fees for shellfish cultivation leases become effective July 1, 2005. All other provisions of this act became effective August 2, 2004. (JH)

Saltwater Fishing Fund/Holdover Appointments

S.L. 2004-187, Secs. 1-4 and 6-13 ([HB 831](#), Secs. 1-4 and 6-13), as amended by S.L. 2004-124, Sec. 12.16 ([HB 1414](#), Sec. 12.16), establish the North Carolina Saltwater Fishing Fund and a program for the licensing of coastal recreational fishing.

North Carolina Saltwater Fishing Fund. – The North Carolina Saltwater Fishing Fund (Fund) is established as a nonreverting fund in the office of the State Treasurer to receive license revenues. The State Treasurer will invest the assets of the Fund and disburse investment income only as directed by the Board of Trustees of the North Carolina Saltwater Fishing Fund (Board). State agencies, local governments, and nonprofit corporations whose primary purpose is conserving, preserving, or restoring the State's marine resources are eligible to apply for a grant from the Fund. The Board may authorize disbursement for:

- Resource and habitat enhancement;
- Fisheries management research for specifically designated species;
- Acquisition of land that provides for the enhancement of fishery habitat or public access to coastal fishing waters;
- Purchase or construction of public beach access areas and public marinas; (if the Board purchases or constructs a public marina, it may establish a boat docking fee.)
- Emergency dredging for the restoration of access to public fishing areas;
- Establishment of scholarships for individuals pursuing degrees in marine sciences; and
- Administrative and operating expenses of the Board (no more than 2% of the annual Fund balance or \$1,250,000, whichever is greater, may be used).

The Board may not authorize disbursement for law enforcement. The Board will be composed of eleven members as follows:

- Three members, each of whom holds a saltwater fishing license (SFL), to be appointed by the Governor;
- Three members, each of whom holds a SFL, to be appointed by the Speaker of the House of Representatives;
- Three members, each of whom holds a SFL, to be appointed by the President Pro Tempore of the Senate;
- The Director of the Division of Marine Fisheries (Division) or the Director's designee (*ex officio* and non-voting); and
- The Chair of the Marine Fisheries Commission (MFC) or the Chair's designee (*ex officio* and non-voting).

The Chair of the Board will report to the Joint Legislative Commission on Seafood and Aquaculture by September 30 of each year on the source and amounts of monies credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year.

General provisions governing saltwater fishing licenses. –

- It is unlawful for an individual to engage in recreational fishing in coastal fishing waters without having purchased a SFL. An individual may engage in recreational fishing by means of recreational gear without holding a SFL if the individual is 18 years of age or younger and is currently enrolled in school and is making progress toward obtaining a high school diploma or its equivalent.
- A SFL does not authorize the license holder to sell fish taken under the license.
- Any SFL may be purchased or renewed at designated offices of the Division; from the Division by mail, electronic mail, the Internet, or telephone; or at locations designated by the Board.

Types of Saltwater Fishing Licenses.

License Type	Fee	Duration
1-year SFL	\$15.00	Valid for a period of one year from the date of issuance
2-year SFL	\$30.00	Valid for a period of two years from the date of issuance
3-year SFL	\$45.00	Valid for a period of three years from the date of issuance
7-day SFL	\$1.00	7 day duration, but may be purchased only once per year
Subsistence SFL	No charge	Valid for a period of one year from the date of issuance
Lifetime SFL:		Lifetime duration
Younger than 6 years of age	\$100.00	
6 to younger than 11 years of age	\$150.00	
11 to younger than 18 years of age	\$200.00	
18 years of age and older	\$500.00	

Miscellaneous Provisions. –

- The MFC will adopt rules to define recreational gear and commercial gear.
- The MFC and the Division may not disclose personal information provided by a license applicant.
- The Board shall develop a plan for the implementation of the licensing provisions of the act and study the creation of a unified fishing license for inland and coastal

fishing. The Board will report to the Joint Legislative Commission on Seafood and Aquaculture on the plan and study no later than April 15, 2005.

- The act appropriates up to \$5,000,000 from the General Fund to the North Carolina Saltwater Fishing Fund for fiscal year 2004-2005 to be used by the Board to implement the act. The Board will repay the \$5,000,000 to the General Fund by July 1, 2010. (**Note:** S.L. 2004-124, Sec. 12.16 ([HB 1414](#), Sec. 12.16) provides that if HB 831 becomes law, the appropriations section is repealed. Instead, Sec. 12.16 provides that of the funds appropriated to the Department of Environment and Natural Resources for the 2004-2005 fiscal year, the Division may use up to \$450,000 and the Board may use up to \$300,000 to implement HB 831. The Board shall repay all of these funds to the General Fund by July 1, 2008.)

The licensing provisions become effective January 1, 2006. With the exception of the appropriations section, Section 13, which was repealed by S.L. 2004-124, Sec. 12.16, all other provisions of this act became effective August 17, 2004.

Section 5 of this act provides that vacancies may be filled in certain offices during a holdover period. For additional information on this section, see **State Government**. (JH)

Parks and Public Spaces

State Parks System Additions & Study

S.L. 2004-24 ([HB 1574](#)) authorizes the Department of Environment and Natural Resources to add the Lower Haw River State Natural Area to the State Parks System. The Lower Haw River State Natural Area will be located in Chatham County where the Haw River enters Jordan Lake. This stretch of the Haw River is considered nationally significant for its biological resources including, rare species of fish (Cape Fear Shiner), mussels (Brook Floater), and dragonflies (Septima's Clubtail). Along the river's edge, scenic bluffs and rock outcrops alternate with areas of high quality floodplain forests. In addition to its biological significance, the river is used extensively by canoeists and kayakers who value its rapids and rocky islands.

This property is contiguous with property of Jordan Lake State Recreation Area. The Division of Parks and Recreation (Division) proposes to manage the Lower Haw River State Natural Area as a satellite of Jordan Lake State Recreation Area, using staff from the Recreation Area. Recreational development of the State Natural Area will be limited to trails, canoe access, and associated parking. The State Natural Area is not suitable for campgrounds and similar intensive uses, which are available nearby at Jordan Lake State Recreation Area.

The act also directs the Division to study the establishment of a new State recreation area at Blewett Falls Lake and report its findings and recommendations, including any legislative proposals, to the Environmental Review Commission on or before December 1, 2005.

This act became effective June 25, 2004. (JM)

State Nature & Historic Preserve Removals

S.L. 2004-25 ([HB 1607](#)) removes property from the State Nature and Historic Preserve (Preserve) and the State Parks System (System). The act:

- Removes a portion of two parcels at Hemlock Bluffs State Natural Area from the Preserve that are needed by the Town of Cary for a right-of-way for the widening of Kildaire Farm Road. This property must be removed from the Preserve before the State can grant easements to the Town of Cary for the right-of-way. The property was purchased with funds from the Federal Land and Water Conservation Fund, thus restrictions cover the property and require that the property be replaced. The Town of Cary plans to acquire additional property that is adjacent to the existing Natural

Area, some of which will be used to replace the property used for the road right-of-way.

- Removes the Horne Creek Living Historical Farm located within the boundaries of Pilot Mountain State Park from the System to allow the property to be reallocated to the Department of Cultural Resources.

This act became effective June 25, 2004. (JM)

Twenty-Four Hour Access to Fort Fisher State Recreation Area During the Fall and Winter/Funds for Department Study/Activities at Fort Fisher

S.L. 2004-124, Sec. 12.3 ([HB 1414](#), Sec. 12.3) provides that members of the public who pay a fee for access to Fort Fisher State Recreation Area (Fort Fisher) may have 24-hour access to the beach at Fort Fisher from September 15 through March 15 of each year.

The section also directs the Department of Environment and Natural Resources (DENR) to conduct a study of vehicle use at Fort Fisher including consideration of:

- The demand for vehicle access to the beach during different times of the year;
- The impact of vehicles on sea turtles and nesting birds;
- The sea turtle and bird nesting activity at Fort Fisher as compared with the nesting activity on the adjoining beach managed by the Bald Head Conservancy and on Masonboro Island; and
- The economic impact of restricting 24-hour vehicle access to the beach.

DENR must report its findings and recommendations, including any legislative proposals, to the Environmental Review Commission by February 1, 2005. The section also provides that of the funds appropriated to DENR for the 2004-2005 fiscal year, \$25,000 shall be used to conduct the study and for other educational, conservation, and enforcement activities at Fort Fisher.

This section became effective July 1, 2004. (JM)

One-time Grant to Swain County

S.L. 2004-124, Sec. 12.11 ([HB 1414](#), Sec. 12.11) directs the Wildlife Resources Commission to provide a one-time grant of \$37,500 for the 2004-2005 fiscal year from the Wildlife Resources Fund to Swain County as compensation for the loss of ad valorem taxes associated with the purchase by the Wildlife Resources Commission of the 3,431 acre Needmore game lands property located on the Little Tennessee River in Swain County.

This section became effective July 1, 2004. (TD)

Delay Dollar Limit on Credit for Partnerships

S.L. 2004-134 ([HB 1602](#)) See **Finance**.

Underground Storage Tanks

Leaking Petroleum Underground Storage Tank Cleanup Funds Solvency

S.L. 2004-124, Sec. 30.10 ([HB 1414](#), Sec. 30.10) allocates additional funds from the motor fuels tax to the Commercial Leaking Petroleum Underground Storage Tank (UST) Cleanup Fund and the Noncommercial Leaking Petroleum UST Cleanup Fund (UST Funds) and makes other changes to the Leaking Petroleum UST Cleanup Program.

Allocation of Funds. – The sum of \$19 million is to be credited to the UST Funds and to the Water and Air Quality Account in September 2004 and an additional fractional amount is to be credited throughout the 2004-2005 fiscal year. The act also appropriates funds from the Commercial Fund for one new accounting tech position and to cover legislative salary increases for UST program staff.

Preapproval. – The act authorizes the Department of Environment and Natural Resources (DENR) to identify and develop a list of tasks that require preapproval. DENR may not approve any tasks that require preapproval unless DENR determines that sufficient funds will be available to pay the claim for reimbursement within 90 days after the claim has been approved.

There are two exceptions to the limitation on preapproval of UST work:

- First, at the request of the UST owner, operator, or landowner, DENR may preapprove tasks when sufficient funds are not available to pay the claim for reimbursement within 90 days if the owner, operator, or landowner agrees that the claim will not be paid until after DENR has paid all claims for reimbursement that were submitted through the normal preapproval process.
- Second, DENR may preapprove tasks if the discharge or release creates an emergency situation. These tasks may be reimbursed on the same basis as those approved through the normal preapproval process.

The act provides that this provision does not invalidate any existing rules concerning pre-approval of UST work.

Prioritization of noncommercial sites. – The act directs DENR to establish the degree of risk to human health and the environment posed by noncommercial UST releases and to determine a schedule for further assessment and cleanup based on those factors. Once DENR has established a cleanup schedule, the costs of any assessment or cleanup activities are not eligible for reimbursement from the Noncommercial Fund until the actions are authorized by DENR pursuant to the schedule. An owner, operator, or other person may choose to undertake assessment or cleanup before receiving authorization from DENR, but the costs for the assessment or cleanup will be reimbursed only after DENR has paid or reimbursed the costs for all assessments and cleanups authorized by DENR. A similar provision that applies to commercial UST releases was enacted in 2003. The prioritization requirements will expire on October 1, 2005.

Study UST Program. – The act directs the Environmental Review Commission (ERC) and the Joint Legislative Transportation Oversight Committee to jointly study the role of the State and DENR in implementing the UST cleanup program. The issues to be considered include:

- The role of the State in assisting owners and operators of USTs in meeting applicable financial responsibility requirements and the availability and adequacy of private insurance.
- The adequacy of current and projected future revenue into the UST Funds.
- The feasibility and desirability of privatizing some or all of the functions of the UST Funds.
- The State's role in the cleanup of orphan UST sites.
- Whether existing UST rules are adequate to prevent future releases from USTs.

The ERC and the Joint Legislative Transportation Oversight Committee are to report the results of their study, including any legislative proposals, to the General Assembly no later than January 31, 2005.

The portions of this section that address prioritization and preapproval become effective October 1, 2004. The remainder of the section became effective July 1, 2004. The portions that address prioritization expire on October 1, 2005. (GG, TD)

Water Quality/Quantity/Groundwater

Dry-Cleaning Solvent Cleanup Act Amendments

S.L. 2004-48 ([SB 1219](#)) increases the percentage of revenue credited to the Dry-Cleaning Solvent Cleanup Fund (Fund) that may be used to pay for the costs of assessment or remediation of dry-cleaning solvent contamination that occurred prior to July 1, 2001, to 25% of the revenues credited to the Fund in the preceding fiscal year. Previously, the total payments made for the costs of assessment or remediation that occurred prior to July 1, 2001 could not exceed 10% of the revenues credited to the Fund in the preceding fiscal year.

The act became effective July 1, 2004. (TD)

Limit Use of Impervious Parking Surfaces For Sale of Nursery Stock

S.L. 2004-124, Sec. 6.29 ([HB 1414](#), Sec. 6.29) makes changes to the law concerning the regulation of stormwater runoff. This section provides that a retail merchant may not use more than 400 square feet of impervious surface within the merchant's vehicular parking area for the display and sale of nursery stock as defined by the Board of Agriculture. The Board defines nursery stock as all wild or cultivated plants trees, shrubs, vines, and bulbs. This definition specifically excludes, however, annual plants, cut flowers, true seeds, decorative plants without roots, and perennial plants intended for indoor use that are produced in North Carolina.

This section does not apply to retail merchants that either:

- Collect or treat stormwater on-site using a treatment system that is designed to remove at least 85% of total suspended solids.
- Collect or store stormwater for reuse on-site for irrigation or other purposes.
- Collect and discharge stormwater to a local or regional stormwater collection and treatment system.

The Secretary of Environment and Natural Resources may impose a civil penalty of not more than \$25,000 for a violation of this section. For continuous violations, this penalty may be imposed per day, unless otherwise stipulated. A civil penalty of \$10,000, or in the case of a continuous violation, a penalty of \$10,000 per day may be assessed if a civil penalty had been imposed against the violator within the five years preceding the violation.

This section becomes effective January 1, 2005, and applies only to retail merchants that first open a retail premises for business on or after that date or that submit an application for a building permit for the construction or renovation of a retail premises after that date. (TH)

Stormwater Pilot Project

S.L. 2004-124, Sec. 30.20 ([HB 1414](#), Sec. 30.20) directs the Department of Transportation to use up to \$15,000,000 of funds available to the Department during the 2004-2005 fiscal year for a stormwater pilot project that will use new and innovative technologies and filtering mechanisms to clean up State-maintained ocean outfalls and associated outlets.

This section became effective July 1, 2004. (TD)

Phase II Stormwater Management-1

S.L. 2004-163 ([SB 1210](#)) provides for the temporary implementation of federal Phase II stormwater management requirements.

Phase II Stormwater Permit Application and Standards. – Section 1 provides that an application for a Phase II National Pollutant Discharge Elimination System (NPDES) permit for

stormwater management (stormwater permit) that was submitted to the Department of Environment and Natural Resources (DENR) in accordance with the application schedule set out in Section 6 of the temporary Phase II stormwater management rule adopted by the Environmental Management Commission (EMC) on October 10, 2002, will be deemed timely received. A local government applicant for a stormwater permit must develop, implement, and enforce a stormwater management plan that is approved by DENR and that meets federal requirements. The evaluation of the stormwater permit applications by DENR will be conducted as provided in Section 10 of the temporary Phase II stormwater management rule adopted by the EMC on October 10, 2002, as modified by this act. A municipality with a population of less than 1,000 is not required to obtain a stormwater permit unless the municipality is shown to be contributing to an impairment of State waters.

New Development and Redevelopment in Unincorporated Areas of Counties. –

Section 2 provides that new development and redevelopment located in the unincorporated area of a county must comply with the stormwater management standards set forth in Section 10 of the temporary Phase II stormwater management rule adopted by the EMC on October 10, 2002, as modified by this act, beginning July 1, 2006 if the new development or redevelopment is located in:

- An area that is federally designated as an urbanized area.
- An unincorporated area of a county that is delineated as a regulated coverage area. An unincorporated area is delineated as a regulated coverage area based on its geographical proximity to a municipality and the environmental impact of stormwater discharges within or from the area.
- A county in which the unduplicated sum of: (i) the area that is federally designated urbanized area; (ii) the area delineated as a regulated coverage area; (iii) the jurisdiction of a regulated entity designated pursuant to Section 7 of this act; and (iv) the area that is regulated by a stormwater permit required pursuant to Section 8 of this act equals or exceeds 85% of the total geographic area of the county.

Coordination of Phase II and Other Stormwater Management Programs. –

Section 3 provides that if there are conflicting or overlapping stormwater management requirements, the most stringent requirements will apply.

General Permit. – Section 4 directs DENR to develop and issue a Phase II NPDES general permit for stormwater management containing postconstruction stormwater management measures developed in accordance with Section 10 of the temporary Phase II stormwater management rule adopted by the EMC on October 10, 2002, as modified by this act. A local government may opt to be covered under the Phase II NPDES general permit for stormwater management developed by DENR rather than developing its own individual permit.

Delegation. – Section 5 provides that a public entity that does not administer a stormwater permit throughout the entirety of its planning jurisdiction and whose planning jurisdiction includes a regulated coverage area may voluntarily undertake the implementation of a local stormwater management program approved by DENR.

Phase II Stormwater Implementation Deadlines. – Section 6 provides deadlines for when DENR must make certain permitting decisions. Section 6 also provides that:

- A public entity federally designated as a regulated entity will develop and implement postconstruction stormwater management measures within 24 months of the issuance of its stormwater permit.
- A public entity designated as a regulated entity pursuant to subdivisions (2)(the State designation process) and (3)(designation under a total maximum daily load (TMDL) implementation plan) of Section 7 of the act will develop and implement postconstruction stormwater management measures within 36 months of the issuance of its stormwater permit.

Designation. – Section 7 provides a detailed designation process by which the EMC may require additional local governments and other entities to obtain a stormwater permit.

Petition Process. – Section 8 provides a detailed petition process by which the EMC may require additional local governments and other entities to obtain a stormwater permit upon the petition of any person.

Model Ordinance. – Section 9 directs the EMC to develop a stormwater model ordinance to assist local governments and others in developing and implementing stormwater management programs and controls. In the development of the model ordinance, the EMC will provide for options that take into consideration differences among local governments in the State, including but not limited to population, financial resources, and human resources.

Design Manual. – Section 10 provides for the development of a stormwater design manual to assist local governments and others in determining which controls are best suited to their unique characteristics, including but not limited to hydrology, topography, climate, soils, and receiving waters.

Federal and State Development or Redevelopment Projects. – Section 11 provides that DENR will have exclusive jurisdiction to establish stormwater management requirements with respect to a particular project that is not under the jurisdiction of a federal or State agency that holds a Phase I or Phase II NPDES permit for stormwater management that applies to all of the agency's activities or that applies to the particular project.

Definitions. – Section 12 provides definitions for the act and its implementation.

Construction of Act. – Section 13 provides that:

- Nothing in the act shall be construed to alter the authority of the EMC or a local government with regard to stormwater management.
- The act shall not be construed to affect pending litigation.
- Except as specifically provided by the act, the act shall not be construed to give effect to any Phase II stormwater management rules that have not become effective as provided in the Administrative Procedure Act.
- The federal exemptions from NPDES permit requirements for agriculture and silviculture apply to this act.
- The act shall not be construed to affect any vested right to development under any provision of statutory or common law.
- The act shall not be construed to affect any delegation of power or duty to the EMC or DENR.

This act became effective August 2, 2004, and expires October 1, 2011. (GG, JH)

Phosphorus Nutrient Management/Animal Feedlots

S.L. 2004-176 ([HB 1112](#)), as amended by S.L. 2004-195, Sec. 1.9 ([SB 823](#), Sec. 1.9), implements requirements applicable to National Pollution Discharge Elimination System (NPDES) permits and animal waste management plans governing animal feeding operations to make the State permit requirements consistent with federal regulations. The act:

- Amends the definition of "animal operation" to include agricultural feedlots with liquid animal waste management systems that discharge to surface waters.
- Requires owners and operators of animal operations to apply for a NPDES permit 180 days prior to construction of a new animal waste management system (System) or expansion of an existing System and to obtain the NPDES permit prior to commencement of construction or expansion.
- Requires owners and operators of proposed new dry litter poultry facilities of a certain size to apply for NPDES permits 180 days prior to operation of a new System.
- Establishes deadlines for existing animal operations and dry litter facilities of a certain size to apply for NPDES permits.
- Requires that Systems be constructed and operated so that the animal operation the System serves does not result in a discharge except as may result because of rainfall from a storm event more severe than the 100-year, 24-hour storm.

- Requires certain dry litter poultry facilities to develop animal waste management plans and specifies the components of the plan.
- Provides that phosphorus shall be a rate-determining element for land application of animal waste if testing demonstrates the need to limit the application of phosphorus in order to comply with the nutrient management standard.
- Establishes a three-tier system of annual permit fees for dry litter poultry facilities. The annual fee will be \$50.00, \$150.00, or \$300.00, depending on the size of the facility.
- Directs the Department of Environment and Natural Resources (DENR) to evaluate the need for and availability of information to identify poultry facilities that may be subject to regulation. DENR must report its findings and recommendations, including any legislative proposals, to the Environmental Review Commission on or before January 1, 2005.

S.L. 2004-195, Sec. 1.9 ([SB 823](#), Sec. 1.9) modified the effective date of Section 7 of S.L. 2004-176, which directs DENR to evaluate the information needs for the identification of poultry facilities that may be subject to regulation, thus the section became effective August 2, 2004. The remaining sections of S.L. 2004-176 become effective January 1, 2005. (JM, GG)

Miscellaneous

River Basins Advisory Commissions

S.L. 2004-83 ([SB 859](#)) establishes the Catawba/Wateree River Basin Advisory Commission and the Yadkin/Pee Dee River Basin Advisory Commission. Each commission will consist of 15 members from North Carolina and South Carolina. The commissions have no regulatory authority. The purpose of the commissions is to:

- Provide guidance and make recommendations to local, state, and federal legislative and administrative bodies on the use, stewardship, and enhancement of the water and other natural resources within the respective river basin.
- Provide a forum for discussion of issues affecting the river basin's water quality, water quantity, and natural resources.
- Promote communication, coordination, and education among stakeholders.
- Identify problems and recommend appropriate solutions.
- Undertake studies and publish reports related to water quantity, water quality, and other natural resources of the river basin.
- Determine the optimum approach to comprehensively and collaboratively provide recommendations for integrated river management.

This act is similar to legislation enacted by the General Assembly of South Carolina on July 6, 2004 (2004 South Carolina Laws Act 262).

This act became effective July 8, 2004. (JM)

Requirements for Animal Waste Management Systems Technical Specialists

S.L. 2004-124, Sec. 12.7C ([HB 1414](#), Sec. 12.7C) provides that the requirements and qualifications for animal waste management systems technical specialists (technical specialists) shall not be changed and the scope of the work they are authorized to perform shall not be decreased before July 1, 2006. Technical specialists are approved by the Soil and Water Conservation Commission to provide various forms of assistance to farmers in the development and certification of their animal waste management plans.

This section became effective July 1, 2004. (TD)

Expand Express Review Pilot Program

S.L. 2004-124, Sec. 12.9 ([HB 1414](#), Sec. 12.9) expands the geographic coverage of the Express Review Pilot Program (Program) that was established by S.L. 2003-284, Sec. 11.4A. Under the Program, the Department of Environment and Natural Resources (DENR) provides expedited review of certain environmental permits, approvals, and certifications and may charge fees higher than those set by statute for the normal review process. The Program may apply to permits, approvals, and certifications under the erosion and sedimentation control program, the coastal management program, and the water quality programs, and focuses on stormwater permits, stream origination certifications, water quality certifications, erosion and sedimentation control permits, and Coastal Area Management Act permits.

The original Program was implemented in the Wilmington and Raleigh Regional Offices of DENR. S.L. 2004-124, Sec. 12.9 ([HB 1414](#), Sec. 12.9) directs DENR to expand the Program to two additional regional offices and authorizes DENR to establish additional positions to administer the Program. No later than March 1, 2005, DENR will report to the Fiscal Research Division and the Environmental Review Commission on the Program and whether it should be continued or expanded.

This section became effective July 1, 2004. (JH)

Expand One-Stop Permit Assistance Program Statewide

S.L. 2004-124, Sec. 12.12 ([HB 1414](#), Sec. 12.12) expands statewide and makes permanent the one-stop environmental permit application assistance and tracking system pilot project established by S.L. 2000-67, Sec. 13.7. Under the expanded, permanent one-stop environmental permit application assistance and tracking system program (Program), the Department of Environment and Natural Resources (DENR) must provide each person who submits a complete application for a permit with a time frame within which the applicant may expect a final decision regarding the issuance or denial of the permit. Unless otherwise provided by law, when an applicant has provided DENR with all required information and documentation and DENR fails to issue or deny the permit within 60 days of the projected date for a final decision, the permit shall be automatically issued. The permit will not automatically issue if the applicant substantially amends an application or agrees to receive a final decision at a later date.

DENR shall track the time required to process each complete permit application that is subject to the Program, compare the actual and projected dates of final permit decisions, and identify each permit that was issued or denied more than 90 days after receipt of a complete application and document the reasons for the delayed action. No later than October 1 of each year, DENR shall report to the House of Representatives and the Senate Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission on this information and shall recommend permit time frames for all major permits it issues.

This section becomes effective January 1, 2005. (JH)

Monitoring and Emergency Cleanup Funds for Texfi Site Contamination

S.L. 2004-124, Sec. 12.14 ([HB 1414](#), Sec. 12.14) authorizes the Department of Environment and Natural Resources (DENR) to use up to \$50,000 of money appropriated to the Division of Waste Management of DENR for cost share of federal Superfund cleanup funds to monitor and perform emergency cleanup activities at the Texfi site in Cumberland County.

This section became effective July 1, 2004. (TD)

Amend Environmental Laws-3/Appointments

S.L. 2004-195 ([SB 823](#)) amends various environmental laws and makes other changes, including:

- Makes technical corrections to various laws related to the environment and natural resources.
- Modifies environmental reporting requirements.
- Abolishes the Watershed Protection Advisory Council and the Scientific Advisory Council on Water Resources and Coastal Fisheries Management.
- Extends by one year the time available to the Environmental Management Commission to develop and adopt permanent rules governing water conservation and water reuse during drought and emergency water situations.
- Provides for staggered terms of the members of the Agricultural Finance Authority, appoints members to the Authority, and limits future members of the Authority from serving more than three successive three-year terms.
- Prohibits the sale or dispensing of raw milk and raw milk products to anyone other than a permitted milk hauler or a milk processing facility.

This act became effective August 17, 2004.

Section 7 of this act provides that vacancies may be filled in certain offices during a holdover period. For additional information on this section, see **State Government**. (TD)

Wetlands Reimbursement/Local Tax Base

S.L. 2004-188 ([SB 933](#)). See **Finance**.

Finance Vital Projects/Studies

S.L. 2004-179, Parts 2, 3, 4, and 8 ([HB 1264](#), Parts 2, 3, 4, and 8) authorize the issuance of special indebtedness (certificates of participation, or "COPs") for the financing of parks projects and clean water projects, including various capital projects, and for the financing of natural heritage projects. The act sets a cap on the maximum principal amount of special indebtedness that may be incurred of \$45,000,000, \$20,000,000 of which may be incurred for land near military bases, and \$25,000,000 of which may be incurred for parks and gamelands. Up to \$32,000,000 (of the total \$45,000,000) in special indebtedness may be issued before July 1, 2005. Repayment of the debt for these purposes would be made from existing revenue streams dedicated to the Parks and Recreation Trust Fund, the Natural Heritage Trust Fund, and the Clean Water Management Trust Fund. The act requires that the Parks and Recreation Authority allocate funds from the Parks and Recreation Trust Fund with a geographic distribution across the State to the extent practicable. The act states that it is the intent of the General Assembly that the purposes for which parks, heritage, and clean water indebtedness may be incurred include, as a high priority, acquiring land near military bases to prevent encroachment. The act further provides that none of the parks, heritage, and clean water debt proceeds may be used to acquire property by eminent domain.

These parts became effective August 5, 2004.

Parts 5 and 7 of this act create the Debt Affordability Advisory Committee and authorize the State Treasurer to study the use of innovative public financing tools. For additional information on this section, see **Finance**.

Part 6 of this act authorizes the University of North Carolina and the State Board of Community Colleges to study the mission and education program needs for the University System and the Community College System. For additional information on this section, see **Education**. (JM)

Studies

Legislative Research Commission

Light Pollution and Conservation Studies

S.L. 2004-161, Secs. 2.1(1)c and 2.1(9)c ([SB 1152](#), Secs. 2.1(1)c and 2.1(9)c) authorize the Legislative Research Commission to study:

- Light pollution.
- Soil and water conservation issues.

These sections became effective August 2, 2004. (TD)

New/Independent Studies/Commissions

Saltwater Fishing Fund

S.L. 2004-187, Secs. 12(c) and 12(d) ([HB 831](#), Secs. 12(c) and 12(d)) direct the Board of Trustees of the North Carolina Saltwater Fishing Fund to study issues related to the establishment of a unified recreational fishing license for recreational fishing in both the inland and coastal fishing waters of the State. The Board shall make specific findings as to whether a unified licensing system should be adopted for recreational fishing in the State and, if so, what the system should be and how it should be implemented. The Board shall submit the results of this study to the Joint Legislative Commission on Seafood and Aquaculture no later than April 15, 2005.

These sections became effective August 17, 2004. (JH)

Referrals to Existing Commissions/Committees

Coastal Resources Commission

New Urban Waterfront Development Pilot

S.L. 2004-117 ([SB 732](#)) directs the Coastal Resources Commission (CRC) to implement a pilot under which one county may designate an area as a new urban waterfront (NUW area), and allows for the development of a NUW area as provided in the act. A NUW area as defined by the act is an area designated for development that includes a mixture of residential and commercial uses, recreational areas, and facilities for governmental or other civic purposes; provides for pedestrian access to residential, commercial, civic and recreational areas; and incorporates open space for recreational and other public purposes.

Section 4 of the act directs the CRC to evaluate the impacts on water quality and other environmental impacts from the NUW area, and the costs and benefits from the development, in order to determine whether additional developments within NUW areas should be allowed, and whether rules governing the developments should be modified. The CRC is directed to annually report its interim findings and recommendations to the Environmental Review Commission beginning October 1, 2005, and to report its final findings and recommendations no later than October 1, 2010.

This act became effective July 17, 2004. (JM)

Commission for Health Services

Innovative Peat-Based Wastewater Systems Study

S.L. 2004-161, Part VIII ([SB 1152](#), Part VIII) directs the Commission for Health Services (Commission) to evaluate whether to implement a pilot program testing innovative septic systems that utilize peat-based technology. The Commission will identify two or more counties that would participate in the pilot program as part of the evaluation. The Commission will report the results of its evaluation to the Senate and House of Representatives Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission on or before January 15, 2005.

This part became effective August 2, 2004. (TD)

Environmental Review Commission

Leaking Petroleum Underground Storage Tank Cleanup Funds Solvency

S.L. 2004-124, Sec. 30.10(f) ([HB 1414](#), Sec. 30.10(f)) directs the Environmental Review Commission (ERC) and the Joint Legislative Transportation Oversight Committee to jointly study the role of the State and the Department of Environment and Natural Resources in implementing the Leaking Petroleum Underground Storage Tank (UST) Cleanup Program. The issues to be considered include:

- The role of the State in assisting owners and operators of USTs in meeting applicable financial responsibility requirements and the availability and adequacy of private insurance.
- The adequacy of current and projected future revenue into the Commercial Leaking Petroleum UST Cleanup Fund and the Noncommercial Leaking Petroleum UST Cleanup Fund (UST Funds).
- The feasibility and desirability of privatizing some or all of the functions of the UST Funds.
- The State's role in the cleanup of orphan UST sites.
- Whether existing UST rules are adequate to prevent future releases from USTs.

The ERC and the Joint Legislative Transportation Oversight Committee are to report the results of their study, including any legislative proposals, to the General Assembly no later than January 31, 2005.

This section became effective July 1, 2004. (TD, GG)

Environmental Review Commission Studies

S.L. 2004-161, Part XIX ([SB 1152](#), Part XIX) directs the Environmental Review Commission (ERC) to study:

- Whether the State should modify the current highway use tax so that all or a portion of the highway use tax paid on a private passenger vehicle is based on the fuel efficiency rating of the vehicle.
- Whether the State should modify the current vehicle registration fee so that all or a portion of the annual vehicle registration renewal fee for a passenger vehicle is based on the vehicle miles traveled by the vehicle.

The ERC shall consider whether these modifications should be made on a revenue neutral basis or should be made so as to generate additional revenue to be used to fund initiatives designed to improve air quality and the efficiency of the State's transportation system.

Part XIX also authorizes the ERC to study:

- The overall effectiveness of the State's efforts to protect the environment and conserve the natural resources of North Carolina.
- Whether information compiled by the Statewide Floodplain Mapping Unit would be useful and relevant to dam operators, local agencies, and State agencies with regard to making decisions about coordinating and controlling water releases from dams, flood control, floodplain management, and emergency evacuation procedures.
- Water restriction guidelines created by the Department of Environment and Natural Resources and implemented by local governments.
- Various approaches to prevent and reduce stormwater pollution throughout the State.
- Other topics:
 - Development and funding of regional water supply systems.
 - Establishing a Clean Air Trust Fund.
 - Revocation of contracts under certain circumstances.
 - The feasibility of encouraging permeable surfaces as a deterrent to stormwater runoff.
 - Ways to protect a property owner whose land is adjacent to or downstream from a site on which alterations of the existing flow of stormwater will occur.

This part became effective August 2, 2004. (TD)

Joint Legislative Commission on Seafood and Aquaculture

Study Taking of Shrimp with Trawl Nets in Certain Inland Waters

S.L. 2004-161, Part XXV ([SB 1152](#), Part XXV) authorizes the Joint Legislative Commission on Seafood and Aquaculture to study whether it should be unlawful to take shrimp with trawl nets in certain inland waters. The Commission may report the results of its findings, with any recommended legislation, to the 2005 General Assembly.

This part became effective August 2, 2004. (JH)

Joint Legislative Growth Strategies Oversight Committee

Joint Legislative Growth Strategies Oversight Committee

S.L. 2004-161, Part III ([SB 1152](#), Part III). See **Local Government**.

Marine Fisheries Commission

Amend Shellfish Laws

S.L. 2004-150, Secs. 6 and 7 ([HB 1427](#), Secs. 6 and 7) authorize the Marine Fisheries Commission (MFC) to study:

- Whether and how to establish a process by which shellfish cultivation leases that have been terminated may be leased without reverting to public bottom.
- Issues related to corporate ownership of shellfish cultivation leases.

If the MFC undertakes either study, the MFC shall report its findings and recommendations to the Joint Legislative Commission on Seafood and Aquaculture no later than December 1, 2004.

These sections became effective August 2, 2004. (JH)

Referrals to Departments, Agencies, Etc.

State Parks System Additions & Study

S.L. 2004-24, Sec. 2 ([HB 1574](#), Sec. 2) directs the Division of Parks and Recreation (Division) of the Department of Environment and Natural Resources to study the feasibility and desirability of acquiring land and establishing a new State recreation area at Blewett Falls Lake, including estimation of the cost of developing the proposed recreation area. The Division must report its findings and recommendations, including any legislative proposals, to the Environmental Review Commission on or before December 1, 2005.

This section became effective June 25, 2004. (JM)

Twenty-Four Hour Access to Fort Fisher State Recreation Area During the Fall and Winter/Funds for Department Study/Activities at Fort Fisher

S.L. 2004-124, Secs. 12.3(b) and 12.3(c) ([HB 1414](#), Secs. 12.3(b) and 12.3(c)) direct the Department of Environment and Natural Resources (DENR) to conduct a study of vehicle use at Fort Fisher State Recreation Area (Fort Fisher) including consideration of:

- The demand for vehicle access to the beach during different times of the year;
- The impact of vehicles on sea turtles and nesting birds;
- The sea turtle and bird nesting activity at Fort Fisher as compared with the nesting activity on the adjoining beach managed by the Bald Head Conservancy and on Masonboro Island; and
- The economic impact of restricting 24-hour vehicle access to the beach.

DENR must report its findings and recommendations, including any legislative proposals, to the Environmental Review Commission by February 1, 2005. The section also provides that of the funds appropriated to DENR for the 2004-2005 fiscal year, \$25,000 shall be used to conduct the study and for other educational, conservation, and enforcement activities at Fort Fisher.

These sections became effective July 1, 2004. (JM)

Phosphorous Nutrient Management/Animal Feedlots

S.L. 2004-176, Sec. 7 ([HB 1112](#), Sec. 7), as amended by S.L. 2004-195, Sec. 1.9 ([SB 823](#), Sec. 1.9), directs the Department of Environment and Natural Resources (DENR) to evaluate the need for and availability of information to identify poultry facilities that may be subject to

regulation. DENR must report its findings and recommendations, including any legislative proposals, to the Environmental Review Commission on or before January 1, 2005.

S.L. 2004-195, Sec. 1.9 ([SB 823](#), Sec. 1.9) modifies the effective date of this act, therefore, this provision became effective August 2, 2004. (JM)

Stream Mapping

S.L. 2004-161, Part XXXIII ([SB 1152](#), Part XXXIII) directs the Geographic Information Coordinating Council and the Department of Environment and Natural Resources to develop and recommend a plan to improve the mapping and digital representation of surface waters in North Carolina, including intermittent and perennial streams, lakes, and ponds, to the General Assembly and the Environmental Review Commission on January 15, 2005.

This part became effective August 2, 2004. (TD)

Office of State Personnel Study – DENR Parks and Recreation Law Enforcement Officers

S.L. 2004-161, Part XLII ([SB 1152](#), Part XLII). See **Labor and Employment**.

For a complete list of the studies and reports authorized by the 2004 Session of the 2003 General Assembly, please refer to the Appendix contained in this publication.

Chapter 11

Finance

Cindy Avrette (CA), Trina Griffin (TG), and Martha Walston (MW)

*(For a more detailed explanation of the finance law changes, see the document **2004 Finance Law Changes**. The document can be found in the Legislative Library, located in Room 500 of the Legislative Office Building.)*

Enacted Legislation

Job Growth and Infrastructure Act

S.L. 2003-435, 2003 Second Extra Session ([HB 2](#), 2003 Second Extra Session) makes the following economic development changes:

- Appropriates \$24 million to a nonreverting fund to be used for site infrastructure for major industrial projects, effective when the act became law.
- Makes various changes to the Job Development Investment Grant (JDIG) program, effective when the act became law.
- Extends the Bill Lee Act sunset and other deadlines for major pharmaceutical manufacturing and bioprocessing facilities, effective beginning in 2004.
- Authorizes annual sales tax refunds for construction materials for major pharmaceutical manufacturing and bioprocessing facilities, effective January 1, 2004.
- Extends the sunset on the cigarette exportation tax credit from 2005 to 2018 with the additional requirement that the taxpayer use the North Carolina State Ports. This part also allows the credit to be claimed by successors in business and modifies the base year determination.
- Allows a corporate income tax credit for tobacco manufacturers who export cigarettes to foreign countries, who use the North Carolina State Ports, and who maintain employment levels in this State that exceed the corporation's employment level in this State at the end of 2004.
- Establishes an Authority to study and make recommendations for creating a credit enhancement program for financing construction of infrastructure for life sciences manufacturing facilities.

Except as otherwise provided, this act became effective December 16, 2003. (CA)

Allow Family Business to Lease Farmland

S.L. 2004-8 ([HB 1465](#)) allows farmland owned by a business entity to keep its present-use value status when the land is leased to a nonmember of the entity, so long as all members of the business entity are relatives and the land is leased for agricultural, horticultural, or forestry purposes. Since this act addresses a property tax issue, no General Fund impact is expected. It will result in a loss of revenue to local governments, which is expected to be fairly small because of the limited nature of the tax law change.

This act became effective for taxable years beginning on or after July 1, 2004. (CA)

Adopt Flat Fee for Debt Collection

S.L. 2004-21 ([HB 1497](#)) adopts a flat collection assistance fee of \$5.00 for debts collected by the Department of Revenue under the Setoff Debt Collection Act.

This act becomes effective for fees assessed on or after January 1, 2005. (CA)

Notice Period for Sales and Use Tax Refunds

S.L. 2004-22 ([HB 1448](#)) requires a purchaser seeking a refund of over-collected sales or use tax to provide written notice to the seller and to allow the seller 60 days to respond before the purchaser may bring a cause of action against the seller. This requirement is necessary to conform to the Streamlined Sales Tax Agreement.

This act became effective June 28, 2004. (CA)

Amend Franchise Tax Loophole

S.L. 2004-74 ([SB 51](#)) makes several changes to the 2001-2002 legislation that established attribution rules intended to close a loophole that allows corporations to escape franchise tax by having a controlled limited liability company (LLC) hold their assets. The changes are as follows:

- Removes attribution rules for certain related members and for individuals. Ownership interests in LLC assets would be attributed to corporations and to and from partnerships, estates, trusts, LLCs, and other entities.
- Provides that federal rules relating to constructive ownership of stock govern attribution of ownership interests in LLC assets.
- Attributes only a proportion of the LLC assets to the controlling corporation, rather than all of the assets.
- Exempts LLCs that have no more than \$150,000 of assets.
- Simplifies and corrects the test for determining whether an LLC's assets are attributable to a corporation.
- Beginning in 2005, it changes from "70% or more" to "more than 50%" the minimum percentage of an LLC's assets a corporation must control to trigger the franchise tax requirement.
- Removes membership in the LLC as an additional condition for attribution.

There is no fiscal estimate available for these changes.

This act became effective for taxes due on or after January 1, 2003. (CA)

Nonprofits Exempt from Admission Tax

S.L. 2004-84 ([HB 1303](#)) reduces certain privilege and excise taxes as follows:

- Exempts two additional types of activities from the 3% privilege tax on amusements: (1) a youth athletic contest with an admission price that does not exceed \$10, with participating athletes less than 20 years of age, and that is sponsored by a person exempt from income tax; and (2) all exhibitions, performances, and entertainments promoted and managed by a nonprofit arts organization that is exempt from income tax.
- Reduces the excise tax on cigarettes, other tobacco products, wine, beer, and spirituous liquor by allowing a 2% discount on the tax due.

No exact fiscal estimate is possible with regard to the privilege license tax exemptions because the Department of Revenue cannot estimate how many organizations would be impacted and is not certain that all potentially impacted organizations are currently paying the

tax owed. The 2% excise tax discount results in a loss to the General Fund of \$760,000 from tobacco products and \$1.8 million from alcoholic beverages for fiscal year 2004-2005.

The section regarding the privilege license tax exemptions for certain amusements became effective July 1, 2004. The section allowing the excise tax discount for cigarettes, other tobacco products, and alcoholic beverages became effective for reporting periods beginning on or after August 1, 2004. (TG)

Emergency Funding/Continuing Provisions

S.L. 2004-88 ([HB 1352](#)) appropriates \$61.4 million dollars in fiscal year 2003-2004 and it sets out year-end transitional provisions pending the passage of The Current Operations and Capital Improvements Appropriations Act of 2004. The act:

- Establishes the One North Carolina Fund as a special reserve fund, codifies the provisions related to the Fund, and appropriates \$20 million to the Fund for the 2003-2004 fiscal year.
- Appropriates \$1.4 million to the Community Colleges System for the 2003-2004 fiscal year for new and expanding industry training.
- Appropriates \$20 million to the North Carolina Rural Economic Development Center to establish the North Carolina Infrastructure Program, to provide matching grants to local governments in distressed areas and equity investments in public-private ventures that will reuse vacant buildings.
- Provides research and demonstration grants.
- Appropriates \$20 million to the Teachers' and State Employees' Retirement System Fund in the 2003-2004 fiscal year to partially pay back the debt owed to the Fund.

This act became effective July 1, 2004. (MW)

IRC Update and Other Tax Changes

S.L. 2004-110 ([HB 1430](#)) makes the following tax law changes:

- Updates to May 1, 2004, the reference to the Internal Revenue Code used in defining and determining certain State tax provisions.
- Sets the rates for the public utility regulatory fee at 0.12% for the 2004-2005 fiscal year and the electric membership corporation regulatory fee at \$200,000 for the 2004-2005 fiscal year. These fees are the same as the rates established for the past two years. Effective July 1, 2004.
- Sets the insurance regulatory fee at 5% for the 2004 calendar year. This rate is the same as the 2003 rate.
- Extends the credit on the low-income housing tax credit from January 1, 2006, until January 1, 2010.
- Clarifies the sales tax incentives for major projects. This is effective July 1, 2004, and applies to sales made on or after that date.
- Maintains the current sales tax rate on electricity used by manufacturers. This is effective October 1, 2004, and applies to sales of electricity made on or after that date.
- Authorizes the Administrative Office of the Courts to impose a family court fee.

Except as otherwise provided, this act became effective July 7, 2004. (CA)

2004 Appropriations Act Tax Law Changes

S.L. 2004-124 ([HB 1414](#)) makes the tax law changes outlined in the chart provided. (TG)

Part	Description and Effective Dates	Fiscal Impact
32B	<p>Sales Tax Refunds and Exemptions</p> <p>Refunds – Expands the refund of State and local sales and use taxes paid on construction materials and fixtures for certain industrial facilities in three ways:</p> <ul style="list-style-type: none"> • Reduces from \$100 million to \$50 million the required investment amount for refund eligibility if the facility is located in a tier one, two, or three area, effective January 1, 2004. • Expands the list of eligible industries to include manufacturing of aircraft, computers, motor vehicles, and semiconductors, effective July 1, 2004, until July 1, 2009. • Clarifies what items are eligible for the sales and use tax refund, effective October 1, 2004. <p>Exemptions – Exempts the following items from the sales and use tax. Except as otherwise noted, each exemption is effective October 1, 2004.</p> <p>(1) Tangible personal property sold to interstate air business that becomes component part or is dispensed into commercial aircraft.</p> <p>(2) Plastic mulch and plant bed covers sold to a farmer for agricultural purposes.</p> <p>(3) Delivery charges for direct mail.</p> <p>(4) Sales to a professional land surveyor of tangible personal property on which custom aerial data is stored.</p> <p>(5) Free distribution periodicals, effective July 1, 2005.</p>	<p>Refunds – The expansion of this refund will reduce General Fund revenues by \$2.4 million in FY 2004-05 and by \$4.6 in FY 2005-06.</p> <p>Exemptions -</p> <p>(1) FY 2004-05: -\$2 million FY 2005-06: -\$2.7 million</p> <p>(2) FY 2004-05: -\$400,000 FY 2005-06: -\$500,000</p> <p>(3) FY 2004-05: -\$300,000 FY 2005-06: -\$400,000</p> <p>(4) FY 2004-05: -\$100,000 FY 2005-06: -\$100,000</p> <p>(5) FY 2005-06: -\$4.6 million</p> <p>The total loss to the General Fund for these sales tax refunds and exemptions will be \$4.7 million in FY 2004-05 and \$7.4 million in FY 2005-06.</p>
32C	<p>Qualified Business Investment Credit</p> <p>Increases from \$6 to \$7 million the total amount of all qualified business investment credits that may be taken each year and extends the sunset on the credit from 2007 to 2008.</p> <p>Effective for investments made on or after January 1, 2004.</p>	<p>There is no fiscal impact in FY 2004-05, but the change will reduce General Fund revenues by \$1 million in FY 2005-06.</p>

<p>32D</p>	<p>Research and Development Tax Credit Creates a new research and development tax credit as an alternative to the Bill Lee R&D credit. For R&D other than that conducted by a university, the credit is based</p> <p>Effective May 1, 2005 and sunsets in 2009.</p>	<p>This new credit will reduce General Fund revenues as follows: FY 2004-05: \$4.5 million FY 2005-06: \$18.5 million FY 2006-07: \$22 million FY 2007-08: \$23.4 million FY 2008-09: \$24.7 million</p>
<p>32F</p>	<p>Insurable Interest of Charitable Organizations Deems certain entities that are formed, in part, for the purpose of generating funds for charitable organizations to have an insurable interest in an individual's life and allows those entities to invest in pools of life insurance, as long as at least part of the proceeds is directed to charitable organizations.</p> <p>Effective July 20, 2004 and sunsets October 1, 2007.</p>	<p>No fiscal information available.</p>
<p>32G</p>	<p>Job Development Investment Grant Program</p> <ul style="list-style-type: none"> • Extends from 2005 to 2006 the sunset of the Job Development Investment Grant (JDIG) Program. • Increases from 15 to 25 the number of agreements that the Economic Investment Committee (EIC) may enter into each year, effective July 20, 2004. • Increases from \$10 million to \$15 million the maximum availability that the EIC may commit under the program, effective January 1, 2004. <p>Makes various administrative changes such as clarifying that the JDIG agreements are binding, changing the date and required contents of annual reports, and requiring that agreements include a provision encouraging the use of small businesses headquartered in North Carolina. Except for the clarification that the agreements are binding, which is retroactive to October 1, 2002, these changes became effective July 20, 2004.</p>	<p>The expected reduction in General Fund revenues is \$500,000 for FY 2004-05 and approximately \$20 million in FY 2005-06.</p>

Department of Revenue Debt Fee for Taxpayer Locator Services and Collection

S.L. 2004-124, Sec. 23.2 ([HB 1414](#), Sec. 23.2) expands the purposes for which the Department of Revenue may use the proceeds of the fee charged for overdue tax debt collection. Specifically, it authorizes the Department to use the proceeds to pay contractors for collecting overdue tax debts, to pay the fee to the United States Department of the Treasury charges for setoff to recover tax owed to North Carolina, and to pay for taxpayer locator services, not to exceed \$100,000 a year.

Funds are appropriated to the Department of Revenue from the collection assistance fee to cover expenses associated with the collection of overdue tax debts. This section requires the Department to account for all debt collection expenditures and to report to the 2005 General Assembly on the implementation of these provisions.

This section became effective July 1, 2004. (TG)

Modify Department of Revenue Reporting to the Joint Legislative Commission on Governmental Operations

S.L. 2004-124, Sec. 23.3 ([HB 1414](#), Sec. 23.3) modifies from quarterly to semiannually the reporting requirement of the Department of Revenue to the Joint Legislative Commission on Governmental Operations regarding the Department's efforts to collect overdue tax debts as well as on its use of funds drawn from the collection assistance fee for purposes of establishing and operating a central taxpayer telecommunications service center for collections. This section also repeals the requirement that the Department report quarterly to the chairs of the Appropriations Committees and Finance Committees and to the Fiscal Research Division on the Department's expenditure of funds withheld from distributions to local governments to cover its costs of administering local taxes and local programs.

This section became effective July 1, 2004. (TG)

Revenue Law Enforcement Officers

S.L. 2004-124, Sec. 23.4 ([HB 1414](#), Sec. 23.4) authorizes the Secretary of the Department of Revenue to appoint up to 11 employees of the Motor Fuels Tax Division to serve as revenue law enforcement officers having the responsibility and subject-matter jurisdiction to enforce the taxes on motor fuels.

This section became effective July 1, 2004. (TG)

Funds from Department of Revenue's Fuel Tax Action Plan

S.L. 2004-124, Sec. 30.9 ([HB 1414](#), Sec. 30.9) specifies how funds generated from the Department of Revenue's Fuel Tax Action Plan are to be distributed and applied by the Department of Transportation. This section also requires the Department of Revenue to submit periodic reports to the Joint Legislative Transportation Oversight Committee and the Joint Legislative Commission on Governmental Operations on the implementation of the Department's Fuel Tax Action Plan. The initial report, which must include a description of the plan, a timetable for implementation, and the amount of revenue the Department expects to generate, was required to be submitted by August 1, 2004. Subsequent reports describing the Department's progress with the plan must be submitted every three months starting November 1, 2004 until the end of the plan.

This section became effective July 1, 2004. (TG)

Modify Youth Facility Debt Authorization

S.L. 2004-126 ([HB 1795](#)) modifies the 2003 authorization for special indebtedness for youth development centers to reflect the changes in the project's scope and reduces the amount authorized from \$6,780,000 to \$4,460,000. Section 46A.2 of the 2003 Budget Act authorized issuance of up to \$6,780,000 in special indebtedness for the cost of planning, design, construction drawings, and administrative funds for solicitation of bids for up to three new youth development centers and up to 500 beds. The planning process resulted in a consensus finding by Department of Juvenile Justice Delinquency Prevention and its Advisory Council that the State should build smaller facilities located closer to a juveniles' family and local services. DJJDP is now recommending the planning, design, and construction of up to 512 beds at up to 13 facilities. The Department of the State Treasurer and the State Bond Counsel indicated that before debt could be issued to continue the planning process, the language in the 2003 provision needed to be modified to reflect any changes in project scope. This act makes those modifications. It does not authorize any new debt; it reauthorizes the same type of debt but at a lower amount due to the change in project scope and schedule.

This act became effective July 22, 2004. (CA)

Eliminate IRB Wage Standard

S.L. 2004-132 ([SB 1063](#)) eliminates the wage standard for industrial revenue bonds and directs the North Carolina Department of Commerce to encourage projects applying for these bonds to locate the projects in development zones. The Department of Commerce maintains that the impact of the additional financing on State personal income tax collections (from the tax-exempt interest) will be insignificant because practically all of the industrial revenue bonds are purchased by large nationwide mutual funds. Consequently, the share of the new projects held in mutual funds by North Carolina residents will be small.

This act became effective July 29, 2004. (MW)

Delay Dollar Limit on Credit for Partnerships

S.L. 2004-134 ([HB 1602](#)) postpones until 2006 (previously 2005) the imposition on partnerships and limited liability companies of the dollar amount limitation on the credit allowed for real property donations and provides that the Revenue Laws Study Committee should study the credit.

This act became effective July 29, 2004. (CA)

Renewable Fuel Tax Credits

S.L. 2004-153 ([HB 1636](#)) provides two new income or franchise tax credits for construction renewable fuel facilities effective beginning in 2005: 15% for a facility for dispensing renewable fuel and 25% for a facility to produce renewable fuel. Renewable fuel is defined as biodiesel or ethanol. Like the other credits in Article 3B, the new credits may be claimed against income tax or franchise tax. Each credit is limited to 50% of the amount of tax liability against which it is claimed. Any excess may be carried forward for up to five years. Although Article 3B is set to sunset January 1, 2006, the sunset for these two new credits would be 2008.

This act becomes effective for taxable years beginning on or after January 1, 2005. (CA)

Revenue Laws Technical Changes

S.L. 2004-170 ([SB 1145](#)), as amended by S.L. 2004-199, Sec. 60 ([SB 1225](#), Sec. 60), makes many technical and clarifying changes to the revenue laws and related statutes. It also makes three substantive changes to the revenue laws:

- It provides that in determining whether a taxpayer is eligible for the new tobacco export credit, positions located within North Carolina for six months or less are not considered to be part of the taxpayer's employment level. Eligibility is based on maintaining an employment level that exceeds by a certain amount the taxpayer's employment level at the end of 2004.
- It prohibits the use of local occupancy taxes subject to the uniform provisions for occupancy taxes to develop or construct a hotel or similar facility. The rationale for this change is that local occupancy taxes collected by hotels and motels should not be used to subsidize their competitors. This change only applies to future collections of the tax. The change does not affect Wake or Mecklenburg Counties.
- It amends the Bill Lee Act credit for creating new jobs to allow the credit only for jobs created in a taxable year that represent a net increase over the number of North Carolina employees the taxpayer had during the 12 months preceding the taxable year. If the taxpayer cut jobs in one year and then added jobs in the next year, the credit would be allowed only to the extent of a net increase over the previous year. This change becomes effective with the 2004 taxable year.

This act became effective August 3, 2004. (CA)

Exempt Higher Education Property

S.L. 2004-173 ([SB 277](#)) exempts from property tax educational property held by a nonprofit entity for the sole benefit of a public or private university located in the State, a community college, or a combination of these entities. It also expands the definition of educational purposes to include the operation of a student housing facility or a student dining facility.

This act became effective for taxes imposed for taxable years beginning on or after July 1, 2004. (CA)

Finance Vital Projects/Studies

S.L. 2004-179, Parts 5 and 7 ([HB 1264](#), Parts 5 and 7) do the following:

- Create a Debt Affordability Advisory Committee, which would be responsible for preparing an annual debt affordability study and establishing guidelines for evaluating the State's debt burden.
- Enact a statutory framework for a new type of State special indebtedness called "RECOP indebtedness," which would involve lower debt service payments during the term of the debt in exchange for a larger payment due at maturity. RECOP indebtedness could not be issued unless the General Assembly enacted legislation specifically providing for the projects or refunding to be financed with RECOPs.
- Direct the Treasurer to study RECOP indebtedness and report to the Joint Legislative Commission on Governmental Operations by February 1, 2005.

Except as otherwise indicated, this act became effective August 5, 2004.

Parts 2, 3, 4 and 8 of this act concern parks renovation and acquisition, recreation, preservation of natural heritage, and clean water conservation. For additional information, see **Environment and Natural Resources**.

Part 6 of this act authorizes the University of North Carolina and the State Board of Community Colleges to study the mission and education program needs for the University System and the Community College System. For additional information, see **Education**. (CA)

UNC Non-appropriated Capital Projects

S.L. 2004-181 ([HB 1699](#)) authorizes the construction of numerous projects by The University of North Carolina. The projects will be financed through revenue bonds and special obligation bonds, not appropriations from the General Fund.

This act became effective August 10, 2004. (CA)

Wetlands Reimbursement/Local Tax Base

S.L. 2004-188 ([SB 933](#)) requires State and local government agencies that acquire land for wetlands mitigation in an enterprise tier one or tier two county to reimburse the county in which the land is located a sum equal to the estimated amount of property taxes that would have accrued to the county for the next 20 years. The requirement does not apply when the land purchased and the wetlands permitted to be lost are located in the same county.

This act became effective August 17, 2004. (CA)

NC Cemetery Act/Fees/Bill Lee Tiers

S.L. 2004-202, Sec. 10 ([SB 1244](#), Sec. 10), modifies the tier structure in the Bill Lee Act to be more responsive to unanticipated changes in a county's economic outlook by ranking a county's unemployment rate and per capita income annually as opposed to using a 3-year average.

This section became effective August 17, 2004, and applies to designations made on or after that date.

Sections 1-9 concern the North Carolina Cemetery Commission. For additional information, see **State Government**. (CA)

Studies

Legislative Research Commission

Loss of Manufacturing Businesses

S.L. 2004-161, Sec. 2.1(7)a ([SB 1152](#), Sec. 2.1(7)a) provides that the Legislative Research Commission may study the loss of manufacturing businesses. If the Commission elects to study this issue, they may report findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

This section became effective August 2, 2004. (CA)

Film Industry Incentives

S.L. 2004-161, Sec. 2.1(7)b ([SB 1152](#), Sec. 2.1(7)b) provides that the Legislative Research Commission may study film industry incentives. If the Commission elects to study this

issue, they may report findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

This section became effective August 2, 2004. (CA)

Credit for Hiring Apprentices

S.L. 2004-161, Sec. 2.1(7)c ([SB 1152](#), Sec. 2.1(7)c) provides that the Legislative Research Commission may study credit for hiring apprentices. If the Commission elects to study this issue, they may report findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

This section became effective August 2, 2004. (CA)

Labor Audit Systems/Incentives

S.L. 2004-161, Sec. 2.1(7)d ([SB 1152](#), Sec. 2.1(7)d) provides that the Legislative Research Commission may study labor audit systems/incentives. If the Commission elects to study this issue, they may report findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

This section became effective August 2, 2004. (CA)

Referrals to Existing Commissions/Committees

Business Taxation Study

S.L. 2004-124, Sec. 23.5 ([HB 1414](#), Sec. 23.5) authorizes the Department of Revenue to use up to \$250,000 of funds available to it for the 2004-2005 fiscal year for information technology necessary to estimate the revenue impact of proposals to improve State business taxation.

This section became effective July 1, 2004. (TG)

Delay Dollar Limit on Credit for Partnerships

S.L. 2004-134 ([HB 1602](#)). See **Enacted Legislation** this chapter.

Revenue Laws Study Committee

S.L. 2004-161, Part XIV ([SB 1152](#), Part XIV) authorizes the Revenue Laws Study Committee to study the following issues:

- Valuation of lots in subdivisions.
- Private activity bonds.
- Bank expense deduction.
- Subsidiary dividend taxes.
- Income tax derived from manufacturing.
- Tax foreclosures.
- Comparative tax burdens.
- Tax incentives to promote preservation of open spaces.
- Sales and use tax exemptions.
- Tax preferences.
- Sales tax on utility equipment.
- Business taxation.
- Travel and tourism capital investment.

- Credits for small businesses that provide health insurance.
- Tax preferences to support the military.

The Committee may report its findings and recommended legislation to the 2005 General Assembly upon its convening.

This section became effective August 2, 2004. (CA)

New/Independent Studies/Commissions

Twenty-First Century Revenue System Study Commission

S.L. 2004-161, Part XLVI ([SB 1152](#), Part XLVI) creates the Twenty-first Century Revenue System Study Commission. The purpose of the Commission is to build on the recommendations of past legislative and executive branch commissions to design a realignment of the State and local revenue system in accordance with a clear, consistent tax policy in light of modern economic, social, and political conditions.

The Commission may make an interim report to the 2005 General Assembly not later than its convening, and must make its final report to the 2006 Regular Session of the 2005 General Assembly upon its convening. The Commission will terminate the earlier of the filing of its final report, or upon the convening of the 2006 Regular Session of the 2005 General Assembly.

This section became effective August 2, 2004. (CA)

Study Commission on Economic Development Infrastructure

S.L. 2004-161, Part XLIX ([SB 1152](#), Part XLIX). See **State Government**.

For a complete list of the studies and reports authorized by the 2004 Session of the 2003 General Assembly, please refer to the Appendix contained in this publication.

Chapter 12

Health and Human Services

Sandra Alley (SA), Erika Churchill (EC), Dianna Jessup (DJ),
and Shawn Parker (SP)

Enacted Legislation

Involuntary Commitment Warrant Clarification

S.L. 2004-23 ([HB 1366](#)). See **Courts, Justice, and Corrections**.

Public Health Preparedness and Response

S.L. 2004-80 ([SB 582](#)), as amended by S.L. 2004-199, Sec. 33 ([SB 1225](#), Sec. 33), makes changes to the public health laws relating to quarantine and isolation authority and the confidentiality of medical records and other information. Under the communicable disease statutes, local health directors are required to investigate reported cases of communicable diseases and ensure that control measures are in place to prevent the spread of disease. With respect to public health threats caused by acts of terrorism, the State Health Director is authorized to undertake an investigation upon a reasonable suspicion that a public health threat may exist as a result of a terrorist incident using nuclear, biological, or chemical agents. If necessary, when all other reasonable means to correct the problem have been exhausted and no less restrictive alternative exists, local health directors or the State Health Director may limit the movement or action of animals or persons to prevent the spread of disease or contamination. In the case of communicable disease, a person who actually has a disease may be *isolated*, while a person who has been exposed to a disease may be *quarantined*.

Specifically, the act changes the authority of the State Health Director and local health directors as outlined below:

- Extends the authority to isolate persons or animals to those reasonably suspected to be infected with a communicable disease, the same as quarantine authority.
- Extends the time the State Health Director or local health directors can isolate or quarantine a person or animal with a court order from 10 days to 30 days. The act provides a procedure for a person affected by the quarantine or isolation to go to court to terminate the limitation. The act also permits extensions of up to a year in the case of tuberculosis.
- Authorizes the State Health Director to issue temporary orders requiring health care providers to report symptoms, diseases, conditions, trends in use of health care services, or other health-related information when necessary to conduct a public health investigation or surveillance of an illness, condition, or symptoms that may indicate the existence of a communicable disease or condition that presents a danger to the public health. (The State Health Director already had this authority for illnesses caused by bioterrorism).
- Amends the investigative powers to require physicians and persons in charge of medical facilities or laboratories to permit examination, review, and copying of any record determined to pertain to: (i) diagnosis, treatment, or prevention or a communicable disease or condition; or (ii) the investigation of a known or suspected outbreak of a communicable disease or an illness caused by bioterrorism.
- Permits disclosure of patient medical records or information for purposes of treatment, payment, or health care operations without the patient's consent.

This act became effective July 8, 2004. (DJ)

Respiratory Care Board/Background Checks/Fees

S.L. 2004-89 ([SB 1254](#)). See **Occupational Boards and Licensing**.

DHHS Disease Management Activities

S.L. 2004-112 ([HB 1469](#)) was a recommendation of the House Select Committee on the Rising Cost of Health Care. It requires the Department of Health and Human Services to take the following disease management activities in the State's Medicaid program and other actions to contain health care costs:

- Adopt contractual agreements that require and reward evidence-based practice standards.
- Require the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to ensure collaboration between local providers and Community Care providers that service Medicaid enrollees diagnosed with depression and require evidence-based practices for the treatment of psychotic illnesses.
- Require the Division of Medical Assistance to consider new disease management initiatives, collaborate with the Division of Public Health and other community organizations to improve coordination and implementation of key initiatives to address obesity, premature birth, and smoking cessation, collaborate with local management entities to develop ways to care for nontargeted mental illness and substance abuse clients, use case management processes to improve utilization and access to community-based services, and investigate the use of incentives or technology to promote the effective use of evidence-based guidelines in the Medicaid program.

The Department is required to report on the progress of these activities to the House of Representatives Appropriations Subcommittee on Health and Human Services and Senate Appropriations Subcommittee on Health and Human Services no later than March 1, 2005.

This act became effective July 17, 2004. (DJ)

School Information / Meningitis and Flu

S.L. 2004-118, ([SB 444](#)). See **Education**.

Centralize Criminal Records Check Functions

S.L. 2004-124, Sec. 10.1 ([HB 1414](#), Sec. 10.1). See **State Government**.

Regulation of Physician Assistants Receiving, Prescribing, or Dispensing Free Prescription Drugs

S.L. 2004-124, Sec. 10.2E ([HB 1414](#), Sec. 10.2E). See **Occupational Boards and Licensing**.

No State Funds for Rebirthing Technique Performed in Another State

S.L. 2004-124, Sec. 10.2F ([HB 1414](#), Sec. 10.2F) prohibits State funds to be used to pay for the performance of a "rebirthing technique" in another state, regardless of whether the technique is legal in that state. Rebirthing, or reenacting the birthing process in a manner that

includes restraint and creates a situation in which a patient may suffer physical injury or death, is illegal under State law.

This section became effective July 1, 2004. (DJ)

Community Health Grant Funds

S.L. 2004-124, Sec. 10.3 ([HB 1414](#), Sec. 10.3) establishes the criteria for Community Health Grants for 2004-2005:

- \$5,000,000 in nonrecurring funds must be used for federally qualified health centers and those health centers that meet criteria for federally qualified health centers; and
- \$2,000,000 must be used for State-designated rural health centers and public health departments.

These funds must be used to serve more of the State's uninsured and indigent population. Specific goals include:

- Increasing access to preventive and primary care services by uninsured or medically indigent patients in existing or new health center locations;
- Establishing community health center services in counties where no services currently exist;
- Creating new services or augmenting existing services provided to uninsured or medically indigent patients, including primary care and preventative medical services, dental services, pharmacy, and behavioral health; and
- Increasing the capacity to serve the uninsured by enhancing or replacing facilities, equipment, or technologies.

This section also provides that the Office of Rural Health (Office) working with the North Carolina Community Health Center Association and the North Carolina Public Health Association must establish an advisory committee to develop an objective and equitable process for awarding grant funds. The Office must:

- Develop auditing and accountability procedures;
- Use not more than 19% of the funds appropriated in this section for administering the grant program;
- Receive annual written reports from grant recipients containing:
 - Number of additional uninsured and medically indigent patients cared for,
 - Type of services provided, and
 - Other information as requested for evaluation purposes; and
- Study and present recommendations for continuing funds to support the expansion of community health centers, State-designated rural health centers, and public health departments to the 2005 General Assembly upon its convening.

This section became effective July 1, 2004. (SP)

Medicaid

S.L. 2004-124, Sec. 10.4 ([HB 1414](#), Sec. 10.4) rewrites Section 10.19 of S.L. 2003-284 to make the following changes to the Medicaid Program:

- Payment for hearing aids is based on wholesale rather than actual cost and a dispensing fee to the provider.
- Payment for optical materials is made to a contractor in accordance with 42 C.F.R. §431.54(d). Fees paid to dispensing providers are negotiated fees established by the State agency and based on industry charges.
- Licensed psychological associates, licensed professional counselors, licensed marriage and family therapists, certified clinical addiction specialists and certified clinical supervisors are covered service providers for children eligible for EPSDT.

- Medicaid-eligible adults may be self-referred for services provided by licensed or certified psychologists, licensed clinical social workers, certified clinical nurse specialists in psychiatric mental health practice, licensed psychological associates, licensed professional counselors, licensed marriage and family therapists, certified clinical addictions specialists, and certified clinical supervisors.
- Payments for mental health services under Medicaid will be made to qualified providers in accordance with approved policies and the State Plan.
- Before DHHS can enroll licensed psychological associates, licensed professional counselors, licensed marriage and family therapists, certified clinical addiction specialists, and certified clinical supervisors the following conditions must be met:
 - The fiscal impact of payments to these qualified providers has been projected;
 - Funding for projected requirements in excess of budgeted DMA funding has been identified from within State funds appropriated to DHHS, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to support area mental health or country programs, or from other sources; and
 - The Office of State Management and Budget has approved the transfer of these State or other source funds from the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to the Division of Medical Assistance.
- In order to receive reimbursement for medically necessary prosthetics or orthotics providers must be Board certified not later than July 1, 2005. Medically necessary prosthetics and orthotics are subject to prior approval and utilization review.
- Income of a minor's parents will no longer be counted when determining income eligibility for Medicaid for pregnant woman when the minor is residing in the parents' home.
- When establishing new medical coverage policies, the Department of Health and Human Resources is no longer specifically required to consult with all Medicaid participating provider groups affected by the new policies due to changes in technologies or therapies.

This section became effective July 1, 2004. (SA)

Medicaid Assessment Program for ICF/MR Facilities

S.L. 2004-124, Secs. 10.8(a) and (b) ([HB 1414](#), Secs. 10.8(a) and (b)) direct the Secretary of Health and Human Services to implement a Medicaid assessment program for State Intermediate Care Facility for the Mental Retarded (ICF/MR) facilities and ICF/MR facilities licensed under Chapter 122C of the General Statutes and to use funds realized from the Medicaid assessment program to reduce state funds appropriated for ICF/MR services.

These subsections became effective July 1, 2004. (SA)

Pilot Program/Managing Access to and Utilization of Medicaid

S.L. 2004-124, Sec. 10.11 ([HB 1414](#), Sec. 10.11) requires the Department of Health and Human Services to establish and implement two or more pilot programs to test new approaches to managing access to and utilization of health care services to Medicaid recipients. With respect to at least two of the pilot programs, the Department must contract with a physician-owned and managed network that has demonstrated success in improving the cost-effectiveness of Medicaid services in another state. The Department must also develop a payment methodology that may include sharing savings with contractors providing medical management services. The Department must report on the implementation of the pilot programs 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 not later than February 1, 2005.

This section became effective July 1, 2004. (DJ)

DHHS Study Medicaid Institutional Bias

S.L. 2004-124, Sec. 10.13 ([HB 1414](#), Sec. 10.13). See **Senior Citizens**.

Long-term Care Facility Criminal Record Checks

S.L. 2004-124, Sec. 10.19D ([HB 1414](#), Sec. 10.19D). See **Senior Citizens**.

DHHS Policies and Procedures in Delivering Community Mental Health, Developmental Disabilities, and Substance Abuse Services

S.L. 2004-124, Sec. 10.22A ([HB 1414](#), Sec. 10.22A) directs the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, in cooperation with area mental health authorities and county programs, to identify and eliminate administrative and fiscal barriers created by State and local policies and procedures in the delivery of community-based mental health, development disabilities, and substance abuse services provided through the area programs and county programs, including services provided through the Comprehensive Treatment Services Program for Children and services delivered to multiply diagnosed adults.

The section directs the Department to implement changes in policies and procedures in order to facilitate the following:

The provision of services to adults and children as defined in the Mental Health System Reform State Plan as priority or targeted populations;

A revised system of allocating State and federal funds to area mental health authorities and county programs that reflects projected needs, including the impact of system reform efforts rather than historical allocation practices and spending patterns;

The provision of services to children not deemed eligible for the Comprehensive Treatment Services Program for Children, but who would otherwise be in need of medically necessary treatment services to prevent out-of-home placement; and

The provision of services in the community to adults remaining in and being placed in State institutions addressed in Olmstead v. L.C.

The section also requires area mental health, developmental disabilities, and substance abuse services authorities and county programs to use all funds appropriated for and necessary to provide mental health, developmental disabilities, and substance abuse services to meet the need for these services. If excess funds are available after expending appropriated funds to fully meet service needs, one-half of these excess funds shall not revert to the General Fund but shall be transferred to the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs, except that one-half of the funds appropriated for the Comprehensive Treatment Services Program for Children that are unexpended and unencumbered shall not revert to the General Fund but shall be carried forward and used only for services for children and adolescents.

The Department must report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health

and Human Services, and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on the progress of implementing the changes in this section.

This section became effective July 1, 2004. (SA)

Area Program and County Program Transition Flexibility

S.L. 2004-124, Sec. 10.26 ([HB 1414](#), Sec. 10.26) rewrites G.S. 122C-115(a) to allow counties that are members of an area authority to participate in a county program or a multicounty program to provide mental health disabilities, developmental disabilities, and substance abuse services while remaining a participating member of the area authority until the end of the subsequent fiscal year. In order to do so the county must have agreement from the other counties in the area authority and approval of the Secretary of Health and Human Services.

This section became effective July 17, 2004 and expires on July 1, 2005. (SA)

Public Health Improvements

S.L. 2004-124, Sec. 10.28A ([HB 1414](#), Sec. 10.28A) appropriates funds to the Department of Health and Human Services, Division of Public Health, and to accredited local health public agencies for one or more of the following purposes to:

- Facilitate the creation of Quality Officers in each agency to oversee the quality improvement structure and process, develop and ensure compliance with the agency's quality improvement plan against internal and external requirements, develop critical incident reporting and management plans, assess organizational and workforce development gaps, and oversee the accreditation process;
- Facilitate the development of private or public partnerships through contracts, interlocal agreements, memoranda of understanding, and community grants;
- Provide incentives to agencies to collaborate and partner with other counties in the development of regional public health incubators to improve service delivery, organization, and preparedness;
- Enable accredited agencies to assist other counties in their efforts to achieve public health accreditation;
- Promote partnerships between local agencies and universities through the development of academic health departments;
- Provide incentives to develop local and regional business plans to create hybrid health departments, including public health authorities and public health districts, and identify new sources of public health revenue;
- Create community health plans to improve community health and reduce disparities, including the creation of a Community Wellness Index;
- Strengthen the role of local boards of health through training, technical assistance, and construction;
- Create public internships at the local level; and
- Support new insights and innovative solutions to health problems that will result in improved quality, greater accountability, improved health outcomes, and the elimination of health disparities.

The Department must report on the accreditation process 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 January 1, 2005

This section became effective July 1, 2004. (SP)

Pilot Process for Local Health Departments

S.L. 2004-124, Sec. 10.28B ([HB 1414](#), Sec. 10.28B) directs the Department of Health and Human Services to expand the pilot accreditation process for local health departments to include additional counties. The section also establishes a Pilot Accreditation Advisory Board to be appointed by the Secretary of Health and Human Services. The Advisory Board is charged with evaluating the Department's pilot accreditation process for local health departments.

This section provides funds for the administrative costs and for activities of the Pilot Accreditation Advisory Board for the accreditation of additional local health departments.

This section became effective July 1, 2004. (SA)

North Carolina Public Health Department Incubators

S.L. 2004-124, Sec. 10.32 ([HB 1414](#), Sec. 10.32) appropriates funds to be allocated to the North Carolina Institute for Public Health, School of Public Health at the University of North Carolina at Chapel Hill to coordinate the development of "public health incubators." Core participants in these incubators will be local public health departments in selected underserved regions. Other governmental agencies and nonprofit organizations will also be invited to participate. The funds must be used to:

- Establish or strengthen the capacity to conduct epidemiological investigation and to actively monitor public health conditions, diseases, and risk factors;
- Establish or strengthen the capacity to monitor health disparities and to develop plans to reduce those disparities;
- Conduct regional community health assessments with the assistance of other members of the public health community including other governmental agencies and nonprofit organizations, to establish partnership health priorities based on these findings, and to draft public health interventions to address the highest health priorities;
- Raise public awareness of the health-related issues in partnership communities, collaborating with members of the larger public health community and with local and State media, reporting health issues to the county commissioners, the boards of health, legislators, at-risk groups, and to the community at large;
- Provide regular, supplemental training to members of the participating boards of health to inform them about their overall responsibilities including their role in policy development, to introduce them to evidence-based best practices in public health with an emphasis on collaborative initiatives, and to update them on emerging public health issues, particularly those that are of greatest concern to their communities;
- Conduct workforce preparedness assessments and follow-on training for the public health workforce in the pilot regions and to establish or supplement policy to facilitate effective responses to public health emergencies where appropriate; and
- Establish a formal, systematic review of the incubators to track and evaluate the efficacy of roles, organization, and programs, to identify best practices, and to develop recommendations for improvement based on these findings.

This section requires the Department to report on the use of funds and an evaluation of the incubator efforts 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 January 1, 2005.

This section became effective July 1, 2004. (SP)

Hospital Emergency Department Data Reporting

S.L. 2004-124, Sec. 10.34 ([HB 1414](#), Sec. 10.34) amends the public health statutes to require the State Health Director to develop a syndromic surveillance program for hospital emergency departments in order to detect and investigate public health threats resulting from bioterrorism or communicable disease. The State Health Director will specify the data to be reported by hospitals. The information will be submitted electronically, but will not include identifying information specified in the law, including names, addresses, telephone numbers, or social security numbers. This data will be exempt from the public records law, and the State Health Director is charged with keeping this data confidential. Any person submitting data pursuant to this program will be immune from liability.

This program will replace the voluntary pilot program for hospitals and urgent care centers that are providing emergency department data to assist the State Health Director with public health surveillance. The pilot program will be repealed effective January 1, 2005.

This section became effective July 1, 2004. (DJ)

Hospitals/LTC Quality Assurance

S.L. 2004-149 ([HB 669](#)) amends the definition of "primary care hospital" in Article 5, of Chapter 131E, governing the licensure of hospitals. The act also adopts measures to improve the quality of patient care in nursing and adult care homes, provides liability limitations for lawsuits against medical directors in nursing homes, and allows health care providers to apologize to patients without the apology being admitted as evidence of negligence in a civil action.

The limitation of liability for lawsuits against medical directors and the protection of health care providers apologies applies to causes of action arising on or after the effective date and the remainder of the act is effective when it becomes law.

This act became effective August 2, 2004. (SA)

Tanning Salons/Restrictions on Use

S.L. 2004-157 ([SB 657](#)). See **Commercial Law and Consumer Protection**.

Health Insurance Innovations Commission

S.L. 2004-175 ([HB 1463](#)). See **Insurance**.

Organ Donor Organization/Access to DMV Records

S.L. 2004-189 ([SB 852](#)). See **Transportation**.

Out of State Pharmacy Licensure Requirement

S.L. 2004-199, Sec. 25 ([SB 1225](#), Sec. 25) requires a pharmacy operating outside the State which ships, mails, or delivers drugs in this State registering with the NC Board of Pharmacy to certify that it has a pharmacist on staff responsible for dispensing and shipping drugs who has met licensure requirements equivalent to North Carolina requirements.

This section became effective August 17, 2004. (EC)

Adult Residential Treatment Facility Licensure Exemption

S.L. 2004-199, Sec. 32 ([SB 1225](#), Sec. 32) exempts international, charitable, non-profit, faith-based, adult residential treatment facilities that are exempt from federal income tax under Section 501(a) from the requirement of obtaining a facilities license under Article 2 of Chapter 122C. The facility could opt to obtain such a license.

This section became effective August 17, 2004. (EC)

Community Care Network Organizations

S.L. 2004-203, Sec. 41 ([HB 281](#), Sec. 41) provides that the Community Care Program, also known as "Access", will rely on care networks led by doctors and other health professionals to coordinate the care of Medicaid clients. The change designates each community care network organization as a public agency that is a local unit of government for the sole purpose of receiving grant funds. This designation allows the State's Community Care Networks to draw down as much as \$50 million in additional federal Medicaid funds – at no cost to the State or to counties.

This section became effective August 17, 2004. (EC)

Health Care Personnel Registry Changes

S.L. 2004-203, Sec. 52 ([HB 281](#), Sec. 52) makes changes to conform the Health Care Personnel Registry to federal law governing the Nurse Aide I Registry program. During the 2000 Regular Session legislation was enacted that standardized the reporting requirements of both these registry programs, conforming them to the federal reporting requirements. All covered facilities and agencies will report using the current standardized reporting requirements that apply to nursing homes (federal law). In 2000, the federal requirement to allow a nurse aide to submit a rebuttal statement that would be included on the Nurse Aide Registry was not included in the legislative change. In addition, the federal statute changed after the passage of this 2000 law to include a process to allow nurse aides to petition the state to have a single finding of neglect removed from the Nurse Aide Registry when certain requirements were met.

This section became effective August 17, 2004. (EC)

Increase Fees/Qualifications For DWI Assessments

S.L. 2004-197 ([HB 1356](#)) was recommended by the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services. The act:

- Increases the fees DWI offender must pay for a substance abuse assessment from \$50 to \$100.
- Lists the following individuals who are authorized to conduct substance abuse assessments: certified substance abuse counselors, certified clinical addiction specialists, substance abuse counselor interns who are supervised by a certified clinical supervisor and who meet minimum qualifications, persons licensed by NC Medical Board or NC Psychology Board, physicians certified by the American Society of Addiction Medicine.
- Beginning October 1, 2008, substance abuse counselor interns may no longer conduct DWI assessments.
- Amends Section 2 of S.L. 2003-396 to direct the Joint Legislative Oversight Committee for Mental Health, Developmental Disabilities and Substance Abuse Services to study the certification requirements for persons conducting alcohol and drug education traffic (ADET) schools as well as fees that should be paid by a DWI

offender who receives treatment or attends ADET school. The Committee must report its findings and recommended legislation to the 2005 General Assembly.

The part of the act that lists who is authorized to conduct substance abuse assessments becomes effective October 1, 2005, and applies to substance abuse assessments conducted on or after that date. The part of the act that prohibits Substance Abuse Counselor Interns from conducting assessments becomes effective October 1, 2008, and applies to substance abuse assessments conducted on or after that date. The change in substance abuse assessment fees becomes effective October 1, 2004, and applies to substance abuse assessments administered on or after that date. The remainder of this act became effective August 17, 2004. (SA)

Health Care Personnel Registry Changes

S.L. 2004-203, Sec. 52 ([HB 281](#), Sec. 52) makes changes to conform the Health Care Personnel Registry to federal law governing the Nurse Aide I Registry program. During the 2000 Regular Session legislation was enacted that standardized the reporting requirements of both these registry programs, conforming them to the federal reporting requirements. All covered facilities and agencies will report using the current standardized reporting requirements that apply to nursing homes (federal law). In 2000, the federal requirement to allow a nurse aide to submit a rebuttal statement that would be included on the Nurse Aide Registry was not included in the legislative change. In addition, the federal statute changed after the passage of this 2000 law to include a process to allow nurse aides to petition the state to have a single finding of neglect removed from the Nurse Aide Registry when certain requirements were met.

This section became effective August 17, 2004. (EC)

Studies

Legislative Research Commission

Patient Safety, Rural Emergency Medical Services, and Compensation for Sterilization Studies

S.L. 2004-161, Secs. 2.1(8)c-d and 2.1(9)g ([SB 1152](#), Secs. 2.1(8)c-d and 2.1(9)g) authorizes the Legislative Research Commission to study:

- Promoting patient safety in the provision of health care; the
- Provision of emergency medical services in rural counties and their funding mechanisms; and
- Compensation for eugenic sterilization.

If the Commission undertakes this study, they may report any findings and recommended legislation to the 2005 General Assembly upon its convening.

This section became effective August 2, 2004. (TM)

Medicaid Funding

S.L. 2004-161, Sec. 2.1(e) ([SB 1152](#), Sec. 2.1(e)) authorizes the Legislative Research Commission to study the feasibility of eliminating county financial participation in the Medicaid program. The Commission may consider:

- Alternative funding methods; and
- Retaining the county contribution to administrative costs of the Medicaid program.

Additionally, the Commission must include a fiscal analysis of the impact on state revenue and the estimated Medicaid expense resulting from eliminating county participation in

the Medicaid program. If the Commission undertakes this study, they may report any findings and recommended legislation to the 2005 General Assembly upon its convening.

This section became effective August 2, 2004. (SP)

Workers' Compensation and Health Insurance Studies

S.L. 2004-161, Sec. 2.1(4) ([SB 1152](#), Sec. 2.1(4)). See **Insurance**.

Small Employer Health Insurance Study

S.L. 2004-161, Sec. 2.1(b) ([SB 1152](#), Sec. 2.1(b)). See **Insurance**.

Health Availability Study

S.L. 2004-151, Sec. 2.1(c) ([SB 1152](#), Sec. 2.1(c)). See **Insurance**.

Practice of Naturopathy

S.L. 2004-161, Sec. 2.1(j) ([SB 1152](#), Sec. 2.1(j)). See **Occupational Boards and Licensing**.

New/Independent Studies/Commissions

Study Commission on Health Care Workforce Development

S.L. 2004-161, Part XXXIV ([SB 1152](#), Part XXXIV) creates the Health Care Workforce Study Commission. This Commission was recommended by the House Select Committee on the Rising Cost of Health Care. The Commission will consist of 21 members, and will include members of the Senate and House of Representatives, health care providers, administrators, university and community college representatives, and State officials. The purpose of the Commission will be to determine methods to increase the number of people providing health and dental care in this State and to overcome existing barriers contributing to the health care provider shortages. The Commission must submit an interim report to the 2005 Regular Session of the 2005 General Assembly and a final report to the 2006 Regular Session of the 2005 General Assembly. The Commission terminates upon the earlier of the filing of its final report or April 30, 2006.

This part became effective August 2, 2004. (DJ)

Legislative Study Commission on State Guardianship Laws

S.L. 2004-161, Part XLV ([SB 1152](#), Part XLV). See **Senior Citizens**.

Referrals to Existing Commissions/Committees

Joint Legislative Health Care Oversight Committee

S.L. 2004-161, Part XV ([SB 1152](#), Part XV) authorizes the Joint Legislative Health Care Oversight Committee to study the following topics and to report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

- Benefits for State Employee Dependents – Alternative benefit plans for dependents of State employees.
- Consolidation of State Health Care Services – Whether a State entity should be established to purchase health care services provided with State funds and to administer data consolidation and claims processing systems in order to enhance quality of care, promote cost containment, and achieve administrative efficiency and effectiveness in the system of services provided by the State.
- State Cost of Prescription Drugs - Whether the State should establish a single State entity for negotiating the cost of prescription drugs paid for by the State.
- Miscellaneous Topics – The Committee may also study the following topics:
 - Nursing shortage;
 - Medical errors;
 - Environmental causes of cancer;
 - Educating the public on ovarian cancer risks and prevention;
 - Reducing prescription drug costs;
 - Bulk purchasing of pharmaceutical drugs;
 - Internet sale of prescription drugs; and
 - Pain management and palliative care.

This part became effective August 2, 2004. (SA)

Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services Studies

S.L. 2004-161, Part XXIV ([SB 1152](#), Part XXIV) authorizes the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services to study and report to the 2005 General Assembly upon its convening, findings and recommended legislation on the following topics:

Integration of Care for Children with Multiple System Service Needs. – The Committee must conduct a comprehensive review of the State's system of care for children with multiple system service needs. In order to ensure a dedicated focus and appropriate expertise for the comprehensive review, the Committee shall convene a task force to conduct the review. The task force shall be comprised of the cochairs of the Oversight Committee, the Joint Legislative Education Oversight Committee, the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, the Joint Legislative Health Care Oversight Committee, and other individuals appointed by the cochairs of the Oversight Committee upon recommendation of the other members of the task force. In conducting its review, the task force shall consider the following:

- State-of-the-art approaches to services to children with multiple system service needs as the basis of reform in North Carolina.
- Evidence-based best practices in North Carolina and elsewhere for potential system-wide adoption.
- Barriers to access for developing a uniform access process to implement a "no wrong door" policy such that children and families may enter any service access point but will be afforded seamless access to all necessary services.
- Initiatives taken or under consideration in other states to ensure a unified approach to system services, including the feasibility of establishing a funding consortium for pooling resources of all involved agencies in order to streamline access to the system by children and involvement in the system by service providers.
- Ways to improve the multidisciplinary identification and evaluation of children's multiple service needs and the communication of those needs to all appropriate service providers.

- The extent to which children currently in the juvenile justice system have not received adequate and appropriate educational, mental health, or other health services, and the reasons why the children have not been adequately served.
- Information from the Department of Public Instruction and other organizations showing the number of children who have been suspended or expelled from public school, the reasons for the suspension or expulsion, the number of these children who have received alternative placements to ensure that they are being adequately and appropriately served by State and local service systems.
- Necessary changes to North Carolina service systems involving mental health, developmental disabilities, and substance abuse services, social services, education services, juvenile justice, and other related service systems that will enable these systems to work together to ensure effective and timely access to services for children and their families.

Mental Health in Prisons. – The Committee may study the incidence of mental illness and substance abuse problems among inmates in the North Carolina prison and juvenile justice systems.

This part became effective August 2, 2004. (SA)

North Carolina Blue Ribbon Commission on Medicaid Reform

S.L. 2004-161, Part LII ([SB 1152](#), Part LII) adds four members to the North Carolina Blue Ribbon Commission on Medicaid Reform. This Commission was initially created in 2003 to examine the State's Medicaid program and make comprehensive recommendations for fundamental reform. The Commission will now consist of 16 members. The Commission's final report is due February 1, 2005.

This part became effective August 2, 2004. (DJ)

Increase Fees/Qualifications for DWI Assessments

S.L. 2004-197 ([HB 1356](#)) directs the Joint Legislative Oversight Committee for Mental Health, Developmental Disabilities and Substance Abuse Services to study certification requirements for persons conducting alcohol and drug education traffic schools and related issues. For additional information see summary under **Enacted Legislation** this chapter.

Referrals to Departments, Agencies, Etc.

Study Financing of Mental Health, Developmental Disabilities, and Substance Abuse Services

S.L. 2004-161, Part XVIII ([SB 1152](#), Part XVIII) directs the Department of Health and Human Services to study the financing of mental health, developmental disabilities, and substance abuse services. The study must include the following:

- An examination of all sources of funds used in the delivery of mental health, developmental disabilities, and substance abuse services throughout the Department;
- An examination of alternative financing mechanisms for funding mental health, developmental disabilities, and substance abuse services, including Medicaid; and
- Recommendations for feasible alternative financing mechanisms.

The Department must report its findings and recommendations to the 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 no later than July 1, 2005.

This part became effective August 2, 2004. (SA)

Strengthen Domestic Violence Laws

S.L. 2004-186, Part VI ([HB 1354](#), Part VI) requires the Department of Health and Human Services to study and develop a plan for serving clients of domestic violence programs with mental health and substance abuse service needs. The entire act is divided into the Parts listed below.

Part I: Domestic Violence Offender Treatment.

Part II: Domestic Violence Training for Law Enforcement.

Part III: Study of Anti-Violence Education in Schools and Training for School Personnel.

Part IV: Legal Services for Victims of Domestic Violence.

Part V: Domestic Violence Advocates on Child Fatality Task Force.

Part VI: Study of Mental Health Services for Domestic Violence Victims.

Part VII: Study of CLE Credit for Pro Bono Legal Representation.

Part VIII: Domestic Relationship Aggravating Factor.

Part IX: Create Strangulation Offense.

Part X: Amend Habitual Misdemeanor Assault Statute.

Part XI: Domestic Violence Offense Tracking.

Part XII: Study of Misdemeanor Offense Classifications.

Part XIII: Warrantless Arrest for Violation of Pretrial Release Conditions.

Part XIV: Conform State Firearms Law to Federal Law.

Part XV: Specifically Allow Cross Warrants.

Part XVI: Clarify Nurse's Privilege.

Part XVII: Temporary Child Custody in Domestic Violence Hearings.

Part XVIII: Prohibit Employment Discrimination Against Domestic Violence Victims.

Part XIX: Privacy for 50B Intake.

Part XX: Training for Judges and Court Personnel.

See **Children and Families** for the summary of the entire act.

For a complete list of the studies and reports authorized by the 2004 Session of the 2003 General Assembly, please refer to the Appendix contained in this publication.

Chapter 13

Insurance

Sandra Alley (SA), Kory Goldsmith (KG), Tim Hovis (TH),
Shawn Parker (SP), and Hal Pell (HP)

Enacted Legislation

Customer Inquiries/Insurance Coverage

S.L. 2004-111 ([SB 486](#)) prohibits residential real property insurers from terminating a policy or any coverage under the policy, refusing to write or renew a policy, or subjecting a policy to a consent to rate based solely on either of the following:

- An inquiry concerning coverage that does not result in a claim; or
- A claim that is closed and not paid by the insurer, provided that the notice of loss was only an inquiry regarding coverage and no request for payment was made by the insured or a third party.

This act becomes effective October 1, 2004, and applies to policies issued or renewed on or after that date. (TH)

Handbooks on Building Code Not Required

S.L. 2004-124, Sec. 21.2 ([HB 1414](#), Sec. 21.2). See **State Government**.

Employees of North Carolina Symphony Society, Inc., Under State Health Plan

S.L. 2004-124, Sec. 31.21 ([HB 1414](#), Sec. 31.21). See **Labor and Employment**.

Tricare Supplemental Health Insurance

S.L. 2004-124, Sec. 31.24 ([HB 1414](#), Sec. 31.24). See **Labor and Employment**.

State Health Plan: Liability of Third Parties; Right of Subrogation; Right of First Recovery

S.L. 2004-124, Sec. 31.25 ([HB 1414](#), Sec. 31.25). See **Labor and Employment**.

Local Governments Provided Optional Coverage Under Teachers' and State Employees' Comprehensive Major Medical Plan

S.L. 2004-124, Sec. 31.26 ([HB 1414](#), Sec. 31.26). See **Labor and Employment**.

State Health Plan Executive Administrator and Deputy Executive Administrator Exempt from State Personnel Act

S.L. 2004-124, Sec. 31.27(a)-(b) ([HB 1414](#), Sec. 31.27(a)-(b)). See **Labor and Employment**.

Residential Treatment Centers/State Health Plan Coverage

S.L. 2004-124, Sec. 31.28 ([HB 1414](#), Sec. 31.28). See **Labor and Employment**.

Insurable Interest of Charitable Organizations

S.L. 2004-124, Sec. 32F ([HB 1414](#), Sec. 32F) deems certain entities to have an insurable interest in an individual's life. This change allows individual and institutional investors the opportunity to invest in pools of life insurance so long as at least a portion of the proceeds is directed to charitable organizations.

Entities deemed to have an insurable interest in an individual's life must satisfy all of the following conditions:

- The entity is a trust, business trust, corporation, limited liability company, or similar entity that is approved in writing by the individual as the beneficiary and owner of a life insurance policy and annuity contract on the life of the insured.
- The entity is formed for the purpose, in part, of generating funds for one or more charitable organizations described in Section 501(c)(3) of the Internal Revenue Code.
- The payments to the entity under the annuity contract must be reasonably anticipated to fund the premiums on the life insurance policy beginning with the second year.
- Each benefited charitable organization provides an affidavit to the entity stating that it has been in existence for at least three years and has at least \$5 million in assets or the insured provides an affidavit to the entity stating that he or she is an accredited investor.
- The insured has provided an affidavit to the entity that neither the insured, a relative, nor an entity controlled by the insured or a relative has received any monetary remuneration in connection with the consent to purchase the life insurance policy and annuity contract.
- Prior to the purchase of the life insurance policy and annuity contract, each benefited charitable organization is provided a written description of the minimum percentage or amount of the life insurance proceeds that is reasonably anticipated to be paid to the organization.

This section became effective July 20, 2004, and expires October 1, 2007. (KG)

Regulate Professional Employer Organization

S.L. 2004-162 ([SB 20](#)). See **Labor and Employment**.

Fortify Against Unauthorized Insurance

S.L. 2004-166 ([HB 1107](#)) clarifies that an insurance agent is strictly liable for any losses or claims that are unpaid by an unauthorized insurer. It will now be a Class H felony if an insurance agent sells an insurance policy and knows, or should have known, that the insurer was an unauthorized insurer. Soliciting, negotiating, or selling insurance for an unauthorized insurer

will be grounds to revoke an insurance agent's license. Finally, only eligible surplus line insurers will be allowed to sell insurance directly to North Carolina consumers.

This act becomes effective December 1, 2004, and applies to acts committed on or after that date. (SA)

Aggressive Driving

S.L. 2004-193 ([HB 1046](#)). See **Transportation**.

Workers Compensation Subrogation Determination

S.L. 2004-199, Sec. 13(b) ([SB 1225](#), Sec. 13(b)). See **Courts, Justice and Corrections**.

Auto Insurance Claims/Release of Medical Records

S.L. 2004-199, Sec. 21 ([SB 1225](#), Sec. 21) clarifies that insurance companies may obtain all medical records from all medical providers (not just the claimant's physician) relating to a current auto insurance claim.

This section became effective July 19, 2004. (KG)

Studies

Legislative Research Commission

Workers' Compensation and Health Insurance Studies

S.L. 2004-161, Sec. 2.1(4) ([SB 1152](#), Sec. 2.1(4)) authorizes the Legislative Research Commission to study insurance issues related to:

- Workers' compensation and agricultural employment;
- Workers' compensation and trucking companies;
- High-risk health insurance pools;
- Health insurance mandates; and
- Ways to reduce workers' compensation premiums.

The Commission may report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

This section became effective August 2, 2004. (SP)

Small Employer Health Insurance Study

S.L. 2004-161, Sec. 2.1(b) ([SB 1152](#), Sec. 2.1(b)) authorizes the Legislative Research Commission to study the availability of health insurance for small employers, including the Small Employer Group Health Insurance Reform Act and whether North Carolina laws conflict with federal law regarding the ability of a trade association to obtain health insurance through a commercial carrier. The Commission may report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

This section became effective August 2, 2004. (SP)

Health Insurance Availability Study

S.L. 2004-161, Sec. 2.1(c) ([SB 1152](#), Sec. 2.1(c)) authorizes the Legislative Research Commission to study ways to make insurance available to individuals who have difficulty obtaining health insurance coverage. The Commission may report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

This section became effective August 2, 2004. (SP)

New/Independent Studies/Commissions

Health Insurance Innovations Commission

S.L. 2004-175 ([HB 1463](#)) establishes the North Carolina Health Insurance Innovations Commission (Commission) composed of 24 members appointed by the General Assembly. The Commission is created to:

- Study problems small employers face when seeking health insurance coverage for themselves and their employees;
- Initiate programs to pilot innovative health care plans and products; and to
- Develop recommendations for insurance providers, health care providers, government, business employers, consumers, and consumer groups to improve the availability and affordability of small employer health insurance.

The Commission must report its findings and recommendations to the 2006 Session of the 2005 General Assembly.

This act became effective July 1, 2004. (HP)

For a complete list of the studies and reports authorized by the 2004 Session of the 2003 General Assembly, please refer to the Appendix contained in this publication.

Chapter 14

Labor and Employment

Karen Cochrane-Brown (KCB), Bill Gilkeson (BG), Kory Goldsmith (KG),
Theresa Matula (TM), and Hal Pell (HP)

Enacted Legislation

General Labor and Employment

Trade Jobs for Success

S.L. 2004-124, Sec. 13.7A ([HB 1414](#), Sec. 13.7A) amends Chapter 143B of the North Carolina General Statutes to establish the Trade Jobs for Success (TJS) initiative and provides directives for implementation.

Purpose. – The section establishes the Trade Jobs for Success initiative to stimulate job growth and hiring in the State and to assist displaced workers affected by trade-impact business closings. The aim of the TJS initiative is to partner with private business to move displaced workers into new jobs while allowing for a dignified transition from unemployment back to employment.

Establishment. – The section establishes the TJS initiative within the Department of Commerce (Department) and specifies that the Department, in cooperation with the Employment Security Commission (ESC) and the North Carolina Community Colleges System Office, will lead it. The section also establishes the Trade Jobs for Success Fund (Fund), a special, nonreverting fund, to implement the initiative and requires the Department to develop guidelines for administration of the initiative and the Fund. An advisory council will assist the Secretary of Commerce in the administration of the Fund.

Programmatic Components. – The TJS initiative will include the components outlined below.

- Displaced workers participating in the initiative:
 - Will receive on-the-job training to learn new job skills and educational assistance or remedial education;
 - Will not lose their eligibility for unemployment insurance benefits while they are in the program and may receive wage supplements, as appropriate;
 - May receive in-State relocation assistance; and
 - Will receive mentoring, both on and off the job.
- Financial assistance and other incentives may be provided to participating employers who provide jobs.
- Work provided by participating employers will be full-time employment and wages will not be less than the hourly entry-level wage normally paid by the employer.
- ESC and Department staff will match participating workers to the most suitable employer.
- Local ESC offices and community colleges will enter into partnership agreements with local chambers of commerce to encourage employer participation.
- Participating individuals and businesses will be tracked to assure program integrity and effectiveness.
- The TJS initiative will be coordinated and integrated with existing programs.

U.S. Department of Labor Waiver. – ESC is required to take all actions practicable to obtain from the U.S. Department of Labor as quickly as possible a waiver under the Trade Adjustment Act to allow the Trade Jobs for Success initiative to:

- Serve persons regardless of their age;
- Use employment funds to provide direct monetary incentive to participating employers and direct income to eligible workers in the retraining program; and
- Use funds for in-State relocation assistance.

Implementation and Priority Consideration. – The Department, in cooperation with ESC and the North Carolina Community College System, is required to begin implementation of the TJS initiative in the counties hardest hit by trade impacted job losses and the resulting decline of traditional North Carolina industries including the textile, clothing and furniture industries, and other manufacturing operations. Counties having an unemployment rate of 8% or more shall receive priority consideration.

Funds. – The Department must seek and may receive private grants and federal funds for the TJS initiative.

Reporting. – The Department, in conjunction with the ESC and the North Carolina Community Colleges System Office is required to publish a quarterly report on the TJS initiative. The report must contain commitment, disbursement, and use of funds; the status of grant proposals or waivers; and legislative proposals and recommendations regarding statutory changes. Copies of the report must be provided to the Joint Legislative Commission on Governmental Operations, to the chairs of the Senate and House of Representatives Appropriations Committees and to the Fiscal Research Division of the General Assembly.

This section became effective July 1, 2004. (TM)

Omnibus Changes to Employment Security Laws

S.L. 2004-124, Sec. 13.7B(a)-(d) and (g) ([HB 1414](#), Sec. 13.7B(a)-(d) and (g)) contains several changes to Chapter 96 of the North Carolina General Statutes, concerning Unemployment Compensation. The changes are as follows:

Nonprofits' Taxes. – The section gives nonprofit entities a longer period of time to pay their taxes. Nonprofits are historically late payers because they usually have boards that need to meet to authorize expenditures. Most nonprofits are small taxpayers and the Employment Security Commission often waives their very small late payment penalties. This change will give nonprofit entities 60 days, as opposed to 25 days, to pay the amounts due.

Reporting of Nonexistent Funds. – The section removes a reporting requirement that is no longer needed. Local employment security offices are designated under G.S. 163-82.20 as voter registration offices. In 1995, the General Assembly provided that the Commission could use funds from either the Special Employment Security Commission Administration Fund or from federal funds to offset the Commission's compliance with this requirement. At that time, the Commission received funds specifically for the purpose of registering voters and it was required to report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division on its use of these funds. It no longer receives these funds. This subsection removes the reporting requirement since there are no longer any funds received on which to report.

Commission's Dismissal of Appeal. – The section provides that the Employment Security Commission, rather than the appeals referee, is the appropriate body to dismiss an appeal. Whenever there is a disagreement as to a claimant's entitlement to benefits, the issue goes before an adjudicator. A decision of an adjudicator may be appealed to an appeals referee, who will hold a hearing on the matter. Whenever an appeal is taken from a decision of the appeals referee, the appealing party must submit a clear written statement containing the grounds for the appeal within the time allowed by law for taking the appeal. If the timely statement is not submitted, the appeal is dismissed. Under prior law, it was the appeals referee who dismissed the appeal from his/her own decision. To avoid that apparent confusion of roles, this subsection changes the law by placing the responsibility for dismissing the appeal on the Commission.

Taxes on Certain Foreign Students. – The section provides that an employer does not have to pay unemployment taxes for an employee who is a foreign student who has come to the United States to work for less than six months since these employees will never file for benefits. This subsection accomplishes this change by clarifying that the term "employment" does not include the services performed by J-1 Visa workers who are foreign nationals who come to the United States for less than six months to work.

The appropriations contained in this section, which are not covered in this summary, became effective July 1, 2004. The portion of this section concerning nonprofits' taxes became effective August 1, 2004, and the remainder of the section became effective August 1, 2004. (BG)

Regulate Professional Employer Organization

S.L. 2004-162 ([SB 20](#)), entitled the North Carolina Professional Employer Organization Act (Act), establishes licensing requirements for persons engaging in, or offering, the assignment of employees to client companies. The definitions in the Act provide that an "assigned employee" does not include a temporary employee. A "temporary employee" is one who supplements the client company's workforce in a special work situation (employee absence, temporary skill shortage, seasonal workload, or special project).

Background. – The professional employer organization (PEO) industry is known as an employee leasing industry. A PEO establishes a contractual relationship with a client company. Under the contract, a co-employment relationship is created between the client company, the PEO, and the employees of the client company.

The PEO becomes the employer of the client company's employees and assumes the obligations related to human resources, workers' compensation, payroll, labor law compliance, employment taxes and employment benefits as provided in the contract. Currently, seventeen states, including North Carolina, provide some form of licensing, registration, or regulation for PEOs.

License and Penalties. – Applicants for a license must submit a license application and meet the prescribed requirements, including:

- Be at least 18 years of age and of good moral character;
- Have experience relevant to operation of a professional employer organization or service as a controlling person of a professional employer organization;
- Satisfy a criminal background check;
- Acquire and maintain a surety bond in the amount of \$100,000;
- Submit an affidavit of financial responsibility; and
- Submit an application fee of \$1,000.

A license remains in effect until terminated or surrendered. The Act also specifies terms that must be included in a contract between a licensee and its client companies, including the requirement that the licensee assume the responsibility of payment of wages, and the withholding and payment of payroll taxes. The licensee retains the right to hire, fire, and discipline the assigned employees. The responsibility to obtain workers' compensation coverage for assigned employees must be specifically allocated in the agreement. The Act provides for disciplinary action, including civil and criminal penalties, upon a licensee's conviction of various crimes or for violating provisions under the Act.

Advisory Council. – The Act also creates the NC Professional Employer Organization Advisory Council to advise, consult with, and make recommendations to the Commissioner of Insurance. The Council consists of 11 members:

- The Commissioner of Insurance, who serves as Chair, or designee;
- The Commissioner of Labor, or designee;
- The Chair of the NC Industrial Commission, or designee;

- Four members appointed by the Governor (two from a list of five persons recommended by the North Carolina Industrial Commission, and two who are not involved directly or indirectly with the professional employer services industry);
- Two members of the General Assembly (one upon the recommendation of the President Pro Tempore of the Senate, and one upon the recommendation of the Speaker of the House of Representatives); and
- Two members who are representatives of the professional employer services industry (one who is involved with a professional employer organization that has more than 3,000 assigned employees and is appointed upon the recommendation of the Senate Pro Tempore, and one who is involved with a professional employer organization that has less than 3,000 assigned employees and is appointed upon the recommendation of the Speaker of the House of Representatives).

This act becomes effective January 1, 2005, and applies to any contracts entered into, any business conducted, and any actions taken on or after that date. (HP)

Prevent Workplace Violence

S.L. 2004-165 ([SB 916](#)). See **Civil Law and Procedure**.

Strengthen Domestic Violence Laws

S.L. 2004-186, Part XVIII ([HB 1354](#), Part XVIII) prohibits employment discrimination against domestic violence victims. The entire act is divided into the Parts listed below.

Part I: Domestic Violence Offender Treatment.

Part II: Domestic Violence Training for Law Enforcement.

Part III: Study of Anti-Violence Education in Schools and Training for School Personnel.

Part IV: Legal Services for Victims of Domestic Violence.

Part V: Domestic Violence Advocates on Child Fatality Task Force.

Part VI: Study of Mental Health Services for Domestic Violence Victims.

Part VII: Study of CLE Credit for Pro Bono Legal Representation.

Part VIII: Domestic Relationship Aggravating Factor.

Part IX: Create Strangulation Offense.

Part X: Amend Habitual Misdemeanor Assault Statute.

Part XI: Domestic Violence Offense Tracking.

Part XII: Study of Misdemeanor Offense Classifications.

Part XIII: Warrantless Arrest for Violation of Pretrial Release Conditions.

Part XIV: Conform State Firearms Law to Federal Law.

Part XV: Specifically Allow Cross Warrants.

Part XVI: Clarify Nurse's Privilege.

Part XVII: Temporary Child Custody in Domestic Violence Hearings.

Part XVIII: Prohibit Employment Discrimination Against Domestic Violence Victims.

Part XIX: Privacy for 50B Intake.

Part XX: Training for Judges and Court Personnel.

See **Children and Families** for the summary of the entire act.

OSHA Civil Penalties

S.L. 2004-203, Sec. 39 ([HB 281](#), Sec. 39) does not make substantive changes, but rewrites the current provision on civil penalties for violations of the Occupational Safety and Health Act (OSHA) so that it is easier to read.

This section becomes effective October 1, 2004, and applies to violations occurring on or after that date. (BG)

Governmental Employment

Amend Disability Laws

S.L. 2004-78 ([HB 354](#)) restores the definition of the term "disability" to mean mental or physical incapacity for further performance of duty of a participant or beneficiary of the State Disability Income Program. The definition had been changed in the 2003 Appropriations Act to "physical or cognitive limitations that prevent working as determined by the Department of State Treasurer and the Board of Trustees." This act further provides that effective August 1, 2005, the standard will again change to require that the participant or beneficiary be "unable to perform any occupation or employment commensurate to the beneficiary's or participant's education, training, or within the same local school administrative unit for school personnel, without an adverse impact on the beneficiary's or participant's career status, and in which the beneficiary or participant can be expected to earn not less than 65% of his or her predisability earnings."

The act also expands the membership of the Study Commission on State Disability Income Plan, the Death Benefit Plan, and Separate Insurance Benefits Plan for Law Enforcement Officers, from seven to thirteen members. The additional members must include persons who are familiar with disability issues for State employees and school employees, persons familiar with workers' compensation issues, the Chair of the Industrial Commission, and persons familiar with disability issues related to university and community college employees.

The portions of the act that amend the definition of a disability to mean the mental or physical incapacity for the further performance of duty are effective retroactively from and after July 1, 2003. The portion of the act that amends the definition of disability to mean being unable to perform any occupation or employment commensurate to the beneficiary's or participant's education, training, or experience, which is available in the same commuting area for State employees or within the same local school administrative unit for school personnel, without an adverse impact on the beneficiary's or participant's career status, and in which the beneficiary or participant can be expected to earn not less than sixty-five percent (65%) of that beneficiary's or participant's predisability earnings becomes effective August 1, 2005, and applies only to persons who are not vested in the disability income plan on that date. The remainder of the act became effective July 8, 2004. (KCB)

DHHS Payroll Deduction for Child Care Services

S.L. 2004-124, Sec. 10.2D ([HB 1414](#), Sec. 10.2D) provides that pursuant to rules adopted by the State Controller, an employee of the Department of Health and Human Services may, in writing, authorize the Department to periodically deduct a designated lump sum from the employee's salary or wages to be paid to satisfy the cost of services received for child care provided by the Department.

This section became effective July 1, 2004. (TM)

Youth Development Center Staffing

S.L. 2004-124, Sec. 16.4 ([HB 1414](#), Sec. 16.4). See **Courts, Justice and Corrections**.

Shift Pay for Security Staff

S.L. 2004-124, Sec. 17.1 ([HB 1414](#), Sec. 17.1) amends S.L. 2003-284, Section 16.3, to allow the Department of Correction to use funds available for the 2003-2005 biennium to pay security staff a special supplemental weekend shift premium pay that exceeds standard weekend shift pay by up to ten percent (10%). S.L. 2003-284 allowed the Department to use funds

available for the 2003-2004 fiscal year. S.L. 2004-124 allows the Department to use funds available for the 2003-2005 biennium. In an effort to hold down the cost of shift pay, the Department is required to convert prisons from three eight-hour shifts to two 12-hour shifts whenever practical.

The Department is also required to report to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on its progress in converting prison work shifts to 12 hours, on actual and potential savings, and on the effect on morale and leave usage. The prior reporting date of April 1, 2004 was extended to March 1, 2005 by S.L. 2004-124, Sec. 17.1.

This section became effective July 1, 2004. (TM)

Department of Correction Security Staffing Formulas

S.L. 2004-124, Sec. 17.2 ([HB 1414](#), Sec. 17.2) amends S.L. 2003-284, Section 16.4 (c), to extend the reporting date from February 1, 2004 to February 1, 2005 when the Department of Correction is required to report on its progress in implementing the staffing recommendations of the National Institute of Corrections. The report to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety should include a status report on the implementation of a centralized post-audit control system; the automation of leave records; an updated staffing relief formula, and the methodology used to develop the updated formula.

This section became effective July 1, 2004. (TM)

Confidentiality of Identities of Persons Involved with State Executions

S.L. 2004-124, Sec. 17.6A ([HB 1414](#), Sec. 17.6A). See **Criminal Law and Procedure**.

Salary Adjustment Fund

S.L. 2004-124, Sec. 31.16 ([HB 1414](#), Sec. 31.16) allows up to \$5 million of the appropriations remaining in the Reserve for Compensation Increases, authorized for employee salary increases but not required for that purpose, to be used to supplement the Salary Adjustment Fund. The following agency requests may be funded from the funds transferred to the Salary Adjustment Fund under this act:

- Salary range revisions to provide competitive salary rates for affected job classifications in response to changes in labor market salary rates as documented through data collection and analysis according to accepted human resource professional practices and standards.
- Reallocation of positions to higher-level job classifications to compensate employees for more difficult duties at competitive salary rates as documented through data collection and analysis according to accepted human resource professional practices and standards.

This provision specifies that priority must be given to those salary range revisions and reallocations already approved, and clarifies that the Judicial Department is eligible for the funding authorized in this section.

The Office of State Budget and Management is required to report to the Joint Legislative Commission on Governmental Operations prior to the allocation of any salary adjustment funds for any State agency.

This section became effective July 1, 2004. (TM)

Report on Proposed Unified Leave Policy

S.L. 2004-124, Sec. 31.16C ([HB 1414](#), Sec. 31.16C) directs the State Personnel Commission and the Board of Governors of the University of North Carolina to develop and make recommendations to implement a unified leave policy for all State employees subject to the State Personnel Act or alternatively for employees of the University System subject to the Act. The recommendations must address the following issues:

- The rationale for adopting a unified leave policy separate from the current traditional leave policies;
- The potential financial impact on the Retirement System with respect to the amount of unused leave an employee can count towards retirement credit;
- The portability of employee leave balances;
- The potential implementation and costs for a unified leave system;
- A comparison of leave benefits between a unified leave program and the traditional leave programs and policies;
- A detailed implantation plan and how employees' leave will be converted under the new plan; and
- Any other relevant information and statutory changes that are needed.

The Commission and the Board must report their joint recommendations to the Appropriations Committees of each House of the General Assembly by February 15, 2005. This provision does not apply to the University of North Carolina Health Care System.

This section became effective July 1, 2004. (KCB)

Local Government Employees/457 Plan

S.L. 2004-137 ([SB 1312](#)) amends the statutes to allow an employee of any county, municipality, North Carolina Community College, and any political subdivision of the State to participate in any 457 Plan adopted by the State. The Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan creates, establishes, implements, coordinates and administers a Deferred Compensation Plan. The Board and the proper governing authority of the county, municipality, community college or political subdivision must grant consent for participation.

The portion of the act that allows employees of any county or municipality, the North Carolina Community College System, and any political subdivision of the State to participate in any 457 adopted by the State, becomes effective January 1, 2005. The remainder of the act became effective July 1, 2004. (TM)

Clarifications Regarding Mediation

S.L. 2004-154 ([SB 52](#)). Sections 1-3 of this act define mediation of a personnel matter involving The University of North Carolina and the discovery procedure. For additional information, see **Civil Law and Procedure**.

Sections 4-12 of this act involve the disclosure of evidence. For additional information, see **Criminal Law and Procedure**.

NC Flex Plan Authority to Offer Products that Supplement

S.L. 2004-199, Sec. 35 ([SB 1225](#), Sec. 35) amends G.S. 143-34.1(d) to clarify the authority of the NC-Flex plan to offer products that supplement, but not replace, substitute or duplicate benefits already provided by the State.

This section became effective August 19, 2004. (KCB)

State Health Plan

Retiree Health Benefit Fund

S.L. 2004-124, Sec. 31.20 ([HB 1414](#), Sec. 31.20). See **Retirement**.

Employees of North Carolina Symphony Society, Inc., Under State Health Plan

S.L. 2004-124, Sec. 31.21 ([HB 1414](#), Sec. 31.21) allows the employees of the North Carolina Symphony Society, Inc., and the employees' spouses and eligible dependent children, to participate in the State Health Plan. The Executive Administrator of the State Health Plan must set rates for the North Carolina Symphony Society, Inc. participants that are separate from those affecting active teachers and State employees and their dependents enrolled under the State Health Plan.

This section became effective July 1, 2004. (KG)

Tricare Supplemental Health Insurance

S.L. 2004-124, Sec. 31.24 ([HB 1414](#), Sec. 31.24) allows employers, including State Retirement Systems, to make contributions to the TRICARE Supplemental Health Insurance program, in lieu of the Teachers' and State Employees' Comprehensive Major Medical Plan. The contributions are allowed on behalf of covered employees, current or retired, who elect to be covered by TRICARE and not the State plan. The maximum monthly contribution under the provision is \$63.50.

This section becomes effective January 1, 2005. (HP)

State Health Plan: Liability of Third Parties; Right of Subrogation; Right of First Recovery

S.L. 2004-124, Sec. 31.25 ([HB 1414](#), Sec. 31.25) provides that if the State Health Plan (Plan) pays benefits for a member as the result of the negligent acts of a third party, the Plan may seek to recover the amount of those payments from the third party. The Plan has the right to receive any payments made by the third party to the Plan member, whether those payments are recovered by litigation, arbitration, mediation, settlement, or otherwise. If the Plan recovers payments from the third party in excess of the claims paid to the Plan member, the Plan must turn over the excess to the member, less a proportionate share of the costs of collection. If the Plan member receives payments from the third party, the Plan has the right to recover the claim amounts directly from the member. Finally, the Plan has a lien for the value of claims paid on any damages subsequently recovered against the liable third party.

This section became effective July 1, 2004. (KG)

Local Governments Provided Optional Coverage Under Teachers' and State Employees' Comprehensive Major Medical Plan

S.L. 2004-124, Sec. 31.26 ([HB 1414](#), Sec. 31.26) gives local government employers in Bladen, Cherokee, Rutherford, Washington and Wilkes counties the option of participating in the State Health Plan (Plan). For purposes of this provision, a local government employer means a

county, an incorporated city or town, and the board of alcoholic control of any county or incorporated city or town. In order to participate, the local government employer must adopt a resolution electing to make its employees eligible, to make contributions to the Plan, and to enroll all of its eligible employees, retired employees and their eligible family members. If the employer elects to cover its retired employees, it must agree to make contributions on their account to the Local Government Employees' Retirement System equal to the contribution required of all other employing units to the State Retirement Systems for covering their retired employees. The agreement to make retirement contributions must be irrevocable.

This section became effective July 1, 2004 and expires June 30, 2006. (KG)

State Health Plan Executive Administrator and Deputy Executive Administrator Exempt from State Personnel Act

S.L. 2004-124, Sec. 31.27 ([HB 1414](#), Sec. 31.27) amends the statutes to specify that the Teachers' and State Employees' Comprehensive Major Medical Plan shall have a Deputy Executive Administrator appointed by the Executive Administrator. The provision further specifies that both the Executive Administrator and the Deputy Executive Administrator positions are exempt from the provisions of Chapter 126 of the General Statutes, except Article 6 covering Equal Employment and Compensation Opportunity, Assisting in Obtaining State Employment, and Article 7 covering the Privacy of State Employee Personnel Records.

This section became effective July 1, 2004. (TM)

Residential Treatment Centers/State Health Plan

S.L. 2004-124, Sec. 31.28 ([HB 1414](#), Sec. 31.28) provides that services for the care and treatment of chemical dependency and mental illness are covered services under the State Health Plan if provided by a licensed residential treatment facility that has 24-hour on-site care by a registered nurse and that holds current accreditation by a national accrediting body approved by the State Health Plan's mental health case manager.

This section became effective July 1, 2004. (KG)

Studies

Legislative Research Commission

Workers' Compensation and Health Insurance Studies

S.L. 2004-161, Sec. 2.1(4) ([SB 1152](#), Sec. 2.1(4)). See **Insurance**.

Pay Equity

S.L. 2004-161, Sec. 2.1(6)a ([SB 1152](#), Sec. 2.1(6)a) provides that the Legislative Research Commission may study the issue of pay equity for State employees. The Commission may report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

This section became effective August 2, 2004. (TM)

Job Sharing

S.L. 2004-161, Sec. 2.1(6)b ([SB 1152](#), Sec. 2.1(6)b) provides that the Legislative Research Commission may study the issue of job sharing for State employees. The Commission may report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

This section became effective August 2, 2004. (TM)

Reemployment of Retirees

S.L. 2004-161, Sec. 2.1(6)c ([SB 1152](#), Sec. 2.1(6)c) provides that the Legislative Research Commission may study the issue of reemployment of retirees. The Commission may report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

This section became effective August 2, 2004. (TM)

State Government Employment

S.L. 2004-161, Sec. 2.1(6)e ([SB 1152](#), Sec. 2.1(6)e) provides that the Legislative Research Commission may study the issue of State government employment. The Commission may report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

This section became effective August 2, 2004. (TM)

Non-English Speaking Worker Safety

S.L. 2004-161, Sec. 2.1(7)e ([SB 1152](#), Sec. 2.1(7)e) authorizes the Legislative Research Commission to study the issue of providing safety training to non-English speaking construction workers. The scope of the study may include utilizing community colleges for the safety training and incentives for companies to provide training to their employees, including mitigation of penalties for unsafe workplace conditions. The Commission may report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

This section became effective August 2, 2004. (HP)

Single Administrator for State 401(k) and 457 Plans

S.L. 2004-161, Sec. 2.1(o) ([SB 1152](#), Sec. 2.1(o)). See **Retirement**.

New/Independent Studies/Commissions

Legislative Study Commission on State Personnel Statutes

S.L. 2004-161, Part V ([SB 1152](#), Part V) provides that the General Assembly may study issues related to the State Personnel Act. The Speaker of the House of Representatives and the President Pro Tempore of the Senate may designate an appropriate committee to conduct the study. The Committee may make an interim report to the 2005 General Assembly and shall make its final report to the 2006 Regular Session of the 2005 General Assembly.

This part became effective August 2, 2004. (TM)

Study Commission on Worker Retraining

S.L. 2004-161, Part LI ([SB 1152](#), Part LI) creates the Study Commission on Worker Retraining. The Commission is directed to examine business incentives that encourage employers to support employee job retraining efforts to qualify for higher paying or nonexportable jobs. The listed support methods include allowing time off, reimbursement of educational expenses, or providing other types of support. The Commission is also directed to examine successful retraining incentive programs in North Carolina and other states.

The Commission consists of 16 members appointed by the President Pro Tempore of the Senate, and 16 members appointed by the Speaker of the House of Representatives. The Commission must submit a final report of its findings and recommendations, including any legislative recommendations, to the 2005 General Assembly upon its convening.

This part became effective August 2, 2004. (HP)

Study Commission on Health Care Workforce Development

S.L. 2004-161, Part XXXIV ([SB 1152](#), Part XXXIV). See **Health and Human Services**.

Referrals to Existing Commissions/Committees

Committee on Employee Hospital and Medical Benefits Study Newborn Coverage

S.L. 2004-161, Part XXXI ([SB 1152](#), Part XXXI) grants to the Committee on Employee Hospital and Medical Benefits the authority to study issues related to benefits under the State Health Plan. These issues include:

- Whether to repeal or modify limits regarding coverage for examination and supervision of a normal newborn infant;
- Whether to adopt a federally qualified health reimbursement arrangement as an additional component of the State Health Plan; and
- Whether deductibles and co-payment amounts under the State Health Plan should be based on the income of the Plan member, with lower-income Plan members paying less than higher-income Plan members.

This part became effective August 2, 2004. (KG)

Referrals to Departments, Agencies, Etc.

Study of Various Ways to Promote Government Efficiency and Savings in State Spending

S.L. 2004-161, Secs. 16.1 (2) and 16.2 ([SB 1152](#), Secs. 16.1(2) and 16.2) direct the University of North Carolina, the Judicial Branch, the Executive Branch, the Legislative Branch, the Community College System, and the Department of Public Instruction to jointly study various ways to promote government efficiency and savings, including the establishment of a Statewide Benefits Committee to evaluate and provide a menu of portable supplemental benefits for all State employees. The Department of Administration is directed to report the results of the study to the Legislative Research Commission by January 15, 2005.

This section became effective August 2, 2004. (KCB)

Office of State Personnel Study - DENR Parks and Recreation Law Enforcement Officers

S.L. 2004-161, Part XLII ([SB 1152](#), Part XLII) directs the Office of State Personnel to conduct a reclassification study of all sworn law enforcement officers employed in the Division of Parks and Recreation of the Department of Environment and Natural Resources. The Office of State Personnel is directed to report the results of this study to the General Assembly and the Fiscal Research Division of the General Assembly by January 3, 2005. This part became effective August 2, 2004. (TM)

For a complete list of the studies and reports authorized by the 2004 Session of the 2003 General Assembly, please refer to the Appendix contained in this publication.

Chapter 15

Local Government

Erika Churchill (EC), Judy Collier (JC), Kory Goldsmith (KG),
Joe Moore (JHM), Giles Perry (GSP), and Barbara Riley (BR)

Enacted Legislation

Downtown Adult Residential Facility

S.L. 2004-2 ([SB 623](#)). See **Senior Citizens**.

Increase Penalty-Transit Operator Assault

S.L. 2004-26 ([HB 1373](#)). See **Criminal Law and Procedure**.

Military Planning Notices

S.L. 2004-75 ([SB 1161](#)) directs cities and counties to notify the commander of a military base if the unit of local government is considering adopting or amending a land use ordinance affecting property in the vicinity of the military base. Property is considered to be in the vicinity of a military base if the land is located five miles or less from the perimeter boundary of the base. The unit of local government must provide written notice by certified mail to the commander not less than 10 days or more than 25 days before the date fixed for the public hearing on the proposed change.

This act became effective July 1, 2004. (KG)

Public Health Preparedness and Response

S.L. 2004-80 ([SB 582](#)). See **Health and Human Services**.

Public Transit Deceleration Lamps

S.L. 2004-82 ([SB 1086](#)). See **Transportation**.

Emergency Funding/Continuing Provision

S.L. 2004-88 ([HB 1352](#)). See **Finance**.

New Urban Waterfront Development Pilot

S.L. 2004-117 ([SB 732](#)). See **Environment and Natural Resources**.

Extend Local Government Hold Harmless

S.L. 2004-124, Sec. 6.3 ([HB 1414](#), Sec. 6.3) clarifies that the sales tax hold harmless payments made to local governments will be made every August 15, through August of 2012. The section also provides that the estimates of the amount that all local governments would be

expected to receive during the upcoming year shall be made by the Department of Revenue and the Fiscal Research Division on or before May 1 of every year, through May 2012. The Secretary of Revenue is to report on the amount distributed to local governments, to the Revenue Laws Study Committee on January 31 every year through January 2013.

This section became effective July 1, 2004. (BR)

Pilot Process for Local Health Departments

S.L. 2004-124, Sec. 10.28B ([HB 1414](#), Sec. 10.28B). See **Health and Human Services**.

North Carolina Public Health Department Incubators

S.L. 2004-124, Sec. 10.32 ([HB 1414](#), Sec. 10.32). See **Health and Human Services**.

Regional Agency Debt Setoff

S.L. 2004-138 ([HB 1420](#)) extends to local governments acting jointly the same setoff debt collection procedures currently allowed to local governments acting alone. This would allow the Department of Revenue to divert part or all of an individual's income tax refund to pay a debt the individual owes to a regional joint agency.

The act became effective July 1, 2004, and applies to income tax refunds determined on or after that date. (KG)

Vehicle Control Signs and Signals

S.L. 2004-141 ([SB 1078](#)). See **Transportation**.

Special Obligation Debt/Purposes

S.L. 2004-151 ([SB 137](#)) authorizes municipalities in the State to define municipal service districts for transit-oriented development, and to use special obligation financing for projects in municipal service districts.

This act became effective August 2, 2004. (GSP)

Monetary Comp/Outdoor Advertising

S.L. 2004-152 ([HB 1213](#)) provides that a city or county requiring the removal of off-premises outdoor advertising must pay the fair market value of the sign in place immediately prior to its removal except under certain circumstances. There is no required payment if any one of the following exists:

- The city or county enters into a relocation agreement with the owner of the outdoor advertising.
- The city or county enters into a voluntary agreement with the owner of the outdoor advertising for its removal after a set period of time in lieu of monetary compensation.
- The outdoor advertising is determined to be a public nuisance.
- The removal is required for improvements involving streets, sidewalks or public enterprises.
- The removal is required pursuant to statutes, ordinances or regulations generally applicable to the demolition and removal of damaged structures.

A city or county may choose to offer to relocate the outdoor advertising to a site that is reasonably comparable or better than the existing location of the sign. If the parties are not able to agree that the site offered is reasonably comparable to or better than the existing location, the parties shall enter into binding arbitration to resolve their differences. If the arbitration results in a finding that the site offered by the city or county is not reasonably comparable to or better than the existing site and the city or county elects to proceed with the removal, the parties are to determine the monetary compensation due. If unable to agree, the city or county may bring an action in superior court for a determination of the monetary compensation to be paid. If monetary compensation is paid for the sign, the city or county owns the sign. The city or county has up to 3 years from the effective date of the ordinance making the outdoor advertising nonconforming to pay the compensation owed the sign owner. The outdoor advertising remains in place until the monetary compensation is paid. The provisions of the act are not to be used to interpret, construe, alter or modify the exercise of eminent domain by an entity pursuant to Chapter 40A or Chapter 136 of the General Statutes.

This act became effective August 2, 2004.

See **Vetoed Legislation** for information concerning the July 9, 2004 veto of HB 429, Monetary Comp./Outdoor Advertising. (EC)

DOT Authority to Receive Funds from Local Government

S.L. 2004-168 ([SB 1089](#)). See **Transportation**.

Housing Authority Fences

S.L. 2004-199, Sec. 40 ([SB 1225](#), Sec. 40) prohibits housing authorities from erecting or maintaining electrified, spiked, or barbed wire fences around lawfully occupied housing units.

This section became effective August 17, 2004. (GSP)

Studies

Legislative Research Commission

Urban Cores Study

S.L. 2004-161, Sec. 2.1(d) ([SB 1152](#), Sec. 2.1(d)) authorizes the Legislative Research Commission to study urban cores. If the Commission elects to study this issue, they may report findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

This section became effective August 2, 2004. (TM)

State-Local Relationships

S.L. 2004-161, Sec. 2.1(m) ([SB 1152](#), Sec. 2.1(m)). See **State Government**.

Abandoned Junk Vehicles

S.L. 2004-161, Sec. 2.1(n) ([SB 1152](#), Sec. 2.1(n)). See **State Government**.

New Independent Studies/Commissions

Study Commission on Residential and Urban Development Encroachment on Military Bases and Training Areas

S.L. 2004-161, Part IV ([SB 1152](#), Part IV). See **Military, Veterans' and Indian Affairs**.

Referrals to Existing Commissions/Committees

Joint Legislative Growth Strategies Oversight Committee Study

S.L. 2004-161, Part III ([SB 1152](#), Part III) provides that the Joint Legislative Growth Strategies Oversight Committee may study the following issues:

- Delegating authority to cities and counties;
- Modernizing city and county planning; and
- Transferable development rights.

The provision amends the Committee's expiration and reporting requirements contained in Section 3.3 of S.L. 2001-491. The change extends the Joint Legislative Growth Strategies Oversight Committee's expiration date and reporting requirements to January 16, 2007.

This section became effective August 2, 2004. (JHM)

For a complete list of the studies and reports authorized by the 2004 Session of the 2003 General Assembly, please refer to the Appendix contained in this publication.

Chapter 16
Military, Veterans' and Indian Affairs

Theresa Matula (TM) and Hal Pell (HP)

Enacted Legislation

Military and Veterans' Affairs

Military Affairs Commission Membership

S.L. 2004-49 ([SB 1159](#)) adds six nonvoting, ex officio members, or their designees, to the North Carolina Advisory Commission on Military Affairs: the Lieutenant Governor, the Secretary of Transportation, the Secretary of the Department of Environment and Natural Resources, the Executive Director of the North Carolina League of Municipalities, the Executive Director of the North Carolina Association of County Commissioners, and the Assistant Secretary for Veterans Affairs.

This act became effective July 1, 2004. (HP)

Military Planning Notices

S.L. 2004-75 ([SB 1161](#)). See **Local Government**.

Statewide Military Business Center and Homeland Security Business Incubator

S.L. 2004-124, Sec. 8.17 ([HB 1414](#), Sec. 8.17). See **Education**.

State Veterans Cemeteries to Provide Burial Services on Weekends

S.L. 2004-124, Sec. 19.2 ([HB 1414](#), Sec. 19.2) requires that burial services at the Coastal Carolina State Veterans Cemetery and Sandhills State Veterans Cemetery be conducted from Monday through Sunday, except when the day for services falls on a State holiday.

This section became effective July 1, 2004. (TM)

Continuation of the Study of Advocacy Programs in the Department of Administration

S.L. 2004-124, Sec. 19.6 ([HB 1414](#), Sec. 19.6). See **State Government**.

Marine Corps Museum of the Carolinas

S.L. 2004-124, Sec. 27.3 ([HB 1414](#), Sec. 27.3) provides that any funds appropriated to the Marine Corps Museum of the Carolinas must be used only to assist with planning a museum to honor the men and women in the Carolinas who have served in the United States Marine

Corps, and that the funds must be kept in a separate account by the Museum nonprofit corporation.

This section became effective July 1, 2004. (HP)

Renewal of Occupational License for Deployed Military Personnel

S.L. 2004-203, Sec. 80 ([HB 281](#), Sec. 80) amends Section 3 of S.L. 2003-300 to clarify that except as otherwise prohibited, deployed military personnel serving in Operation Iraqi Freedom have up to 90 days from the end of deployment to renew an occupational license. Under this provision, an "occupational license" is defined as any license (other than a privilege license), certificate, or other evidence of qualification that an individual is required to obtain before the individual may engage in, or represent himself or herself to be a member of a particular profession or occupation.

This section became effective August 17, 2004. (TM)

UNC & Community College Tuition/Military Students

S.L. 2004-130 ([SB 1058](#)). See **Education**.

"In God We Trust" Special Plates

S.L. 2004-131 ([SB 1144](#)). See **Transportation**.

Indian Affairs

Department of Transportation Shall Pave Areas In North Carolina Indian Cultural Center

S.L. 2004-124, Sec. 30.5 ([HB 1414](#), Sec. 30.5) requires the Department of Transportation to pave the appropriate areas inside the North Carolina Indian Cultural Center.

This section became effective July 1, 2004. (TM)

Studies

New/Independent Studies/Commissions

Study Commission on Residential and Urban Development Encroachment on Military Bases and Training Areas

S.L. 2004-161, Part IV ([SB 1152](#), Part IV) creates a 17-member Study Commission to study a number of issues concerning residential and urban development encroachment on military bases and training areas. The Study Commission includes elected or appointed municipal officials, county commissioners, commanding generals of federal military installations located in North Carolina, and members of the House of Representatives and the Senate. The Commission is charged to study the following areas:

- Zoning restrictions;
- How encroachment affects deed registration;
- Protecting areas by purchasing development rights and buffers using all available State trust funds and other available funding mechanisms; and
- Any other issue that the Commission considers relevant.

The Commission must submit a final report of its findings and recommendations, including any legislative recommendations, to the 2005 General Assembly upon its convening. This part became effective August 2, 2004. (HP)

For a complete list of the studies and reports authorized by the 2004 Session of the 2003 General Assembly, please refer to the Appendix contained in this publication.

Chapter 17

Occupational Boards and Licensing

Cindy Avrette (CA) and Trina Griffin (TG)

(For summaries of legislation related to non-occupational boards and commissions, see Chapter 22, **State Government**.)

Enacted Legislation

Respiratory Care Board/Background Checks/Fees

S.L. 2004-89 ([SB 1254](#)) authorizes the North Carolina Respiratory Care Board (Board) to conduct a statewide and nationwide criminal history record check on a person who applies to the Board for licensure and to charge the applicant a fee to cover the cost of conducting the criminal history background check. The Board will remit the fee to the Department of Justice, which is the agency that provides the criminal history background checks. The Department currently charges \$38 for a statewide and nationwide criminal history record check.

This act became effective July 13, 2004. (CA)

Regulation of Physician Assistants Receiving, Prescribing or Dispensing Free Prescription Drugs

S.L. 2004-124, Sec. 10.2E ([HB 1414](#), Sec. 10.2E) provides that the North Carolina Medical Board, not the North Carolina Board of Pharmacy, regulates the receiving, prescribing, and dispensing of prescription drugs by a physician assistant to a patient when the patient is not charged for the drug or the service.

This section became effective July 20, 2004. (CA)

Continuing Education for Bail Bondsmen

S.L. 2004-124, Sec. 21.3 ([HB 1414](#), Sec. 21.3) reduces the number of continuing education hours required to renew a bail bondsman license from six hours a year to three hours a year.

This section became effective July 1, 2004. (CA)

Cosmetic Art/Continuing Education/Penalty Change

S.L. 2004-142 ([HB 173](#)) provides that effective October 1, 2004, cosmetologists, estheticians, and manicurists must complete eight hours of Board-approved continuing education for each year of the licensing cycle. (Cosmetologists' licenses must be renewed every three years. Teacher licenses must be renewed every two years. Esthetician and manicurist licenses must be renewed annually.) However, the act exempts from the continuing education requirement a licensee who meets all three of the following conditions: is 60 years of age or older; is actively practicing in the profession; and has practiced for at least 10 consecutive years in the profession. The act provides that continuing education classes may also be offered in secondary languages as needed, and allows the promotion of products and systems when continuing education classes are given in-house or at trade shows. The act prohibits any member of the Board of Cosmetic Art Examiners from offering the required continuing education courses.

The act authorizes the Board of Cosmetic Art Examiners to establish an inactive list of licensees. The inactive licensee must be in good standing with the Board and may not practice cosmetic art for consideration. The inactive licensee is not required to complete continuing education requirements and may continue to purchase supplies as accorded an active licensee. The licensee must notify the Board when he or she desires to return to active status, pay the required fee, and complete any continuing education required by the Board.

The act clarifies that the proceeds of any civil penalty assessed by the Board of Cosmetic Art Examiners will be remitted to the Civil Penalty and Forfeiture Fund (Fund). This Fund is administered by the Office of State Budget and Management and consists of all civil penalties and civil forfeitures collected by a State agency. These proceeds are transferred to the State School Technology Fund and allocated to local school administrative units on the basis of average daily membership.

This act becomes effective October 1, 2004. (CA)

Amend Barbering Laws

S.L. 2004-146 ([SB 1384](#)) makes several changes to the laws governing barbering. Specifically, the act contains the following provisions:

Board Membership. – Currently, there are five members on the State Board of Barber Examiners (Board) who are appointed by the Governor. Four of the members must be licensed barbers and the fifth member is an at-large member who is not licensed by the Board. The Board does not currently have an at-large member and has not had one for about a year since the former at-large member resigned. The members serve for a three-year term. Under the current law, a member may not serve more than three complete consecutive three-year terms. The act would allow the Governor to appoint a member of the Board who holds an officer position on the National Association of Barber Board of America to serve as the 'public at-large' member for the three-year term beginning July 1, 2004, if the Governor determines that there is not a public member willing to serve on the Board for this three-year term. This provision sunsets July 1, 2007.

Powers of the Board. – The act expands the powers of the Board in the following ways:

- Gives the Board the authority to employ and pay personnel. The Board currently employs a staff of six people. The staff is currently employed under the State Personnel Act but they are paid through the revenues of the Board.
- Gives the Board the authority to assess civil penalties for violations of any statute or rule governing the practice of barbering.
- Gives the Board the authority to adopt rules establishing procedures for the administration of exams. To become a barber, a person must attend an approved school, complete an apprenticeship, and pass a clinical examination given by the Board. The Board must conduct exams at least four times a year. The Board currently has internal policies for administering the exams, but it does not have rules.
- Gives the Board, the Department of Health and Human Services, or any county or district health director the authority to bring an action in superior court against a person who violates the provisions of this Chapter 86A or rules adopted by the Board. The action must be brought in the county where the defendant resides, where the defendant maintains a principal place of business, or where the alleged acts occurred.

Regulation of Barber Schools. – The act gives the Board the authority to adopt rules establishing criteria for barber schools and colleges to maintain their accreditation. The act further provides that each school must employ at least two instructors for the first 40 students and one instructor for every additional 20 students. A nonprofit school may continue to employ one instructor for every 20 students. No school may provide practical training or theoretical training simultaneously unless at least two instructors are present.

Apprenticeship. – The act requires a registered barber to be on the premises of the barbershop at all times while an apprentice is working.

Barbering Among Members of Same Family. – Defines a 'member of his or her family' to mean a spouse, brother, sister, parent, grandparent, child, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, stepparent, or stepchild.

Assessment of Civil Penalties. – The act authorizes the Board to assess a civil penalty for violations of this Chapter 86A or rules adopted by the Board. The proceeds of the penalties imposed must be remitted to the Civil Penalty and Forfeiture Fund. The Board must establish a schedule of civil penalties, but a penalty may not exceed \$500 per offense. It further allows the Board to charge the costs of a disciplinary proceeding, including reasonable attorney fees, to the licensee against whom the proceedings were brought.

This act became effective July 29, 2004. (TG)

Regulate Professional Employer Organization

S.L. 2004-162 ([SB 20](#)). See **Labor and Employment**.

Revise the Banking Laws of North Carolina

S.L. 2004-171 ([SB 676](#)). See **Commercial Law and Consumer Protection**.

Fees

S.L. 2004-174, Secs. 1 and 2 ([HB 356](#), Secs. 1 and 2) authorize the North Carolina State Bar to recognize paralegals meeting certain criteria as "State Bar Certified Paralegals" and to charge fees relating to certification.

The North Carolina State Bar, which is an agency of the State, regulates the professional conduct of lawyers in North Carolina. The State Bar is governed by the State Bar Council and its various Boards and Committees. In an effort to better inform the public, the State Bar Council has recognized certain specialties of practice and when lawyers who practice in those specialties meet certain established criteria, they may hold themselves out as being a State Bar Certified Specialist in a particular area such as criminal law, real property law, bankruptcy, or other area approved by the Council. This act allows the State Bar to recognize paralegals that meet established criteria to be "State Bar Certified Paralegals" and to charge fees to applicants and participants necessary to administer the certification program. The program is voluntary; paralegals would not be required to participate. However, participation in the program would enable those paralegals to use the designation "North Carolina State Bar Certified Paralegal." The act gives the State Bar authority to administer the certification program for paralegals in substantially the same manner and with the same authority that it currently administers the certification program for lawyers.

This act becomes effective October 1, 2004.

Section 3 of this act extends the sunset of the Industrial Commission fee earmarked for information technology. For additional information, see **Technology**. (TG)

Locksmith Criminal History Record Check Fee

S.L. 2004-177 ([SB 1128](#)) clarifies that the Locksmith Licensing Board is authorized to collect any fees required by the Department of Justice for conducting the required criminal background check and to remit those funds to the Department of Justice.

In 2001, the General Assembly enacted the Locksmith Licensure Act requiring all persons performing locksmith services in the State to be licensed, effective January 1, 2003. In 2003, the licensing requirements were amended to require a criminal history background check performed

by the North Carolina Department of Justice. The Department of Justice charges a fee for conducting criminal history background checks. Currently, the charge for a statewide and a federal criminal history check is \$38.00. The 2003 legislation did not include language authorizing the Board to collect the fees associated with conducting the criminal history record check, so this act adds the authorizing language.

This act became effective August 3, 2004. (TG)

Board of Funeral Services

S.L. 2004-192 ([HB 859](#)) eliminates the current method of electing and appointing members to the North Carolina Board of Funeral Service and replaces it with an appointment process. Under current law, the nine-member Board consists of six professional members elected by the licensees and three public members appointed by the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate. This act provides that the Governor will appoint the six professional members as well as one public member. Of the six professional members, four must be appointed from nominees recommended by the Funeral Directors Association and two must be appointed from nominees recommended by the Funeral Directors and Morticians Association. The members will serve for staggered three-year terms and no member may serve more than two complete consecutive terms.

This act becomes effective January 1, 2005. (CA)

Board of Nursing

S.L. 2004-199, Sec. 26 ([SB 1225](#), Sec. 26) restores a requirement that registered nurses and licensed practical nurses appointed to the Board of Nursing must be employed at least half-time in the specialty for the position for which they fill on the Board while serving on the Board. This provision was inadvertently omitted from a rewriting of the Board of Nursing laws last year.

This section became effective August 19, 2004, and applies to new board members seated on or after January 1, 2005. (CA)

Alarm Systems License Fees

S.L. 2004-201 ([HB 1594](#)) authorizes the Alarm Systems Licensing Board to raise two existing fees and to create a new fee under the Alarm Systems Licensing Act. The act increases the statutory maximum for a new or renewal license fee from \$350 to \$500 and it increases the statutory maximum for the registration fee from \$20 to \$50. The act also establishes a fee not to exceed \$50 for reconsideration of a license or registration permit that has been returned to the applicant for correctable errors.

This act became effective August 17, 2004. (CA)

Renewal of Occupational License for Deployed Military Personnel

S.L. 2004-203, Sec. 80 ([HB 281](#), Sec. 80). See **Military, Veterans' and Indian Affairs**.

Studies

Legislative Research Commission

Regulation of Landscape and Irrigation Contractors

S.L. 2004-161, Sec. 2.1(1)h ([SB 1152](#), Sec. 2.1(1)h) authorizes the Legislative Research Commission to study the regulation of landscape and irrigation contractors. The Commission may report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

This section became effective August 3, 2004. (TG)

Regulation of Massage Therapy

S.L. 2004-161, Sec. 2.1(1)i ([SB 1152](#), Sec. 2.1(1)i) authorizes the Legislative Research Commission to study the regulation of massage therapy. The Commission may report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

This section became effective August 3, 2004. (TG)

Regulation of Attorney Solicitation

S.L. 2004-161, Sec. 2.1(9)f ([SB 1152](#), Sec. 2.1(9)f) authorizes the Legislative Research Commission to study the regulation of attorney solicitation, including when and under what circumstances an attorney may solicit business from a prospective client. The Commission may report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

This section became effective August 3, 2004. (TG)

Practice of Naturopathy

S.L. 2004-161, Sec. 2.1(j) ([SB 1152](#), Sec. 2.1(j)) authorizes the Legislative Research Commission to study the practice of naturopathy in North Carolina and make recommendations as to whether it would be in the public interest for practitioners to be licensed or otherwise regulated. The Commission may report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

This section became effective August 3, 2004. (TG)

Funding of Occupational Boards

S.L. 2004-161, Sec. 2.1(l) ([SB 1152](#), Sec. 2.1(l)) authorizes the Legislative Research Commission to study the funding mechanisms of all the occupational licensing boards and commissions in the State and consider options for funding and budgeting those boards and commissions more effectively and efficiently, including funding and budgeting those boards and commissions through the General Fund. The Commission may report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

This section became effective August 3, 2004. (TG)

Referrals to Departments, Agencies, Etc.

Strengthen Domestic Violence Laws

S.L. 2004-186, Part VII ([HB 1354](#), Part VII) provides that the North Carolina State Bar, in cooperation with the North Carolina Bar Association, must study the issue of providing Continuing Legal Education (CLE) credit to active attorneys for providing pro bono legal representation. The entire act is divided into the Parts listed below.

Part I: Domestic Violence Offender Treatment.

Part II: Domestic Violence Training for Law Enforcement.

Part III: Study of Anti-Violence Education in Schools and Training for School Personnel.

Part IV: Legal Services for Victims of Domestic Violence.

Part V: Domestic Violence Advocates on Child Fatality Task Force.

Part VI: Study of Mental Health Services for Domestic Violence Victims.

Part VII: Study of CLE Credit for Pro Bono Legal Representation.

Part VIII: Domestic Relationship Aggravating Factor.

Part IX: Create Strangulation Offense.

Part X: Amend Habitual Misdemeanor Assault Statute.

Part XI: Domestic Violence Offense Tracking.

Part XII: Study of Misdemeanor Offense Classifications.

Part XIII: Warrantless Arrest for Violation of Pretrial Release Conditions.

Part XIV: Conform State Firearms Law to Federal Law.

Part XV: Specifically Allow Cross Warrants.

Part XVI: Clarify Nurse's Privilege.

Part XVII: Temporary Child Custody in Domestic Violence Hearings.

Part XVIII: Prohibit Employment Discrimination Against Domestic Violence Victims.

Part XIX: Privacy for 50B Intake.

Part XX: Training for Judges and Court Personnel.

See **Children and Families** for the summary of the entire act.

For a complete list of the studies and reports authorized by the 2004 Session of the 2003 General Assembly, please refer to the Appendix contained in this publication.

Chapter 18

Property, Trusts, and Estates

Karen Cochran-Brown (KCB), Kory Goldsmith (KG), Trina Griffin (TG),
Walker Reagan (WR), and Steve Rose (SR)

Enacted Legislation

Condominium and Planned Community Clarifications

S.L. 2004-109, Secs. 1-6 ([SB 1167](#), Secs. 1-6) make clarifying changes to the North Carolina Condominium Act and the North Carolina Planned Community Act. The changes make those Acts applicable to all condominium and homeowners associations regardless of when the associations were created and unless the organizational documents of an association provides otherwise. The changes also would allow homeowners associations to give notices of meetings using electronic mail if a homeowner requests that type of notice.

These sections became effective July 17, 2004.

Sections 7 and 8 of this act concern changes to the crime of secretly peeping into a room occupied by another person. For additional information, see **Criminal Law and Procedure**. (KG)

Compensation of Trustees/Other Fiduciaries

S.L. 2004-139 ([SB 470](#)) rewrites the law dealing with the compensation of trustees and other fiduciaries when the terms of certain trusts do not specify the compensation.

Under current law, trustees of certain trusts receive annual compensation for serving as trustees based on a minimum fee schedule set out in statute. For this fee schedule to apply, a trust must be silent as to the amount of compensation. In addition to the minimum compensation, the clerk of superior court, at the written request of the trustee, may in the clerk's discretion allow additional compensation, subject to a cap, when the trustee has rendered services beyond the routine services expected of a trustee. The clerk of court may also authorize compensation for fiduciaries other than the trustee and for counsel fees for attorneys who serve as a fiduciary or trustee where the attorney renders professional services, as an attorney, that are beyond the ordinary routine of management and that would reasonably justify the retention of legal counsel.

This act eliminates the minimum fee schedule and requires trustees to give all beneficiaries prior written notice of each proposed payment of compensation if the total annual payments will exceed 4/10 of 1% of the principal value of the assets on the last day of the trust accounting year. Alternatively, the trustee may give written notice of the amount of compensation to be paid on a periodic basis or the method of computation of compensation. The act authorizes trustees to pay themselves reasonable compensation, without prior approval of the court, as long as the compensation does not exceed the minimum amount set out above or no beneficiary has filed a petition for review of the reasonableness of the compensation within 15 days after being given written notice. The act also authorizes a trustee or a beneficiary to initiate a proceeding for the clerk of court to review the reasonableness of any compensation or expense reimbursement. A beneficiary is not precluded from initiating a proceeding even though the 15-day period has expired. The clerk, upon review, may order the trustee to make appropriate refunds.

This act becomes effective January 1, 2005, and applies to payments made to a fiduciary on or after that date. (TG)

Water Conservation/Submeters

S.L. 2004-143 ([HB 1083](#)). See **Environment and Natural Resources**.

Cure Register's Certification Omission

S.L. 2004-199, Sec. 17 ([SB 1225](#), Sec. 17) creates a new curative statute to make registrations in the Register of Deeds offices valid to the same extent as if the register of deeds had properly certified the correctness of the notary acknowledgement when the document was otherwise legally acknowledged. This statute applies to documents filed before October 1, 2004.

This section became effective August 17, 2004. (WR)

Cure Acknowledgement Omitting Seal of Clerk

S.L. 2004-199, Sec. 18 ([SB 1225](#), Sec. 18) amends G.S. 47-53.1 to add clerks of courts to the curative statute that declares acknowledgments that are otherwise duly probated and recorded to be valid notwithstanding the fact that the seal of the person taking the acknowledgement is omitted. Applies to acknowledgments before January 1, 1991.

This section became effective August 17, 2004. (WR)

Nonresident Guardians and Removal of Guardians

S.L. 2004-203, Sec. 31 ([HB 281](#), Sec. 31) amends the law concerning out-of-state residents serving as guardians for North Carolina residents.

This section removes the prohibition on nonresidents being appointed as general guardian or as guardian of a resident's estate. Nonresidents may be appointed guardian of the person of a State resident under current law. The clerk of court may require a nonresident guardian of the person to post a bond or other security.

This section also makes it the duty of the clerk of court to remove a nonresident who fails to obey a citation, notice, or process served on the guardian or the guardian's process agent. It also clarifies that removal of a guardian for these grounds may be accomplished without a hearing under certain emergency situations.

This section became effective August 17, 2004. (WR)

Studies

Legislative Research Commission

Sale of Time Shares Regulation Study

S.L. 2004-161, Sec. 2.1(9)e ([SB 1152](#), Sec. 2.1(9)e) authorizes the Legislative Research Commission to study the regulation of sellers of time shares. Time shares are currently regulated under Article 4 of Chapter 93A of the General Statutes. If the LRC authorizes this study, then the study committee membership will be appointed by the commission co-chairs. The LRC may report its findings and recommendations to the 2005 General Assembly upon its convening.

This section became effective August 2, 2004. (SR)

Homeowners Associations Authority and Responsibility Study

S.L. 2004-161, Sec. 2.1(9)h ([SB 1152](#), Sec. 2.1(9)h) authorizes the Legislative Research Commission to study the authority and responsibility of homeowners associations. Statutes applicable to homeowners associations can be found in Chapters 47A, 47C, and 47F of the General Statutes. The study committee membership will be appointed by the co-chairs of the LRC. The LRC may report its findings and recommendations to the 2005 General Assembly upon its convening.

This section became effective August 2, 2004. (SR)

Equity-Building Homes Study

S.L. 2004-161, Sec. 2.1(k) ([SB 1152](#), Sec. 2.1(k)). See **Commercial Law and Consumer Protection**.

New/Independent Studies/Commissions

Study Commission on Residential And Urban Development Encroachment On Military Bases And Training Areas Study

S.L. 2004-161, Secs. 6.1 and 6.2 ([SB 1152](#), Secs. 6.1 and 6.2). See **Military, Veterans', and Indian Affairs**.

Referrals to Existing Commissions/Committees

Electronic Recordation And Revision Of Notary Laws Study

S.L. 2004-161, Part VI ([SB 1152](#), Part VI). See **Commercial Law and Consumer Protection**.

For a complete list of the studies and reports authorized by the 2004 Session of the 2003 General Assembly, please refer to the Appendix contained in this publication.

Joint Resolutions

Providing for Adjournment

Res. 2003-33 Extra Session (HJR 7).

Adjournment Sine Die 2nd Extra Session

Res. 2003-34 Second Extra Session (SJR 5).

Honoring Maggie Valley Founders/100th Birthday

Res. 2004-1 (SJR 1032).

Honor James "Willie" York

Res. 2004-2 (HJR 1435).

Honoring Eugene McCombs

Res. 2004-3 (HJR 1342).

Honoring Lucy Morgan, Penland School of Crafts

Res. 2004-4 (SJR 1179).

Joint Session/Honor Bill Friday

Res. 2004-5 (SJR 1439).

Honor William "Bill" Friday

Res. 2004-6 (SJR 1440).

Memorializing President Ronald W. Reagan

Res. 2004-7 (SJR 1438).

Memorializing Kathleen Bryan Edwards

Res. 2004-8 (SJR 1443).

Honoring General Rutherford/Rutherford County Anniversary

Res. 2004-9 (SJR 1408).

Honoring the Memory of Dr. Gil Wylie/Lake Wylie's 100th Anniversary

Res. 2004-10 (SJR 1444).

Memorializing Ray Charles

Res. 2004-11 (SJR 1441).

Honoring Founders of Duke Power

Res. 2004-12 (HJR 1807).

Adjournment Sine Die

Res. 2004-13 (SJR 1445).

Chapter 20 Retirement

Karen Cochrane Brown (KCB) and Theresa Matula (TM)

Enacted Legislation

Amend Disability Laws

S.L. 2004-78 ([HB 354](#)). See **Labor and Employment**.

Retirement Teacher Exchange Programs

S.L. 2004-81 ([HB 1478](#)) amends the definitions of the terms "Teacher" and "Exchange Teacher" to clarify that these terms do not include nonimmigrant aliens employed in elementary and secondary public schools who are participating in an international cultural exchange visitor program designated by the U.S. Department of Homeland Security pursuant to 8 C.F.R. Part 214.2(q). This act clarifies that such persons are not eligible for retirement or tenure benefits.

This act became effective July 1, 2004. (KCB)

Retirement System COLAS

S.L. 2004-124, Sec. 31.17 ([HB 1414](#), Sec. 31.17) provides a 1.7% increase in the retirement allowances paid to beneficiaries of the Teachers' and State Employees' Retirement System, and the Consolidated Judicial Retirement System, whose retirement began on or before July 1, 2003, and for beneficiaries of the Legislative Retirement System whose retirement began on or before January 1, 2004. In addition, beneficiaries of the Teachers' and State Employees' System and the Judicial System who retired after July 1, 2003, but before June 30, 2004, and beneficiaries of the Legislative System who retired after January 1, 2004, but before June 30, 2004, will receive a prorated amount of the 1.7% increase as determined by the Board of Trustees.

This section became effective July 1, 2004. (KCB)

Increase Monthly Pension for Members of the Firemen's and Rescue Squad Workers Pension Fund

S.L. 2004-124, Sec. 31.18 ([HB 1414](#), Sec. 31.18) increases the pension paid to a retired member of the North Carolina Firemen's and Rescue Squad Workers' Pension Fund from \$158 to \$161 per month. Additionally, this section makes a conforming change to increase from \$158 to \$161 the monthly benefit paid to members who become totally and permanently disabled in the line of duty.

This section became effective July 1, 2004. (TM)

Retired Teachers Returning to Classroom Without Loss of Retirement Benefits/Option Extended

S.L. 2004-124, Sec. 31.18A ([HB 1414](#), Sec. 31.18A) extends the sunset of the provision that allows retired teachers to return to the classroom with no earnings restrictions until June 30, 2005. This provision removes any restrictions on the amount of post-retirement earnings for any

retiree of the Teachers' and State Employees' Retirement System who is employed to teach on a substitute, interim or permanent basis in a public school. To qualify, a teacher must have been retired for six months and not have been employed in any capacity with a public school, except as a substitute teacher or part-time tutor, for at least six months immediately preceding the return to teaching.

This section also directs the Retirement System Division to conduct an analysis of the postretirement reemployment issue, including a survey of other state systems, cost analyses, review of relevant federal regulations, and the administrative impact of various postretirement reemployment policies. The Retirement System Division shall develop findings and recommendations and report to the General Assembly by February 1, 2005.

This section became effective June 30, 2004. (KCB)

Clarify That Probation and Parole Officers Are Covered By the Law-Enforcement Officers', Firemen's, Rescue Squad Workers' and Civil Air Patrol Members' Death Benefits Act

S.L. 2004-124, Sec. 31.18C ([HB 1414](#), Sec. 31.18C) amends a definition under the Law-Enforcement Officers', Firemen's, Rescue Squad Workers' and Civil Air Patrol Members' Death Benefits Act to specify that the term "officer" includes all full-time probation and parole officers of the North Carolina Department of Correction. This provision essentially clarifies that dependents of probation and parole officers are entitled to a death benefit award if the officer is killed in the line of duty.

This section became effective July 20, 2004, and applies to persons killed in the line of duty on or after that date. (TM)

Retiree Health Benefit Fund

S.L. 2004-124, Sec. 31.20 ([HB 1414](#), Sec. 31.20) establishes a Retiree Health Benefit Fund in which accumulated contributions from employers, and any earnings on those contributions, will be used to provide health benefits to retired and disabled employees and their applicable beneficiaries. Assets of the Fund are dedicated to providing health benefits to retired and disabled employees and their applicable beneficiaries and are not subject to the claims of creditors of the employers making contributions to the Fund. The Teachers' and State Employees' Retirement System Board of Trustees is the trustee of the Fund. The action to establish this Fund complies with the Governmental Accounting Standards Board's financial reporting standards for post-employment benefits.

This section became effective July 1, 2004. (TM)

Tricare Supplemental Health Insurance

S.L. 2004-124, Sec. 31.24 ([HB 1414](#), Sec. 31.24). See **Labor and Employment**.

Increase Local Government Death Benefit

S.L. 2004-136 ([HB 1513](#)) increases the death benefit for members of the Local Governmental Employees' Retirement System from a maximum of \$20,000, to a minimum of \$25,000 and a maximum of \$50,000. All conditions of eligibility remain the same, as does the process for computing the death benefit. This change conforms the death benefit payable on account of membership in the Local Governmental Employees' Retirement System to those provided for members of the Teachers' and State Employees' Retirement System.

This act became effective July 1, 2004, and applies to persons dying on or after that date. (KCB)

Local Government Employees/457 Plan

S.L. 2004-137 ([SB 1312](#)). See **Labor and Employment**.

Increase Retirees' Contributory Death Benefit

S.L. 2004-147 ([HB 1624](#)) amends the laws governing the Teachers' and State Employees' Retirement System, the Local Governmental Employees' Retirement System, the Legislative Retirement System, and the Consolidated Judicial Retirement System to increase the contributory death benefit for retirees. Retirees from each of these Retirement Systems may elect to make contributions, in an amount determined by the Board of Trustees, to a group death benefit trust fund. A lump-sum payment benefit is payable at the retiree's death provided the retiree has made the required contributions for 24 months prior to death. This act increases the lump-sum death benefit from \$6,000 to \$9,000, under the same conditions as currently exist. The act was recommended by the Board of Trustees as a result of the actuary's assertion that the reserves and the contributory rates paid by retirees are sufficient to increase the death benefit.

This act became effective July 1, 2004, and applies to eligible retirees who die on or after that date. (KCB)

Charter School Retirement Election

S.L. 2004-164 ([HB 1723](#)) authorizes six charter schools that failed to make the election to become participating employers in the Teachers and State Employees' Retirement System and the Teachers' and State Employees' Comprehensive Major Medical Plan within the statutory time limit, to have a second opportunity to elect to participate in the Retirement System and the Health Plan. The schools are New Century High School in Saxapahaw, Lake Norman Charter School in Huntersville, Exploris Middle School in Raleigh, Magellan Charter School in Raleigh, American Renaissance Charter School in Statesville, and Healthy Start Academy in Durham. The election authorized by this act must be made no later than 30 days after the effective date of the act. The act does not amend the law to change the 30-day requirement or any other requirement currently contained in the law.

This act became effective August 2, 2004. (KCB)

Firemen's Relief Fund of North Carolina

S.L. 2004-199, Sec. 22 ([SB 1225](#), Sec. 22) clarifies that county fire marshals are eligible to receive benefits from the Firemen's Relief Fund of North Carolina and to become members of the North Carolina State Firemen's Association.

This section became effective August 18, 2004. (KCB)

Retired Charter School Teachers Returning to Classroom

S.L. 2004-199, Sec. 57 ([SB 1225](#), Sec. 57) authorizes teachers employed by charter schools that have elected to participate in the Teachers' and State Employees' Retirement System to be reemployed after retirement with no earnings restriction in the same manner as are teachers employed by other public schools. This provision is scheduled to sunset on June 30, 2005.

This section became effective August 18, 2004. (KCB)

Studies

Legislative Research Commission

Postretirement Earnings

S.L. 2004-161, Sec. 2.1(6)d ([SB 1152](#), Sec. 2.1(6)d) authorizes the Legislative Research Commission to study the impact of the limitation on postretirement earnings by retirees.

The Commission may report its findings, together with any recommended legislation to the 2005 General Assembly.

This section became effective August 2, 2004. (KCB)

Higher Option/Local Governmental Retirement

S.L. 2004-161, Sec. 2.1(6)f ([SB 1152](#), Sec. 2.1(6)f) authorizes the Legislative Research Commission to study the need for an optional, graduated, twenty-five year retirement plan for local governments participating in the Local Governmental Employees' Retirement System.

The Commission may report its findings, together with any recommended legislation to the 2005 General Assembly.

This section became effective August 2, 2004. (KCB)

Meeting IRS Request for a Defined Retirement Age

S.L. 2004-161, Sec. 2.1(9)k ([SB 1152](#), Sec. 2.1(9)k) authorizes the Legislative Research Commission to study whether the State should establish a defined retirement age as suggested by the Internal Revenue Service.

The Commission may report its findings, together with any recommended legislation to the 2005 General Assembly.

This section became effective August 2, 2004. (KCB)

Single Administrator for State 401(k) and 457 Plans

S.L. 2004-161, Sec. 2.1(o) ([SB 1152](#), Sec. 2.1(o)) authorizes the Legislative Research Commission to study the Supplemental Retirement Income Plan of North Carolina and the North Carolina Public Employee Deferred Compensation Plan to determine whether these plans should be administered by a single administrator.

The Commission may report its findings, together with any recommended legislation to the 2005 General Assembly.

This section became effective August 2, 2004. (KCB)

Referrals to Departments, Agencies, Etc.

Retired Teachers Returning to Classroom without Loss of Retirement Benefits/Option Extended

S.L. 2004-124, Sec. 31.18A ([HB 1414](#), Sec. 31.18A) directs the Retirement System Division to conduct an analysis of the post-retirement reemployment issue. For more information, see **Enacted Legislation** this chapter.

Study Mandatory Retirement for Judges

S.L. 2004-124, Sec. 31.18B ([HB 1414](#), Sec. 31.18B) directs the Administrative Office of the Courts to study the mandatory retirement age for judges and recommend whether the current policy should be changed. The study should evaluate increasing or eliminating the mandatory retirement age, allowing judges who reach the mandatory age to finish out their elected or appointed terms, and any other options. The Administrative Office of the Courts must report its findings and recommendations to the General Assembly by February 1, 2005.

This section became effective July 1, 2004. (KCB)

Study of Various Ways to Promote Government Efficiency and Savings in State Spending

S.L. 2004-161, Secs. 16.1(7) and 16.2 ([SB 1152](#), Secs. 16.1(7) and 16.2) directs the University of North Carolina, the Judicial Branch, the Executive Branch, the Legislative Branch, the Community College System, and the Department of Public Instruction to jointly study various ways to promote government efficiency and savings, including the establishment of Deferred Retirement Option Program. The Department of Administration is directed to report the results of the study to the Legislative Research Commission by January 15, 2005.

This section became effective August 2, 2004. (KCB)

For a complete list of the studies and reports authorized by the 2004 Session of the 2003 General Assembly, please refer to the Appendix contained in this publication.

Chapter 21

Senior Citizens

Dianna Jessup (DJ), Theresa Matula (TM), and Shawn Parker (SP)

Enacted Legislation

Downtown Adult Residential Facility

S.L. 2004-2 ([SB 623](#)) provides a one-year extension of deadlines to meet conditions set forth in Section 3 of S.L. 2001-234 entitling certain "specially impacted" adult care homes that qualified for an exemption from the moratorium on new adult day care homes established in S.L. 1997-443 to continue to develop the beds authorized by the exemption. The specific deadline changes are from June 1, 2004 to June 1, 2005 and from December 1, 2004 to December 1, 2005. A specially impacted adult care home is defined as an adult care home that qualified for an exemption under S.L. 2000-67, Section 11.9 (a) and is 10 stories or more in height, located within a municipal service district created under Article 23 of Chapter 160A of the General Statutes, located within 100 yards of a mixed use building more than 10 stories tall that will be opened for occupancy after May 26, 2004, located within 100 yards of an office building that is more than 20 stories tall, and some of the residents of which are to be relocated to a facility in the same county but not on a college campus. One facility where the occupants of the building are relocated is to continue to have the same status under S.L. 2000-67, Sec. 11.9 (a) as the facility from where the occupants came.

This section became effective May 26, 2004. (BR)

Centralize Criminal Record Check Functions

S.L. 2004-124, Sec. 10.1 ([HB 1414](#), Sec. 10.1). See **State Government**.

Automatic Enrollment Medicare Prescription Drug Discount Card

S.L. 2004-124, Sec. 10.2B ([HB 1414](#), Sec. 10.2B) gives the Department of Health and Human Services authority to enroll senior citizens in the federal Medicare Prescription Drug Discount Program. Current and future participants in the State's Senior Care Prescription Drug Assistance Program whose income is not more than 135% of the federal poverty level are eligible for automatic enrollment in the Medicare Drug Program; however, those individuals must have an opportunity to decline automatic enrollment if they choose. This section also provides that the State's Senior Care Prescription Drug Assistance Program will be the payor of last resort.

This section became effective July 1, 2004. (TM)

Community Alternatives Programs

S.L. 2004-124, Sec. 10.9 ([HB 1414](#), Sec. 10.9) directs the Department of Health and Human Services to ensure the following:

- Expenditures for Community Alternatives Programs (CAP) do not exceed the budget for these programs;
- CAP slots are fully allocated and filled in a timely manner; and
- Budgeted expenditures are not limited by the non-allocation of or delays in filling CAP slots.

Additionally, the section specifies that services provided by the Community Alternatives Program for Disabled Adults shall be provided for the 2004-2005 fiscal year to any eligible person who entered a nursing facility on or before June 1, 2004, within the existing availability of the county allocation, or within the existing availability of services.

This section became effective July 1, 2004. (SP)

PACE Pilot Program Funds

S.L. 2004-124, Sec. 10.12 ([HB 1414](#), Sec. 10.12) requires the Department of Health and Human Services, Division of Medical Assistance, to develop a pilot program to implement the Program for All-Inclusive Care for the Elderly (PACE). One pilot site shall be planned for the southeastern area of the State and the other for the western area of the State. The Division is required to design the pilot program to access federal Medicaid and Medicare dollars to provide acute and long-term care services for older patients through the use of interdisciplinary teams. Upon implementation, the PACE pilot program may include the following: physician visits, drugs, rehabilitation services, personal care services, hospitalization, and nursing home care. The PACE program may also offer social services intervention, case management, respite care, or extended home care nursing. This section authorizes the Division to use \$123,156 of the funds appropriated for the 2004-2005 fiscal year, to support two positions in the Division of Medical Assistance to develop the pilot programs and to contract for actuarial analysis as part of the development of the pilot programs.

On March 1, 2005, the Department must report on the development of PACE pilot program to the House of Representatives Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Health and Human Services. The report will include services proposed to be offered under the pilot program, administrative structure of the pilot program, number of Medicare and Medicaid eligible recipients anticipated to receive services from the PACE pilot sites, and the projected savings to the State from PACE pilot program implementation.

Finally, this section clarifies that nothing obligates the General Assembly to appropriate funds to implement the PACE program statewide.

This section became effective July 1, 2004. (TM)

Long-Term Care Facility Criminal Record Checks

S.L. 2004-124, Sec. 10.19D ([HB 1414](#), Sec. 10.19D) amends the statutes governing criminal records checks for nursing homes, home care agencies, contract agencies for nursing homes and home care agencies, adult care homes, contract agencies of adult care homes, and area mental health authorities (collectively, "providers"). State law requires criminal history record checks of all applicants for employment with nursing homes, home health care agencies, adult care homes, and area authorities. If the applicant has been a resident of North Carolina for less than five years, the criminal history record check must include both a national and a State criminal history record check. If the applicant has been a resident of North Carolina for five years or more, only a State criminal history record check is required.

Under federal law, the FBI may release results of national criminal history checks directly to nursing homes and home health care agencies on applicants for positions that involve direct patient care. Otherwise, results of criminal history checks performed by the FBI can only be released to a state agency and cannot be released directly to a provider. This has made it difficult for providers to comply with State law. As a result, a moratorium on national criminal history record checks was instituted in S.L. 2002-126, Sec. 10.10C for applicants for positions in nursing homes and home care agencies, other than those involving direct patient care, and for applicants for all staff positions in adult care homes, until January 1, 2004. Session Law 2003-284, Sec. 10.8E extended the moratorium to January 1, 2005.

This section requires the Department of Justice to return the results of the national criminal history record checks for positions other than those positions with nursing homes and home health care agencies that involve direct patient care to the Department of Health and Human Services. Within five days after receiving the results, the Department of Health and Human Services must provide to the applicable provider the "results of the national criminal history check". Pursuant to federal law, the Department will be permitted to provide notice to the provider that an applicant has a criminal record elsewhere. The Department will not be permitted to reveal the contents of that record. It will be the employer's responsibility to follow up on the information to obtain the public record of that crime.

This section also appropriates funds to the Department of Health and Human Services and the Department of Justice to expedite the criminal history check process and amends the term "relevant offense" to include any state or federal criminal history of conviction or pending indictment of a crime.

The part of the section that amends the national criminal history check process becomes effective January 1, 2005. The remainder of the section became effective July 1, 2004. (DJ)

State/County Special Assistance

S.L. 2004-124, Sec. 10.21A ([HB 1414](#), Sec. 10.21A) establishes the maximum monthly rate for residents in adult care home facilities as \$1,084 per month per resident unless adjusted by the Department in accordance with Section 10.52(f) of S.L. 2003-284. This rate is effective October 1, 2004.

This section became effective July 1, 2004. (TM)

Health Care Personnel Registry Changes

S.L. 2004-203, Sec. 52 ([HB 281](#), Sec. 52). See **Health and Human Services**.

Studies

Legislative Research Commission

Care and Safety of Residents of Residential Facilities Study

S.L. 2004-161, Sec. 2.1(8)b ([SB 1152](#), Sec. 2.1(8)b) provides that the Legislative Research Commission may study the care and safety of residents of residential care facilities. If the Commission elects to study this issue, they may report findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

This section became effective August 2, 2004. (TM)

New/Independent Studies/Commissions

Legislative Study Commission on State Guardianship Laws

S.L. 2004-161, Part XLV ([SB 1152](#), Part XLV) creates the Legislative Study Commission on State Guardianship Laws. The North Carolina Study Commission on Aging recommended this Commission. The Commission will consist of 16 members, including members of the Senate and House of Representatives; the Director of the Administrative Office of the Courts; the Director of the Division of Aging in the Department of Health and Human Services; a county director of social services; a clerk of superior court; a physician who specializes in geriatrics; an attorney

who has experience in guardianship matters; a representative of the Governor's Advocacy Council for Persons With Disabilities; and an area authority or county program director for mental health, developmental disabilities, and substance abuse services. In addition to these members, representatives of the North Carolina Bar Association, the Arc of North Carolina, North Guardianship Association, Alzheimer's Association – Western and Eastern Chapters, Carolina Legal Assistance, Area Agencies on Aging, County Departments of Aging, and Friends of Residents in Long Term Care will serve as ex-officio, nonvoting members. The Commission is charged with reviewing State law pertaining to guardianship and its relationship to other pertinent State laws such as the health care power of attorney, the right to a natural death, and durable power of attorney. The Commission may make an interim report to the 2005 General Assembly upon its convening and must make its final report to the 2006 Regular Session of the 2005 General Assembly, upon its convening.

This part became effective August 2, 2004. (DJ)

Referrals to Existing Commissions/Committees

Long-Term Care Remediation

S.L. 2004-161, Sec. 23.2 ([SB 1152](#), Sec. 23.2) provides that the North Carolina Study Commission on Aging may study the feasibility of implementing a remediation program for long-term care facilities in North Carolina, similar to the Collaborative Remediation Project in Michigan. The Commission may report its findings, together with any recommended legislation to the 2005 General Assembly upon its convening.

This section became effective August 2, 2004. (SP)

Mentally Ill Long-Term Care Residents

S.L. 2004-161, Sec. 23.3 ([SB 1152](#), Sec. 23.3) provides that the North Carolina Study Commission on Aging may study issues related to mentally ill residents in long-term care facilities. The Commission may report its findings, together with any recommended legislation to the 2005 General Assembly upon its convening.

This section became effective August 2, 2004. However, **Study Issues Related to Mentally Ill Residents of Long-Term Care Facilities** was also referred to the Department of Health and Human Services in S.L. 2004-124, Sec. 10.2. ([HB 1414](#), Sec. 10.2). (See *Referrals to Departments, Agencies, Etc.*, under the *Studies* Heading in this Chapter.) S.L. 2004-161 Section 54.1 ([SB 1152](#), Section 54.1) provides that if a study is authorized in both S.L. 2004-161 and S.L. 2004-124 ([HB 1414](#)), the study shall be implemented in accordance with HB 1414 as ratified. Therefore, the study contained in S.L. 2004-124, Sec. 10.2 will be implemented instead of the study authorized by this section. (SP)

Referrals to Departments, Agencies, Etc.

Study Issues Related to Mentally Ill Residents of Long-Term Care Facilities

S.L. 2004-124, Sec. 10.2 ([HB 1414](#), Sec. 10.2) requires the Department of Health and Human Services to work with long-term care providers and advocates for the elderly and mentally ill to study issues concerning the care of mentally ill individuals residing in long-term care facilities. The following issues shall be included in the study:

- Examining whether current State statutes and Departmental rules adequately address the populations served by long-term care facilities;
- Exploring the development of separate licensure categories within the adult care home and nursing home designations to address the various populations being served;
- Examining adult care home rules to determine whether they are easy to understand, attainable under current staffing patterns, give appropriate guidance to facility operators according to the needs and characteristics of residents served, support residents' freedom of choice, and whether they support the autonomy, dignity, and independence philosophy of assisted living;
- Determining the most effective way to identify mentally ill individuals that have mental health treatment needs;
- Examining the criteria for admission of mentally ill individuals to long-term care facilities to ensure that the health and safety of all residents is safeguarded;
- Providing recommendations for improving the quality of care for mentally ill individuals in adult care homes and nursing homes including the potential cost associated with implementing the recommendations; and
- Identifying specific problems that exist due to mixing aging and mentally ill populations.

The Department is required to report its findings and recommendations to the North Carolina Study Commission on Aging by October 1, 2005. The report must also include how the Department defined "mentally ill" for purposes of the study.

This section became effective July 1, 2004.

Note: A study on **Mentally Ill Long-Term Care Residents** was also referred to the North Carolina Study Commission on Aging in S.L. 2004-161, Sec. 23.3 ([SB 1152](#), Sec. 23.3). See *Referrals to Existing Commissions/Committees* under the *Studies* Heading in this Chapter. However, S.L. 2004-161 Section 54.1 ([SB 1152](#), Section 54.1) provides that if a study is authorized in both S.L. 2004-161 and S.L. 2004-124 ([HB 1414](#)), the study shall be implemented in accordance with HB 1414 as ratified. Therefore, the study contained in this section will be implemented instead of the study authorized by S.L. 2004-124, Sec. 10.2. (TM)

DHHS Study Medicaid Institutional Bias

S.L. 2004-124, Sec. 10.13 ([HB 1414](#), Sec. 10.13) requires the Department of Health and Human Services to contract with an independent entity to study whether the State's Medicaid program has a bias that favors support for individuals in institutional settings over support for individuals living at home and, if a bias is found, to determine and recommend ways to alleviate the bias. The study must include consideration of all in-home services paid under the State's Medicaid program. The Department must report the results of the study to the North Carolina Study Commission on Aging by January 2005.

This section became effective July 1, 2004. (DJ)

Adult Day Service Training and Reimbursement Methodology

S.L. 2004-124, Sec. 10.21 ([HB 1414](#), Sec. 10.21) requires the Department of Health and Human Services to contract with a national adult day services resource center to provide training and consultation to adult day services providers and State and county adult day services consultants. The selected consultant is required to study the current method of reimbursement for adult day services and to make recommendations for changes to the reimbursement methodology. Up to \$250,000 of the funds appropriated to the Department may be used to implement this study. This section requires that a final report be submitted to the North Carolina

Study Commission on Aging by January 1, 2005.
This section became effective July 1, 2004. (TM)

Care for the Mentally Ill in Long Term Care Facilities

S.L. 2004-144 ([SB 1148](#)) requires the Department of Health and Human Services to study the mission of the Geriatric Mental Health Specialty Teams to assist long-term care facilities in serving all residents who are within the targeted populations, as identified in the State Plan developed pursuant to G.S. 122C-102. The Department must include representatives from Area Authorities, Local Management Entities, the adult care home and the nursing home industries, and other appropriate stakeholders in the process.

As part of this study, the Department must consider whether to create two separate teams to provide services to geriatric mental health residents who are part of the targeted population and to provide services to non-geriatric residents who are part of the targeted population in long-term care facilities; and/or to broaden the scope of and rename the Geriatric Mental Health Specialty Teams to LTC Mental Health Specialty Teams to reflect the expanded mission.

The act requires the Department to standardize the following criteria across all mental health specialty teams:

- Team purpose;
- Eligibility for services;
- Screening processes;
- Referral processes; and
- Forms, Training Manuals, Service Orders, and Authorizations.

Any of these standards that are currently established shall be immediately implemented, and a time line for implementation of the remaining criteria shall be provided in the interim report.

Additionally, the act requires the Department to proceed immediately with implementation of the following:

- Tracking expenditure data for each Team and each Area Program/Local Management Entity;
- Tracking the number of facilities served, the number of clients served, and the types of services provided by each Team; and
- Tracking the use of clinicians with and without formal specialty training in mental health and geriatric mental health on the specialty teams.

The act also requires the Department to submit an interim report to the North Carolina Study Commission on Aging and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services by October 30, 2004, on its efforts to standardize criteria; track expenditure data; and track the number of facilities served, clients served, and services provided by each Team. The Department is required to submit a final report on its standardization and tracking efforts, and the results of its study, to the North Carolina Study Commission on Aging and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services by October 30, 2005.

This act became effective July 29, 2004. (TM)

For a complete list of the studies and reports authorized by the 2004 Session of the 2003 General Assembly, please refer to the Appendix contained in this publication.

Chapter 22

State Government

Erika Churchill (EC), Karen Cochrane-Brown (KCB), Kory Goldsmith (KG), Trina Griffin (TG), Tim Hovis (TH), Hal Pell (HP), Giles S. Perry (GSP), Walker Reagan (WR), and Barbara Riley (BR)

Enacted Legislation

Agencies and Departments

Centralize Criminal Record Check Functions

S.L. 2004-124, Sec. 10.1 ([HB 1414](#), Sec. 10.1) requires the Department of Health and Human Services to consolidate all activities within the Department related to coordinating and processing criminal record checks required by law beginning January 1, 2005. The Department is to report the details of the implementation plan 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 January 1, 2005.

This section became effective July 1, 2004. (EC)

Consolidation of Management of IT Operations, Services, and Functions within DHHS

S.L. 2004-124, Sec. 10.2C ([HB 1414](#), Sec. 10.2C). See **Technology**.

Accounting for Wildlife Resources Commission Revenue

S.L. 2004-124, Sec. 12.4 ([HB 1414](#), Sec. 12.4) requires the Director of the Budget and the State Controller to review the accounts of the Wildlife Resources Commission, and to establish accounts or make changes necessary to segregate revenue affected by federal requirements. The Director and the State Controller must report jointly to the Fiscal Research Division no later than April 1, 2005 on any actions that were taken to adjust accounts and must recommend any necessary statutory changes to reflect Wildlife Resources Commission accounts.

This section became effective July 1, 2004. (HP)

Trade Jobs for Success

S.L. 2004-124, Sec. 13.7A ([HB 1414](#), Sec. 13.7A). See **Labor and Employment**.

Transfer Business License Information Office Functions and Duties to the Department of Commerce

S.L. 2004-124, Sec. 13.9A ([HB 1414](#), Sec. 13.9A) repeals and abolishes the Business License Information Office in the Office of the Secretary of State and transfers many of the duties and responsibilities of this office to the Department of Commerce. This new function in the Department of Commerce will continue to serve as a single State source for information on business licenses and a facilitator for persons applying for various types of business licenses issued by State agencies.

The act also creates the Small Business Ombudsman in the Department of Commerce to work with small businesses to obtain answers to issues involving State government and to identify ways to reduce unnecessary delays, inconsistencies between regulatory agencies, and inefficient use of State resources related to small business services.

This section became effective July 1, 2004. (WR)

Housing Finance Agency Shall Create The North Carolina Home Protection Pilot Program and Loan Fund in Order to Assist North Carolina Workers Who Have Lost Jobs as a Result of Changing Economic Conditions in North Carolina When the Workers are in Need of Temporary Assistance to Avoid Losing Their Homes to Foreclosure

S.L. 2004-124, Sec. 20A.1 ([HB 1414](#), Sec. 20A.1). See **Commercial Law and Consumer Protection**.

Rules Review Commission Transferred to Office of Administrative Hearings; Authorization for Rules Review Commission to Obtain Outside Counsel

S.L. 2004-124, Sec. 22A.1 ([HB 1414](#), Sec. 22A.1) transfers the Rules Review Commission to the Office of Administrative Hearings by a Type I transfer as defined in G.S. 143A-6(a). The Chief Administrative Law Judge is made responsible for hiring the Director and other staff of the Rules Review Commission. Prior to this act, the Rules Review Commission was an independent agency, which was created to review administrative rules in accordance with Article 2A of Chapter 150B of the General Statutes. The Office of Administrative Hearings currently is responsible for the publication of proposed and adopted rules. This act places the review and publication functions within the same agency.

The transfer and the granting of authority to the Chief Administrative Law Judge for hiring a Director becomes effective October 1, 2004. The remainder of the section became effective July 1, 2004. (KCB)

Reestablish State Investment Officer Position

S.L. 2004-124, Sec. 29.1 ([HB 1414](#), Sec. 29.1) reestablishes the position of State Investment Officer in the Investment Division of the Department of State Treasurer. The State Investment Officer will receive compensation in an amount up to \$150,000 per year and an annual performance-based incentive bonus not to exceed 30% of the Investment Officer's salary. The State Treasurer may award the bonus and must report the bonus to the Joint Legislative Commission on Governmental Operations by October 1 of each year.

This section became effective July 1, 2004. (TH)

Improve State IT Efficiency and Project Management

S.L. 2004-129 ([SB 991](#)). See **Technology**.

APA Technical/Clarifying Changes

S.L. 2004-156 ([HB 1449](#)) makes the following technical and clarifying changes to the Administrative Procedure Act:

- Clarifies that temporary rules adopted in connection with the State Medical Facilities Plan must be submitted to the Codifier of Rules prior to the effective date of the Plan.
- Conforms the formatting of the temporary rule section.
- Restores language that was inadvertently deleted.
- Clarifies the current practice allowing agencies to specify a later effective date for permanent rules. The law technically provides that a permanent rule can only become effective on the first day of the month following the month the rule is approved by the Rules Review Commission unless the Commission receives ten written objections. This provision allows the agency to specify a later date.
- Clarifies that written objections requesting legislative review of a rule must be received no later than 5:00 pm of the day after the day the Rules review Commission approves the rule and that the Commission must notify the agency by the following day.
- Authorizes agencies to delay the effective date of all or some of the rules in a group of related rules that were adopted simultaneously, if any one of the rules is delayed and thereby subjected to legislative disapproval because 10 or more people object to the rule. This provision allows the agency to subject any or all of the remaining rules to legislative disapproval by submitting a written statement to the Commission.
- Authorizes Administrative Law Judges to accept remands of contested cases from an agency, in situations other than motions for judgment on the pleadings or summary judgment, when no findings of fact or conclusions of law were made in the Judge's decision regarding a specific claim stated in the petition. In order to avoid abuse by agencies, the ALJ may refuse to accept the remand if there is a sufficient record to allow the agency to make a final decision.

This act authorizes ALJs to accept remands of contested cases when no findings of fact or conclusions of law were made becomes effective October 1, 2004. The remainder of this act became effective August 2, 2004. (KCB)

Fees

S.L. 2004-174, Sec. 3 ([HB 356](#), Sec. 3). Section 3 of this act extends the sunset of the Industrial Commission fee earmarked for information technology. For additional information, see **Technology**.

Wetlands Reimbursement/Local Tax Base

S.L. 2004-188 ([SB 933](#)). See **Finance**.

State Agency Reports to General Assembly

S.L. 2004-203, Sec. 49 ([HB 281](#), Sec. 49) requires a State agency that is directed by law or resolution to report to the General Assembly to deliver one copy of the same to each of the following:

- Speaker of the House of Representatives;
- President Pro Tempore of the Senate;
- House Principal Clerk; and
- Senate Principal Clerk.

Two copies of the report shall be delivered to the Legislative Library. State agencies are encouraged to notify members of the General Assembly that electronic copies are available. The section does not affect any responsibilities for depositing documents with the State Library or the State Publications Clearinghouse under Chapter 125 of the General Statutes.

This section becomes effective October 1, 2004. (BR)

Boards and Commissions

Military Affairs Commission Membership

S.L. 2004-49 ([SB 1159](#)). See **Military, Veterans', and Indian Affairs**.

Center for Applied Textile Technology/Modify Board Membership

S.L. 2004-124, Sec. 8.6 ([HB 1414](#), Sec. 8.6). See **Education**.

Increase North Carolina Partnership for Children Board Membership

S.L. 2004-124, Sec. 10.37 ([HB 1414](#), Sec. 10.37). See **Children and Families**.

Wildlife Resources Commission Temporary Exemption of Surplus Property/Recyclable Material Fee

S.L. 2004-124, Sec. 12.5 ([HB 1414](#), Sec. 12.5) provides that the Wildlife Resources Commission is not subject to the payment of fees to the State agency for surplus property for the acquisition, receipt, warehousing, distribution, or transfer of surplus property, or for the transfer or sale of recyclable material, for transfers or sales prior to July 20, 2004.

This section became effective July 1, 2004. (HP)

Transfer Boxing Commission Duties to the Alcohol Law Enforcement Division

S.L. 2004-124, Sec. 18.2 ([HB 1414](#), Sec. 18.2) transfers the North Carolina State Boxing Commission duties to the Alcohol Enforcement Division of the Department of Crime Control and Public Safety. Under this act, the Division is responsible for and may issue rules regarding the regulation of live boxing and kickboxing matches, whether amateur or professional, in which admission is charged or the contestants compete for a prize greater than \$25.00.

This section became effective July 1, 2004. (TG)

2004 Appointments Bill

S.L. 2004-158 ([SB 64](#)) appoints members to various State boards, authorities, councils, and commissions, upon the recommendation of the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

The act also makes changes to the membership of a facility authority, such as the Centennial Authority. The membership of a facility authority is increased by two members to either 10 or 21 members, depending on the type of authority. To increase the number of

members, members appointed upon the recommendation of the Speaker of the House of Representatives and the President Pro Tempore of the Senate are each increased by one from four to five members.

This act became effective August 3, 2004. (TH)

Board of Funeral Service

See **Occupational Boards and Licensing**.

NC Cemetery Act/Fees/Bill Lee Tiers

S.L. 2004-202, Secs. 1-9 ([SB 1244](#), Secs. 1-9) give the North Carolina Cemetery Commission the authority to increase several of its fees. The Commission will have to go through the administrative rules process as well as appear before the Joint Legislative Commission on Governmental Operations before an increased fee amount becomes effective.

This act also increases the amounts that must be deposited into care and maintenance trust funds. Under current law, cemetery companies must deposit into the Perpetual Care Fund at least \$40 per grave space, niche, or mausoleum crypt sold. This act increases that amount to at least \$100, or 10% of the retail sale price, whichever is greater. The companies must also make an initial deposit of \$10 per space, or \$25,000, whichever is greater, when a municipal, church-owned, or fraternal cemetery converts to a private cemetery. This act increases the deposit amount to \$50 per space, or \$50,000, whichever is greater.

The Cemetery Commission incurs additional expenses when a person fails to submit deposits and reports in a timely fashion. Currently, this expense is borne by the Commission through the general licensing revenues. This act helps the Commission recover its additional expenses from the person who creates the need for the expense by eliminating the current penalty provisions and replacing them with a late filing fee. The act also changes the late fee for failure to file timely financial reports from \$25 a day to \$25 a month.

These sections became effective August 17, 2004.

Section 10 of this act modified the formula used to determine the enterprise tier designation of a county. For additional information, see **Finance**. (TG)

Budget Process and Use of State Funds

JDIG Appropriation Structure

S.L. 2004-124, Sec. 6.12 ([HB 1414](#), Sec. 6.12) amends the Executive Budget Act to make provisions for the appropriation structure of the Job Development Investment Grant (JDIG) Program. Specifically, it requires the State Controller to establish a reserve in the General Fund to be known as the 'JDIG Reserve.' It further requires that grants made through the program be budgeted on a cash flow basis. The Office of State Budget and Management must periodically transfer funds from the JDIG Reserve Fund to the Department of Commerce in order to satisfy grant obligations to be paid during the fiscal year.

This section became effective July 1, 2004. (TG)

Reporting of Non-State Entities

S.L. 2004-124, Sec. 6.24 ([HB 1414](#), Sec. 6.24) makes changes to the reporting requirements of non-State entities that receive State funds. A non-State entity means a firm, organization, corporation, partnership, association, institution, unit of local government, or any other organization that is not a State agency, department or institution.

Currently, non-State entities receiving State funds must make certain reports to the State agency that disburses the funds. Those grantor State agencies will now be responsible not only for receiving the reports, but also for ensuring that the funds are spent according to the purpose for which they were granted. The grantor State agency must also provide adequate oversight and monitoring to prevent the misuse of the funds. Non-State entities receiving State funds are now responsible for ensuring that the State funds are spent according to the purpose for which they were granted, maintaining records to account for the expenditure of the funds, and making those records available to the grantor State agency or the State Auditor.

If the Director of the Budget determines that a non-State entity has spent or encumbered State funds for an unauthorized purpose, the Director must take appropriate administrative action to ensure that no further irregularities occur. The Director must report to the Attorney General any facts that would pertain to a violation of the criminal laws, or an apparent instance of malfeasance, misfeasance, or nonfeasance.

This section became effective July 1, 2004, and will be repealed July 1, 2005. For more information, see the summary for S.L. 2004-196 ([SB 1008](#)) under **Enacted Legislation, Budget Process and Use of State Funds**, in this chapter. (KG)

Authorized Acquisition of Options for Site Development and Authorize Consultant Contracts for Recruitment

S.L. 2004-124, Sec. 6.26(a)-(d) ([HB 1414](#), Sec. 6.26(a)-(d)) authorizes the North Carolina Department of Commerce to use funds in the Site Infrastructure Development Fund to acquire options for the purchase of land for an anticipated industrial site. In order for an option to qualify for this provision, it must be necessary to provide a large, regional industrial site that cannot be assembled by local government, and the Economic Investment Committee must approve the acquisition of the option. The Department is authorized to create nonprofit corporations for the purpose of acquiring and holding options for the purchase of land for site development. The Department may also contract for the preparation of proposals and reports in response to requests for proposals for location or expansion of major industrial projects.

This section became effective July 1, 2004. (KG)

Non-State Entities Reporting

S.L. 2004-196 ([SB 1008](#)) repeals the existing statute regarding reporting by non-State entities that receive State funds. It also shifts the responsibility for monitoring how non-State entities use State funds from the grantor State agency to the Office of State Budget and Management (OSBM). It requires non-State entities receiving State funds to use them only for the purposes for which the General Assembly appropriated the funds and requires the Director of the Budget to take appropriate administrative action upon a finding of inappropriate use of State funds by a non-State entity. OSBM may suspend the disbursement of funds to grantees and subgrantees and may prevent the use of already disbursed funds in the event of noncompliance with the rules or other inappropriate use of funds. The State Auditor is given specific audit oversight of every grantee or subgrantee that receives State funds.

OSBM must report annually to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on all grantees and subgrantees that fail to comply with the requirements during the prior fiscal year, the amount of State funds disbursed to those entities, and the amount withheld. The Attorney General may bring a civil action in the Superior Court of Wake County to recover funds expended in violation of the law. Finally, the Office of State Budget and Management must adopt rules ensuring the uniform administration of grants to non-State entities by grantor State agencies. The rules must address disbursements, oversight, monitoring, and evaluation of grantees and subgrantees.

The requirement that OSBM adopt rules became effective August 17, 2004. The remainder of the act becomes effective July 1, 2005, and applies to appropriations and grants made for fiscal years beginning on or after that date. (KG)

Capital Facilities and State Property

Commission on State Property/Sale of State Property

S.L. 2004-124, Sec. 6.4 ([HB 1414](#), Sec. 6.4) creates the Commission on State Property, which has as its purpose to identify surplus state-owned real property suitable for sale or for sale and leaseback and to recommend disposition of the property. The Commission is composed of 16 members appointed by the General Assembly. The membership shall include individuals who have expertise in the fields of real estate, property development and other related fields, and may include at least one real estate salesperson or broker and one real estate appraiser. The Commission is charged with the duty to adopt guidelines to ensure participation by real estate salespersons and brokers and to encourage licensed real estate salespersons and brokers to examine the State's real property inventory and make recommendations to the Commission for its disposition. The Commission then develops recommendations and reports them to the Department of Administration, the Governor and the Joint Legislative Commission on Governmental Operations. If the Department of Administration agrees with the recommendation, it shall undertake to sell the property, by entering into an exclusive contract with the realtor who recommended the sale. If the Department does not agree with the recommendation, the Commission shall recommend the sale to the Governor and Council of State. If the Governor and the Council of State approve the sale, the Department shall complete the transaction. Brokerage fees in connection with a transaction may only be paid 1) to a state-licensed real estate salesperson or broker; 2) when the transaction closes; and 3) in an amount that does not exceed those customary in the industry and that is consistent with rules adopted by the Commission.

The Director of the Budget is directed to transfer \$200,000 of the funds appropriated to the Department of Administration to the Commission. A provision in the 2003 Appropriations Act, which created the Real Property Management Advisory Council, is repealed. Conforming changes are made to a provision in the 2003 Appropriations Act, which established the State-Owned Real Property disposal System.

This section became effective July 1, 2004. (KCB)

University of North Carolina Bond Project Modifications

S.L. 2004-124, Sec. 9.4 ([HB 1414](#), Sec. 9.4) makes changes to the allocation of bond monies for building projects as provided in S.L. 2003-3, the Michael K. Hooker Higher Education Facilities Financing Act. This section provides for the cancellation or reduction of projects at various University of North Carolina campuses and the reallocation or transfer of these funds to other projects on the same campus. The total allocation of funds under S.L. 2003-3 to an individual campus is not changed by this section. Affected campuses include North Carolina Agricultural & Technical State University, East Carolina University, the University of North Carolina at Wilmington, Fayetteville State University, North Carolina State University, and the University of North Carolina at Chapel Hill.

This section became effective July 1, 2004. Nothing in this section supersedes any other requirement of law or policy for the approval of the substituted capital improvement projects. (TH)

Dorothea Dix Master Plan

S.L. 2004-124, Sec. 10.26A ([HB 1414](#), Sec. 10.26A) requires the State Property Office (SPO) to develop a Master Plan for the Dorothea Dix Campus. The SPO must hire a consultant and examine operations for land conservation, mixed use development, and anticipated State office space needs. The SPO must submit the plan to the Dorothea Dix Property Study Commission no later than April 1, 2005.

The section also establishes an oversight committee to enhance communication and feedback regarding the planning process. The five-member committee will consist of three members appointed by the Cochairs of the Dorothea Dix Property Study Commission, one member appointed by the Raleigh City Council, and one member appointed by the Wake County Board of Commissioners. The oversight committee terminates on submission of the Master Plan.

The section provides that the Dorothea Dix Property Study Commission shall make recommendations to the Appropriations Committees of the Senate and House of Representatives, the Joint Legislative Commission on Governmental Operations, and the 2005 General Assembly before any sale of property. The Commission terminates upon submission of its final report.

This section became effective July 1, 2004. (HP)

Provide that Columbus County Prison Shall be Constructed with same North Carolina State Building Code Under Which the Prisons in Scotland, Anson, Alexander, Greene, and Bertie Counties Were Constructed

S.L. 2004-124, Sec. 17.6B ([HB 1414](#), Sec. 17.6B) provides that if construction of the 1000 cell close security prototypical prison to be constructed in Columbus County starts before July 1, 2005, then the provisions of the 1996 North Carolina State Building Code, with revisions through 1999, shall apply to the project. For this section to apply, the construction documents must be reviewed and approved by the Department of Insurance, the State Construction Office, and the Department of Corrections.

This section became effective July 1, 2004. (BR)

Transfer Light Ground Pocosin to Wildlife Resources Commission

S.L. 2004-124, Sec. 19.8 ([HB 1414](#), Sec. 19.8) reallocates the Light Ground Pocosin property in Pamlico County from the Department of Administration to the Wildlife Resources Commission, and directs the Commission to manage the property as gamelands.

This section became effective July 1, 2004. (GSP)

Beautify State Government Mall

S.L. 2004-169 ([SB 805](#)) directs the Department of Administration to use funds within its 2003-2005 budget to remove the water fountain located on the State Government Mall just north of the bridge between the Legislative Building and the Mall.

This act became effective August 2, 2004. (BR)

Parks and Recreation

State Parks System Additions & Study

S.L. 2004-24 ([HB 1574](#)). See **Environment and Natural Resources**.

State Nature & Historic Preserve Removals

S.L. 2004-25 ([HB 1607](#)). See **Environment and Natural Resources**.

River Basins Advisory Commissions

S.L. 2004-83 ([SB 859](#)). See **Environment and Natural Resources**.

Twenty-Four-Hour Access to Fort Fisher State Recreation Area During the Fall and Winter/Funds for Department Study/Activities at Fort Fisher

S.L. 2004-124, Sec. 12.3 ([HB 1414](#), Sec. 12.3). See **Environment and Natural Resources**.

Marine Corps Museum of the Carolinas

S.L. 2004-124, Sec. 27.3 ([HB 1414](#), Sec. 27.3). See **Military, Veterans', and Indian Affairs**.

Purchase and Contracts

Furniture Requirement Contracts for State Agencies

S.L. 2004-115 ([HB 964](#)) amends the purchase and contract laws for State furniture contracts. The act requires that bids solicited for furniture contracts be based on a historical weighted average of specific contract items and not on a single item within a class of items. It also removes the authority of the State Purchasing Officer to determine that it is in the best interest of the State to award a furniture requirements contract to less than three qualified vendors and only allows awarding these contracts to fewer than three vendors when less than three qualified vendors were available. A qualified vendor is defined as a vendor whose products conform to the term contract specifications, the vendor is listed on the State's qualified products list and the vendor submits a responsive bid. Additionally the act requires that contracts be awarded to more than three qualified vendors if expanding the number of contracts up to six is necessary to include a North Carolina manufacturer or company.

This act became effective July 1, 2004. (WR)

Preference Given to American-Made Products

S.L. 2004-124, Sec. 6.1 ([HB 1414](#), Sec. 6.1) adds a new section to the law governing State purchases and contracts to provide that if the State cannot give a preference to North Carolina products and services, it shall give preference, as far as practicable and to the extent

permitted by law, to products or services manufactured or produced in the United States. In giving the preference the State may not sacrifice or permit a loss of price or quality.

This section became effective July 1, 2004. (KCB)

Beverages Contracts

S.L. 2004-199, Sec. 38 ([SB 1225](#), Sec. 38) clarifies that contracts for the sale of juice or bottled water in public schools, community colleges, and universities shall be bid separately from each other and separately from any other contract.

This section became effective August 17, 2004. (BR)

Public Construction Contract Surety Bonds Correction

S.L. 2004-203, Sec. 74(b) ([HB 281](#), Sec. 74(b)) amends G.S. 58-31-66, enacted in 2003, which prohibits public entities, as part of a public building or construction project, from requiring contractors, bidders, or proposers to procure a bond from a particular surety, agent, broker or producer. The amendment deletes language that: (i) allows public officers or employees to approve the form, sufficiency or manner of execution of the surety bond selected by the bidder; (ii) allows public officers or employees to disapprove on a reasonable, nondiscriminatory basis the selected surety because of the surety's financial condition; and (iii) makes a public contract void ab initio if the law is violated.

This subsection becomes effective October 1, 2004. (BR)

Miscellaneous

Virginia-North Carolina Interstate High-Speed Rail Compact

S.L. 2004-114 ([SB 1092](#)). See **Transportation**.

Regional Partnerships Vision Plans

S.L. 2004-124, Sec. 13.6 ([HB 1414](#), Sec. 13.6). See **Commercial Law and Consumer Protection**.

North Carolina Youth Advocacy and Involvement Fund

S.L. 2004-124, Sec. 19.10 ([HB 1414](#), Sec. 19.10) renames the North Carolina Youth Legislative Assembly Fund as the North Carolina Youth Advocacy and Involvement Fund, authorizes conference registration fees, gifts, donations, or contributions to or for the North Carolina Youth Legislative Assembly and the North Carolina Students Against Destructive Decisions programs to be credited to the Fund, and specifies that the Fund shall be used to support the North Carolina Youth Legislative Assembly and North Carolina Against Destructive Decisions programs

This section became effective July 1, 2004. (GSP)

Handbook on Building Code Not Required

S.L. 2004-124, Sec. 21.2 ([HB 1414](#), Sec. 21.2) eliminates the statutory requirement to publish handbooks explaining the Building Code.

This section became effective July 1, 2004. (BR)

Local Government Employees/457 Plan

S.L. 2004-137 ([SB 1312](#)). See **Labor and Employment**.

Saltwater Fishing Fund/Holdover Appointments Amend Environmental Laws – 3/Appointments

S.L. 2004-187, Sec. 5 ([HB 831](#), Sec. 5) and S.L. 2004-195, Sec. 7 ([SB 823](#), Sec. 7), both amend G.S. 120-122 to permit the Governor to fill a vacancy in a position appointed by the General Assembly when the term of office expires and the General Assembly has not appointed a successor. The Governor may also fill the position held by any person who holds office beyond the expiration of the term to which they were appointed if the General Assembly has not appointed a successor. The Governor's appointee shall serve either until the position is filled by the General Assembly or until the end of the term of the office.

These sections became effective August 17, 2004. (WR)

The remaining sections of S.L. 2004-195 amend various laws related to the environment, environmental health, and natural resources. For more information on those sections, see **Environment and Natural Resources**. The remaining sections of S.L. 2004-187 establish a saltwater fishing fund and license. For more information on those sections, see **Environment and Natural Resources**.

Legislative Ethics Act Changes

S.L. 2004-199, Sec. 31 ([SB 1225](#), Sec. 31) amends several sections of the Legislative Ethics Act. The changes include the following:

- Requires disclosures of associations with nonprofit corporations and organizations;
- Adds to the definition of 'economic interest' those matters involving a nonprofit corporation or organization with which the person is associated;
- Prohibits a legislator from using or disclosing confidential information gained in the course of the legislator's official activities or by reason of legislator's official position in any way that can result in financial gain for a nonprofit corporation or organization with which the legislator is associated;
- Defines 'confidential information' as information confidential by statute;
- Requires statements of economic interest to include a list of nonprofits with which the person is associated and which receive State funds, and a brief description of the nature of the programs receiving these funds; and
- Provides for designation of a substitute cochair or substitute members, or both, of the Legislative Ethics Committee, when a cochair is unable to act as a cochair on a specific matter or when a member is unable to act on a specific matter, or both. This change became effective August 17, 2004.

Except as indicated above, these changes become effective January 1, 2006, and apply to candidates running for office on or after that date, to persons appointed to fill vacancies beginning with the 2007 General Assembly, and to presiding officers beginning with the 2007 General Assembly. (BR)

Conform State Building Code Regarding Access to Toilets in Shopping Malls

S.L. 2004-199, Sec. 37 ([SB 1225](#), Sec. 37) amends the statute governing the State Building Code by adding a new section that conforms the State Building Code applicable to

covered mall buildings to the international standard of 300 feet for access to public use toilets in those facilities.

This section became effective August 17, 2004, and applies to covered mall buildings for which building permits are issued on or before December 1, 2005. The section expires December 1, 2005. (BR)

Studies

Legislative Research Commission

Legislative and Executive Branch Lobbying

S.L. 2004-161, Sec. 2.1(1)e ([SB 1152](#), Sec. 2.1(1)e) authorizes the Legislative Research Commission to study the laws regulating the lobbying of the legislative and executive branch. The Commission may report its findings, together with any recommended legislation, to the 2005 General Assembly.

This section became effective August 3, 2004. (TG)

State Fire Protection

S.L. 2004-161, Sec. 2.1(1)g ([SB 1152](#), Sec. 2.1(1)g) authorizes the Legislative Research Commission to study issues related to State fire protection including:

- Review of the methods for compensating local fire districts and political subdivisions of the State for providing local fire protection to State-owned buildings and their contents;
- Recommendations regarding what changes could be made to automatically increase the compensation based on reliable factors for the adjustment; and
- Consideration of any other relevant matters.

The Commission may report its findings, together with any recommended legislation, to the 2005 General Assembly.

This section became effective August 3, 2004. (TG)

Dix Hospital Property

S.L. 2004-161, Sec. 2.1(8) ([SB 1152](#), Sec. 2.1(8)) authorizes the Legislative Research Commission to study options for the sale of any and all parts of the Dorothea Dix campus to a nongovernmental entity and the use of the proceeds from the sale. The Commission may report its findings, together with any recommended legislation, to the 2005 General Assembly.

This section became effective August 3, 2004. (TG)

Size/Scope of Boards and Commissions

S.L. 2004-161, Sec. 2.1(a) ([SB 1152](#), Sec. 2.1(a)) authorizes the Legislative Research Commission to study boards and commissions. If the study is undertaken, the Commission must establish a schedule for reviewing boards and commissions so that approximately twenty-five percent (25%) of the total number of State boards and commissions are reviewed each year for the next four years. This study may include the following issues:

- The consolidation of boards and commissions, where appropriate;
- Reducing the number of members serving on boards and commissions;
- Reducing the number of meetings of boards and commissions;

- The scope and authority of boards and commissions; and
- The elimination of boards and commissions, where appropriate.

The Commission may report its findings, together with any recommended legislation, to the 2005 General Assembly.

This section became effective August 3, 2004. (TG)

Availability and Delivery of Government Services to Hispanics

S.L. 2004-161, Sec. 2.1(g) ([SB 1152](#), Sec. 2.1(g)) authorizes the Legislative Research Commission to study the current State and local policies regarding the availability and delivery of government services to Hispanics. If the Commission undertakes this study, it must focus on services in the areas of education, health, and public safety.

The Commission may report its findings, together with any recommended legislation, to the 2005 General Assembly.

This section became effective August 3, 2004. (TG)

Office of State Energy Study

S.L. 2004-161, Sec. 2.1(h) ([SB 1152](#), Sec. 2.1(h)) authorizes the Legislative Research Commission to study the functions, duties, and responsibilities of the Office of State Energy and may make a determination of whether those functions, duties, and responsibilities should be modified. The Commission may report its findings, together with any recommended legislation, to the 2005 General Assembly.

This section became effective August 3, 2004. (TG)

Comprehensive Statewide Emergency Communications Planning

S.L. 2004-161, Sec. 2.1(i) ([SB 1152](#), Sec. 2.1(i)) authorizes the Legislative Research Commission to study and recommend legislation, funding needs, interoperability, and policy to:

- Enact a comprehensive first and second responder statewide communications goals list and plan that includes, at a minimum, law enforcement, fire, medical, utilities, and emergency management agencies.
- Coordinate and assist grant applications from State and local organizations for federal communications funding.

The Commission may report its findings, together with any recommended legislation, to the 2005 General Assembly.

This section became effective August 3, 2004. (TG)

State-Local Relationships

S.L. 2004-161, Sec. 2.1(m) ([SB 1152](#), Sec. 2.1(m)) authorizes the Legislative Research Commission to study the relationship between the State and local governments with respect to the provision of services. The study must address the following issues:

- Mandates that the State has placed on local governments regarding the provision of services to State residents;
- Funding sources for local governments;
- A comparison of the State-local relationship in North Carolina with the state-local relationships in other states;

- A comparison of local governments with regard to the burden on local budgets of mandated programs (this study shall look at the property tax rates in different jurisdictions and the percentage of local budgets that support various programs); and
- A comparison of the combined State-local tax burden on individuals and businesses in comparison with those in other states.

The Commission may report its findings, together with any recommended legislation, to the 2005 General Assembly.

This section became effective August 3, 2004. (TG)

Abandoned Junk Vehicles

S.L. 2004-161, Sec. 2.1(n) ([SB 1152](#), Sec. 2.1(n)) authorizes the Legislative Research Commission to study issues relating to the environmental, aesthetic, and other public benefits derived from the abatement and recycling of junked and abandoned automobiles. If it undertakes this study, the Commission must consider the following:

- Whether the abatement program can best be undertaken on a county-by-county basis or a central statewide basis;
- The funding method for the abatement program;
- The process whereby junked vehicles might be delivered to scrap processors as expeditiously as possible;
- The merits of use of a tax credit so as to encourage the expedited collection and recycling of used and junked automobiles;
- Determination of the costs to the State and to local governments associated with abandoned and junked automobiles and landfilling of those automobiles; and
- Any other related issues.

The Commission may report its findings, together with any recommended legislation, to the 2005 General Assembly.

This section became effective August 3, 2004. (TG)

Single Administrator for State 401(k) and 457 Plans

S.L. 2004-161, Sec. 2.1(o) ([SB 1152](#), Sec. 2.1(o)). See **Retirement**.

New/Independent Studies/Commissions

Study Commission on Economic Development Infrastructure

S.L. 2004-161, Part XLIX ([SB 1152](#), Part XLIX) creates the 32-member Study Commission on Economic Development Infrastructure. The Commission is charged with examining the existing infrastructure for the delivery of economic development and developing a plan to restructure and consolidate the infrastructure for the delivery of economic development to improve its organization and effectiveness.

The Commission must submit a final report of its findings and recommendations, including any legislative recommendations, to the 2005 General Assembly upon its convening, at which time the Commission shall terminate.

This part became effective August 3, 2004. (TG)

Study Commission on the Organization, Powers, Duties, Functions, Funding, and Potential Consolidation or Elimination of State Boards, Commissions, and Councils

S.L. 2004-161, Part L ([SB 1152](#), Part L) creates the 28-member Study Commission on State Boards, Commissions, and Councils. The Commission is charged with examining the organization, powers, duties, functions, and funding of State boards, commissions, and councils. The Commission must specifically study the following:

- Whether the boards, commissions, or councils should be eliminated or consolidated with one or more other boards, commissions, or councils;
- Whether the number of members serving on boards, commissions, and councils or the manner in which members are selected should be altered;
- Whether the number and frequency of meetings of boards, commissions, and councils should be altered;
- The cost of supporting each board, commission, or council, including salaries, per diem, travel, clerical and administrative support, and other expenses; and
- The productivity and effectiveness of the boards, commissions, and councils.

The Commission must submit a final report of its findings and recommendations, including any legislative recommendations, to the 2005 General Assembly upon its convening, at which time the Commission shall terminate.

This part became effective August 3, 2004. (TG)

Referrals to Existing Commissions/Committees

Wilmington Race Riot Commission

S.L. 2004-161, Part XLI ([SB 1152](#), Part XLI) extends by one year the Wilmington Race Riot Commission, which was originally created in 2000. This part also authorizes per diem for members of the Commission. Now, the Commission must submit a final report of findings and recommendations by December 31, 2005.

This part became effective August 3, 2004.

See S.L. 2004-203, Sec. 66 ([HB 281](#), Sec. 66) for a similar provision. (TG)

Continue Joint Committee on Executive Budget Act Revisions/Additional Study

S.L. 2004-161, Part XLVII ([SB 1152](#), Sec. XLVII) changes the final reporting date for this Committee, which was originally established in 2003, from April 1, 2004 to the date that the 2005 General Assembly convenes.

This part became effective August 3, 2004. (TG)

Per Diem for Wilmington Race Riot Commission Members

S.L. 2004-203, Sec. 66 ([HB 281](#), Sec. 66) permits members of the Wilmington Race Riot Commission to receive per diem or reimbursement for travel or subsistence. The Legislative Services Commission is to allocate funds for the payment of per diem for the Commission.

This section became effective August 17, 2004.

See S.L. 2004-161, Part XLI ([SB 1152](#), Part XLI) for a similar provision. (BR)

Referrals to Departments, Agencies, Etc.

Tourism Promotion Funds Study

S.L. 2004-124, Sec. 13.3 ([HB 1414](#), Sec. 13.3) requires the Department of Commerce to study alternative methods for ranking counties in an effort to direct tourism promotion funds to counties most in need. The Department must consider the number and quality of tourism attractions in the county and the county's financial ability to promote tourism, including sales and property tax revenue. The Department shall report its findings and recommendations to the Chairs of the Appropriations Subcommittees on Natural and Economic Resources of the Senate and the House of Representatives by January 16, 2005.

This section became effective July 1, 2004. (TG)

Study of State-Funded Advertising

S.L. 2004-124, Sec. 19.3 ([HB 1414](#), Sec. 19.3) directs the Office of State Management and Budget, in collaboration with the Department of Administration, to conduct a study of State agencies' requirements for advertising and public service announcements. The Office is directed to submit its report to the Subcommittees on General Government of the Senate and the House and Representatives by December 1, 2004.

This section became effective July 1, 2004. (GP)

Continuation of the Study of Advocacy Programs in the Department of Administration

S.L. 2004-124, Sec. 19.6 ([HB 1414](#), Sec. 19.6) continues a Department of Administration study of the advocacy programs housed in that Department, and specifies that the study shall include both the advocacy and service functions of the Division of Veterans Services, the Council for Women and the Domestic Violence Commission, the Commission for Indian Affairs, the Governor's Advocacy Council for Persons with Disabilities, the Human Relations Commission, and the Youth Advocacy and Involvement Office. The Secretary of the Department is directed to report the findings of the study to the Joint Legislative Commission on Government Operations and the Chairs of the Senate and House of Representatives Appropriations Committees by May 1, 2005.

This section became effective July 1, 2004. (GP)

North Carolina Building Code Council Study

S.L. 2004-161, Part X ([SB 1152](#), Part X) requires the North Carolina Building Code Council to study the Residential Building Code to determine which provisions, if any, are unnecessary, outdated, overly stringent, or otherwise unduly increase the cost of housing. The Council may submit a report of the findings of its study, including any recommendations for statutory changes, to the 2005 General Assembly upon its convening.

This part became effective August 3, 2004. (TG)

Study of Various Ways to Promote Government Efficiency and Savings in State Spending

S.L. 2004-161, Sec. 16.1(1), (4), (6), and 16. 2 (, Sec. 16.1(1), (4), (6), and 16.2) requires The University of North Carolina, the Judicial Branch, the Executive Branch, the

Legislative Branch, the Community College System, and the Department of Public Instruction to jointly study various ways to promote government efficiency and savings on State spending, including the following proposals:

- Consolidate administrative functions;
- Combine State safety programs; and
- Impose a collection fee for accounts receivable.

The Department of Administration must report the results of this study to the Legislative Research Commission by January 15, 2005.

These sections became effective August 3, 2004. (TG)

Department of Administration Study

S.L. 2004-161, Part XXI ([SB 1152](#), Part XXI) authorizes the Department of Administration to study retainage from payment on public construction projects. If it undertakes this study, the Department must consider the following:

- Retainage by public owners from payment to contractors and retainage by those contractors from payment to subcontractors.
- Retainage from periodic progress payments and final payment, including a maximum allowable amount of retainage.
- A time certain for the owner's release of retainage, based upon the owner's occupancy, substantial completion of the work, or the owner's use of the improvements for the purposes intended.
- A time certain for the contractor's release of retainage to a subcontractor, based upon the contractor's receipt of retainage.
- Conditions permitting withholding of retention beyond the date of release, including those stated in G.S. 143-134.1(d), and limits on the amount of retainage for a condition permitting withholding.
- Interest on wrongfully withheld retainage and conditions for the payment of attorneys' fees for the collection of wrongfully withheld retainage.
- Line-item release of retainage, based upon a schedule of values, for specific work that has been completed by the contractor and approved by the owner.
- Any other matters relating to the withholding and release of retainage on public construction projects.

The Department must report the results of its study to the 2005 General Assembly upon its convening.

This part became effective August 3, 2004. (TG)

For a complete list of the studies and reports authorized by the 2004 Session of the 2003 General Assembly, please refer to the Appendix contained in this publication.

Enacted Legislation

Consolidation of Management of IT Operations, Services, and Functions within DHHS

S.L. 2004-124, Sec. 10.2C ([HB 1414](#), Sec. 10.2C) directs the North Carolina Department of Health and Human Services to complete planning and begin implementing a plan to consolidate management of all information technology operations, services, and functions that are common to and necessary in all divisions, offices, and programs of the Department. The consolidation and implementation is to place emphasis on improving successful and timely implementation of information technology projects and ongoing maintenance within the Department while eliminating duplication of effort and equipment, controlling the use of personal service contracts, establishing continuity in process and systems development, strengthening systems security, coordinating and overseeing all information technology efforts within the Department, and identifying other efficiencies. The Department is directed to restrict the future creation or filling of any information technology-related position within any departmental division, office, or program when the function of the position is determined under the consolidation plan to be properly placed or managed within the consolidated information technology function.

The consolidation plan, including time lines for implementation, must be submitted 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 upon completion, but not later than October 1, 2004. The Department must provide a report on the progress of implementation of the consolidation plan on or before March 1, 2005.

This section became effective July 1, 2004. (BC)

e-NC Business and Technology Telecenters

S.L. 2004-124, Sec. 13.8 ([HB 1414](#), Sec. 13.8) authorizes the allocation of \$1,000,000 of funds, appropriated to the Rural Economic Development Center, Inc. and allocated for Research and Demonstration Grants for fiscal year 2004-2005, to the e-NC Authority to establish up to four Business and Technology Telecenters. The e-NC Authority is authorized to contract with other State agencies and educational institutions and with nonprofit organizations to assist with program development and the evaluation of program activities, and may use up to five percent (5%) of the funds to cover its expenses in program development and implementation.

The e-NC Authority is directed to report to the 2005 General Assembly on activities necessary in distressed urban areas of the State to enhance the capability of citizens and businesses residing in these areas to access the high-speed Internet, an implementation plan for the training of citizens and businesses in distressed urban areas, and the technology and digital literacy training necessary to assist citizens and existing businesses to create new technology-based enterprises in distressed urban communities and to use the Internet to enhance the productivity of their businesses.

The e-NC Authority must, by January 31, 2005, and quarterly thereafter, report to the Joint Legislative Commission on Governmental Operations on program development and the evaluation of program activities.

This section became effective July 1, 2004. (BC)

Pilot Program for Provision of Courtroom Testimony of Lab Analysts by Videoconference/Study Feasibility of Statewide Program

S.L. 2004-124, Sec. 14.5 ([HB 1414](#), Sec. 14.5). See **Courts, Justice and Corrections**.

Multi-year Infrastructure Maintenance Contracts

S.L. 2004-124, Sec. 22.1 ([HB 1414](#), Sec. 22.1) extends the authority of the State Controller to authorize the Office of Information Technology Services to purchase up to four infrastructure maintenance agreements to include agreements that are entered into after June 30, 2004 and before July 1, 2005. The section eliminates a requirement that the Office of Information Technology Services refund excess revenue to its State and local government customers in the same manner as is required by the federal government.

This section became effective July 1, 2004. (BC)

Improve State IT Efficiency and Project Management

S.L. 2004-129 ([SB 991](#)) reorganizes the method by which major State information technology (IT) projects will be reviewed and approved. It abolishes the Information Resources Management Commission and shifts its responsibilities to the State Chief Information Officer (State CIO). The State CIO will also be responsible for setting IT technical standards, reviewing and approving State agency IT budget requests, establishing IT security standards, providing for IT procurement (including bulk purchases), and developing a schedule for the replacement or modification of major IT systems. The State CIO will be responsible for developing a biennial State Information Technology Plan to be submitted to the General Assembly at the beginning of each Regular Session.

The act creates the Information Technology Advisory Council, which will consist of 12 persons appointed by the Governor. The Council will review and comment on the State Information Technology Plan, the individual agency plans, and any statewide technology initiatives developed by the State CIO.

The act renames and restructures the Joint Select Committee on Information Technology as the Joint Legislative Oversight Committee on Information Technology, and grants the Committee continuing oversight authority for State IT matters.

The act creates the Information Technology Fund as a special revenue fund to which money will be appropriated to meet statewide requirements, including planning, project management, security, electronic mail, State portal operations, and the administration of system-wide procurement procedures.

This act became effective July 1, 2004. (BC)

Fees

S.L. 2004-174, Secs. 1 and 2 ([HB 356](#), Secs. 1 and 2). Sections 1 and 2 of this act pertain to paralegal certification. For additional information, see **Occupational Boards and Licensing**.

S.L. 2004-174, Sec. 3 ([HB 356](#), Sec. 3) extends until the 2009-2011 fiscal biennium the period during which the Industrial Commission is authorized to retain the additional revenue generated from raising the fee charged to parties for the filing of compromised settlements. The fee was raised from \$200 to an amount up to \$250 for the purpose of replacing existing computer hardware and software used for the operations of the Commission.

This section becomes effective October 1, 2004. (BC)

Studies

Legislative Research Commission

Comprehensive Statewide Emergency Communications Planning

S.L. 2004-161, Sec. 2.1(i) ([SB 1152](#), Sec. 2.1(i)). See **State Government**.

For a complete list of the studies and reports authorized by the 2004 Session of the 2003 General Assembly, please refer to the Appendix contained in this publication.

Chapter 24

Transportation

Brenda J. Carter (BC), Giles S. Perry (GSP), and Susan Sitze (SS)

Enacted Legislation

Department of Transportation

Department of Transportation Shall Pave Areas In North Carolina Indian Cultural Center

S.L. 2004-124, Sec. 30.5 ([HB 1414](#), Sec. 30.5). See **Military, Veterans', and Indian Affairs**.

Funds from Department of Revenue's Fuel Tax Action Plan

S.L. 2004-124, Sec. 30.9 ([HB 1414](#), Sec. 30.9). See **Finance**.

Department of Transportation Project Delivery Study Implementation

S.L. 2004-124, Sec. 30.14 ([HB 1414](#), Sec. 30.14) directs the Department of Transportation to review and implement the applicable provisions of the Joint Legislative Transportation Oversight Committee Highway Construction Project Delivery Study, dated June 2004. The section directs the Department to report quarterly to the Joint Legislative Transportation Oversight Committee, beginning October 15, 2004, and continuing until October 15, 2006, on the progress of its implementation of the recommendations of the report.

This section became effective July 1, 2004. (GSP)

Urban Loops

S.L. 2004-124, Sec. 30.19 ([HB 1414](#), Sec. 30.19) amends the list of urban loops to be constructed as a part of the Highway Trust Fund to add a Gastonia Loop, and expand the scope of the loop projects in the Charlotte, Raleigh, and Wilmington areas.

This section became effective July 1, 2004. (GSP)

Stormwater Pilot Project

S.L. 2004-124, Sec. 30.20 ([HB 1414](#), Sec. 30.20). See **Environment and Natural Resources**.

Intrastate Improvement Projects

S.L. 2004-124, Sec. 30.21 ([HB 1414](#), Sec. 30.21) makes several changes to the Highway Trust Fund Act, as follows:

- Redefines the routes that are part of the Intrastate Highway system;
- Authorizes use of Highway Trust Fund funds on all intrastate system routes, in addition to those listed under prior law;
- Authorizes DOT to construct some segments of the intrastate system with fewer than four lanes, if projected traffic volumes and environmental considerations dictate fewer lanes;
- Lists all routes that are a part of the intrastate system;
- Specifies that priority in use of Highway Trust Fund funds shall be given to those routes listed in the original Highway Trust Fund intrastate project list;
- Substitutes US 321 for US 421 from Boone to the Tennessee line as an eligible Highway Trust Fund intrastate route;
- Adds the US 74 Shelby Bypass as an eligible Highway Trust Fund intrastate project;
- Eliminates the sunset on the Highway Trust Fund supplement for secondary roads; and
- Provides that, once all the Urban Loop projects of the Highway Trust Fund are funded, they would be considered part of the intrastate system, and all allocations of revenue for urban loops will be credited to the intrastate account within the Highway Trust Fund.

This section became effective July 1, 2004. (GSP)

Highway Use Tax Based on Efficiency/Vehicle Registration Based on Vehicle Miles Traveled

S.L. 2004-161, Part XIX ([SB 1152](#), Part XIX). See **Environment and Natural Resources**.

DOT Authority to Receive Funds from Local Governments

S.L. 2004-168 ([SB 1089](#)) authorizes the Department of Transportation to enter into agreements with municipalities, counties, governmental entities, or nonprofit corporations to receive funds for the purpose of advancing the construction of a project in the Department's Transportation Improvements Program. The act also provides that the Department must note any requirement for reimbursement of these funds in the Transportation Improvement Program, and make the reimbursement within seven years of receipt.

This act became effective August 2, 2004. (GSP)

Department of Transportation to Install Certain Nonresidential College and University Directional Guide Signs

S.L. 2004-199, Sec. 61 ([SB 1225](#), Sec. 61) directs the Department of Transportation to install highway directional guide signs at limited-access highway terminals for the nonresidential campuses of colleges or universities located in North Carolina, if the nonresidential campus is located within one mile from the limited-access highway terminal and if the college or university is licensed by the Board of Governors of The University of North Carolina, offers both undergraduate and graduate degree programs, and has a minimum of 350 students enrolled at the nonresidential campus. The section provides that the college or university requesting the sign installment must pay for all charges related to the construction of the sign.

This section became effective August 17, 2004. (GSP)

License Plates

"In God We Trust" Special Plates

S.L. 2004-131 ([SB 1144](#)) authorizes the Division of Motor Vehicles to issue a special registration plate bearing the phrase "In God We Trust," for an additional fee. The additional fee is \$30; \$20 of the fee will be transferred to the Department of Crime Control and Public Safety to be deposited into the NC National Guard Soldiers and Airmen Assistance Fund of the Minuteman Partnership to help provide assistance to the families of North Carolina Guardsmen who have been activated and deployed in federal service. The plate is subject to a requirement that DMV receive 300 or more applications for the plate before the plate may be developed.

This act became effective July 29, 2004. (BC)

NRA Special Plate

S.L. 2004-182 ([SB 464](#)) authorizes the Division of Motor Vehicles to issue a National Rifle Association special registration plate bearing a phrase or insignia representing the organization. Development of the plate is subject to a requirement that DMV receive 300 or more applications for the plate before the plate may be developed. An additional fee of \$10 will be charged for the plate.

This act became effective August 10, 2004. (BC)

Stock Car Racing Theme Special Plates

S.L. 2004-185 ([SB 754](#)) authorizes the Division of Motor Vehicles to issue Stock Car Racing Theme Special Plates bearing a design displaying themes of professional stock car auto racing or its drivers. An additional fee of \$30 will be charged for the plate; \$20 of the fee will be transferred to the North Carolina Motorsports Foundation, Inc.

This act became effective October 1, 2004. (BC)

Special License Plates

S.L. 2004-200 ([SB 1118](#)) increases the added fee for the "First in Forestry" special plate from \$20 to \$30; one-half of the additional \$10 will be transferred to the Division of Forest Resources for a State forests and forestry education program, and one-half will be transferred to the Forest Education and Conservation Foundation for its program.

The act also authorizes the Division of Motor Vehicles (DMV) to issue a "Retired Highway Patrol" special plate to the surviving spouses of retired highway patrolmen, and authorizes the following new special plates:

Daughters of the American Revolution. – An additional fee of \$20 will be charged for the plate: \$10 of the fee will be transferred to the NC Daughters of the American Revolution License Plate Trust Fund to carry out objectives, including the protection of historical spots and the erection of monuments, encouragement & support of historical research, preservation of historical documents & relics, and the promotion of patriotic celebrations.

El Pueblo. – An additional fee of \$30 will be charged for the plate: \$20 of the fee will be transferred to El Pueblo, Inc. for benefit of its Scholarship Fund in providing scholarships to Latino students entering colleges and universities in this State.

HOMES4NC. – An additional fee of \$30 will be charged for the plate: \$20 of the fee will be transferred to the North Carolina Association of Realtors Housing Opportunity Foundation to promote safe, decent, and affordable housing in this State.

North Carolina 4-H Development Fund. – An additional fee of \$30 will be charged for the plate: \$20 of the fee will be transferred to the North Carolina 4-H Development Fund to support county and State 4-H programs and to provide funding for repairs and renovations at State 4-H camps and conference centers.

Sport Fishing. – An additional fee of \$10 will be charged for a plate bearing a phrase and picture appropriate to the subject of sport fishing in this State.

Commercial Fishing. – An additional fee of \$10 will be charged for a plate bearing a phrase and picture appropriate to the subject of commercial fishing in this State.

High School Insignia. – An additional fee of \$25 will be charged for a plate bearing a phrase or insignia representing a public high school in this State: \$15 of the fee will be transferred to the Department of Public Instruction (DPI) for distribution to the school. The high schools must use the funds for academic enhancement.

Each of the new plates authorized by this act are subject to a requirement that DMV receive 300 or more applications for the plate before the plate may be developed. In the case of the High School Insignia Plate, DMV must receive 300 or more applications for a particular school before a plate may be issued for that school.

This act became effective August 17, 2004. (BC)

Motor Vehicle Law

Tag Agents Title Transaction Fee

S.L. 2004-77 ([HB 1555](#)) increases by \$1 the fee for motor vehicle title-related transactions, and directs the Division of Motor Vehicles to pay contract license tag agents an additional \$1 of compensation for transactions related to motor vehicle titles.

The tag agent-related portion of this act becomes effective October 1, 2004, and applies to fees assessed on or after that date.

The act also directs the Joint Legislative Transportation Oversight Committee to study the issue of customer service at the Division of Motor Vehicles license offices, registration offices, and services provided by commission contract agents, and report to the 2005 General Assembly.

For additional information, see **Studies** in this chapter. (GSP)

Camera Defeating License Covers Illegal

S.L. 2004-79 ([HB 26](#)) makes it illegal to willfully cover a license plate with any device designed or intended to interfere with the taking of a clear photograph by a traffic control system, such as a red-light camera. Violation of this new provision is an infraction, subject to a penalty of up to \$100.

This act becomes effective October 1, 2004, and applies to violations occurring on or after that date. (GSP)

Change Effective Date – Private Plates on Public Vehicles

S.L. 2004-124, Sec. 6.5 ([HB 1414](#), Sec. 6.5) delays until May 1, 2005 the effective date of changes enacted in 2001 to the laws governing use of private license plates by State officers for transporting, apprehending, or arresting persons charged with violations of law.

This section became effective July 1, 2004. (GSP)

Passenger Vehicles Towing Other Vehicles to Keep Right

S.L. 2004-124, Sec. 30.6 ([HB 1414](#), Sec. 30.6) as amended by S.L. 2004-199, Sec. 56 ([SB 1225](#), Sec. 56) prohibits noncommercial passenger vehicles that are towing another vehicle from driving in the left-most lane of the highway, when there are four or more lanes, except when passing, preparing for a left turn or when the right lanes are obstructed or impassable. This restriction includes towing other cars, trailers, and campers. Violation of this statute is an infraction.

This section becomes effective December 1, 2004, and applies to offenses committed on or after that date. (SS)

Vehicle Control Signs and Signals

S.L. 2004-141 ([SB 1078](#)) amends the vehicle sign and signal laws to allow horizontal traffic signals; standardizes and clarifies language about traffic at intersections; and, in the red-light camera laws governing the municipalities of Wake County and the City of Concord, changes the source for engineering standards for determining how long a traffic signal remains yellow.

This act became effective July 1, 2004. (GSP)

Increase Penalties for Failure to Yield

S.L. 2004-172 ([HB 965](#)) provides specific penalties for persons who commit the offense of failure to yield while approaching or entering an intersection, turning at a stop or yield sign, entering a roadway, upon approach of an emergency vehicle, or at highway construction or maintenance sites. When the violation results in serious bodily injury, the penalty is a \$500 fine and suspension of the driver's license for 90 days.

Failure to yield to a pedestrian when making a right turn on a red light is an infraction subject to a fine of not less than \$100 and not more than \$500. In addition, the driver will be assigned one insurance point under the Safe Driver Incentive Plan and four points will be assessed against the driver's license (five points if the driver is operating a commercial vehicle.) Failure to yield right-of-way to a bicycle, motor scooter or motorcycle will also result in the assessment of four points against the driver's license (five points if the driver is operating a commercial vehicle.)

The Department of Transportation (Department) is required to collect data regarding the number of persons found responsible for failure to yield to pedestrians when making a right turn on a red light, and the number of pedestrians who are involved in accidents because of such drivers' failure to yield. The Department is required to report the data annually beginning January 1, 2006.

This act becomes effective December 1, 2004, and applies to violations committed on or after that date. (BC)

Aggressive Driving

S.L. 2004-193 ([HB 1046](#)) creates a new motor vehicle offense of aggressive driving. A person commits the offense of aggressive driving if the person "drives carelessly and heedlessly in willful or wanton disregard of the rights or safety of others" by speeding and doing two or more of the following:

- Running through a red light;
- Running through a stop sign;
- Illegal passing;
- Following too closely; and
- Failing to yield right-of-way.

A person convicted of aggressive driving is guilty of a Class 1 misdemeanor, and five points will be assessed against the driver's license (six points if the driver is operating a commercial vehicle).

When a person is convicted of one or more charges of aggressive driving and one or more charges of speeding in excess of 55 and not more than 80 miles per hour within a 12-month period, the Division of Motor Vehicles may suspend that person's license for up to 6 months. There is a mandatory one-year revocation if the person is convicted of two charges of aggressive driving, or one or more charges of reckless driving and one or more charges of aggressive driving within a 12-month period. The license of a person convicted of a charge of aggressive driving while engaged in the illegal transportation of intoxicants for the purpose of sale is also subject to mandatory revocation.

This act becomes effective December 1, 2004, and applies to offenses committed on or after that date. (BC)

Staggered Plates/Safety Inspection Change

S.L. 2004-167 ([SB 1083](#)), as amended by S.L. 2004-199, Sec. 59 ([SB 1225](#), Sec. 59) directs the Division of Motor Vehicles to stagger the issuance of commercial vehicle registrations and dealer license plates, stagger motor vehicle dealer and manufacturers' license registration, and eliminates the requirement for a safety inspection for any vehicle at least 35 years old.

The changes affecting staggered registration and dealer licensing become effective January 1, 2006, the historic vehicle safety inspection change becomes effective October 1, 2004. (GSP)

Organ Donor Organizations/Access to DMV Records

S.L. 2004-189 ([SB 852](#)) directs the Division of Motor Vehicles to establish and maintain a statewide, online organ donor Internet site to enable federally designated organ procurement organizations and eye banks to have timely access to the names of persons who have stated to the Division their intent to be organ donors. The act authorizes the Division to disclose personal information of organ donors to organ procurement organizations and eye banks. The act directs the Division to offer organ donation information at driver's license offices. The act increases driver's license fees by 5 cents to cover the cost of the organ donor Internet site, with any remaining funds going to the newly established License to Give Trust Fund. The act creates a License to Give Trust Fund Commission to allocate the funds in the Trust for organ and tissue donation education initiatives.

The driver's license fee increase and Trust Fund become effective November 1, 2004, and the remainder of the act becomes effective January 1, 2005. (GSP)

Child Restraint Systems Modified

S.L. 2004-191 ([SB 1218](#)) changes the child restraint law of the State to require children less than eight years old and less than 80 pounds to be properly secured in a weight-appropriate child passenger restraint system. The act also provides that if there is no seating position equipped with a lap and shoulder belt to properly secure the weight-appropriate child passenger restraint system available, a child less than eight years old and between 40 and 80 pounds may be restrained with a properly fitted lap belt only.

This act becomes effective January 1, 2005. (GSP)

No Drivers License Points or Insurance Surcharge for Speedometer Violation as Lesser Included Offense of Speeding

S.L. 2004-203, Sec. 70 ([HB 281](#), Sec. 70) clarifies that a person who violates the speedometer law as a lesser included offense of the speeding law will not incur drivers license points or insurance surcharges.

This section becomes effective December 1, 2004. (GSP)

Public Transportation and Rail

Increase Penalty – Transit Operator Assault

S.L. 2004-26 ([HB 1373](#)). See **Criminal Law and Procedure**.

Public Transit Deceleration Lamps

S.L. 2004-82 ([SB 1086](#)) authorizes public transit vehicles to be equipped with amber, high mounted, flashing, rear deceleration lamps.

This act became effective July 1, 2004. (GSP)

Virginia-North Carolina Interstate High-Speed Rail Compact

S.L. 2004-114 ([SB 1092](#)) establishes a compact and a joint commission with the State of Virginia to study, develop and promote a plan for the design, construction, financing and operation of interstate high-speed rail service in Virginia and North Carolina. The Commission established by the act is composed of ten members: five members of the Virginia General Assembly, four members of the North Carolina General Assembly, and one person appointed by the Governor of North Carolina.

This act became effective July 17, 2004. (GSP)

Special Obligation Debt/Purposes

S.L. 2004-151 ([SB 137](#)). See **Local Government**.

Trucks

Annual Overwidth Vehicle Movement Permits and Escort Driver Training for Agricultural Vehicles

S.L. 2004-124, Sec. 30.3E ([HB 1414](#), Sec. 30.3E) directs the Department of Transportation (Department) to issue annual overwidth permits for vehicles that do not exceed 14 feet in width carrying agricultural equipment or machinery between dealers and farms. This section provides that these permits are valid without any requirement for an escort vehicle on all State highways unless the road or bridge has a posted weight limit. The section also directs the Department to develop and implement an in-house training program for agricultural machinery escorts by September 1, 2004.

This section became effective July 1, 2004. (GSP)

Aggregate Truck Weight Limits

S.L. 2004-145 ([SB 1043](#)) authorizes higher weight limits for vehicles transporting aggregates and other related materials, provides that persons operating vehicles transporting aggregates or related materials will be assessed ½ price gross weight and axle-group weight overweight penalties if they are hauling from a site without a scale, and provides that a person who fails to carry a vehicle permit for excessive size and weight will not be liable for penalties if the officer can determine by electronic means that the person was issued a valid permit, or the person submits evidence to the Department of Crime Control and Public Safety within 30 days that a valid permit existed at the time of the citation

The changes to aggregate truck weight limits and penalties made by this act became effective July 29, 2004. The change in the act concerning permit possession becomes effective January 1, 2005. (GSP)

Miscellaneous

Clarify the Authority of the State Highway Patrol to Operate Weigh Stations

S.L. 2004-124, Sec. 18.3 ([HB 1414](#), Sec. 18.3) authorizes the State Highway Patrol to use non-sworn personnel to operate weigh stations and assess civil penalties for weight and equipment violations, so long as sworn personnel supervise them.

This section became effective July 1, 2004. (GSP)

Special Officers Authority/DOT Technical Correction

S.L. 2004-148 ([HB 1345](#)) makes the changes outlined below:

Officer Authority. – The act authorizes State Highway Patrol Motor Carrier Enforcement officers, and designated officers and inspectors of the Division of Motor Vehicles, to enforce criminal laws in two circumstances: when they have probable cause to believe a person has committed a criminal act in their presence and at the time of the violation they are engaged in the enforcement of laws otherwise within their jurisdiction; and when they are asked to provide temporary assistance by the head of another State or local law enforcement agency. The act also grants authority to officers and inspectors of the Division of Motor Vehicles to investigate drivers license fraud and identity thefts related to drivers license fraud, and to make arrests for those offenses.

DOT Temporary Rules Governing Acceptance of Bids. – The act authorizes the Secretary of Transportation to adopt temporary rules concerning acceptance of bids by electronic means.

Highway Trust Fund Technical Change. – The act corrects an incorrect reference to the name of a road in the description of the Highway Trust Fund Greensboro Loop project.

This act became effective August 2, 2004. (GSP)

North Carolina Motorsports Testing and Research/Funds

S.L. 2004-184 ([SB 3](#)) amends the 2004 Appropriations Act to increase the amount allocated to the North Carolina Motorsports Testing and Research Complex from \$2 million to \$4 million. The Act also amends the Highway Trust Fund Act description of the US 17 intrastate project to include a US 17 bypass in the Hampstead area of Pender and New Hanover Counties.

This act became effective July 1, 2004. (GSP)

Studies

Legislative Research Commission

Study Various Transportation Issues

S.L. 2004-161, Sec. 2.1(2) ([SB 1152](#), Sec. 2.1(2)) authorizes the Legislative Research Commission to study:

- Purchasing alternative-fuel or low-emission school buses;
- Commercial drivers license requirements and emergency situations;
- Handheld cell phone use while driving;
- State ports; and
- Towing laws, salvage laws, and lienholder notification when vehicles are abandoned or seized.

The Commission may report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

This section became effective August 2, 2004. (GSP)

New/Independent Studies/Commissions

Hurricane Evacuation Standards Study Committee

S.L. 2004-161, Part XXXII ([SB 1152](#), Part XXXII) creates a six-member Hurricane Evacuation Standards Study Committee, to study the development and establishment of hurricane evacuation standards for the State. The Commission is directed to make its report by January 15, 2005.

This section became effective August 2, 2004. (GSP)

Referrals to Existing Commissions/Committees

Joint Legislative Transportation Oversight Committee Study of License Tag Offices

S.L. 2004-77, Sec. 3 ([HB 1555](#), Sec. 3) directs the Joint Legislative Transportation Oversight Committee to study the issue of customer service at the Division of Motor Vehicles license offices, registration offices, and services provided by commission contract agents, and report to the 2005 General Assembly.

This section became effective July 8, 2004. (GSP)

See also **Enacted Legislation**, Motor Vehicles Law subheading in this chapter for Tag Agents Title Transaction Fee.

Joint Legislative Transportation Oversight Committee Study of Leaking Petroleum Underground Storage Tank Cleanup

S.L. 2004-124, Sec. 30.10(f)-(g) ([HB 1414](#), Sec. 30.10(f)-(g)) directs the Environmental Review Commission and the Joint Legislative Transportation Oversight Committee to jointly study the desirability and feasibility of altering or eliminating the role of the State and the Department

of Environment and Natural Resources in the implementation of State law relating to cleanup of leaking petroleum underground storage tanks.

The Environmental Review Commission and the Joint Legislative Transportation Oversight Committee shall report their findings and recommendations to the 2005 General Assembly, no later than July 31, 2005.

This section became effective July 1, 2004. (GSP)

State Dredge Study by Joint Legislative Transportation Oversight Committee

S.L. 2004-124, Sec. 30.12 ([HB 1414](#), Sec. 30.12) directs the Joint Legislative Transportation Oversight Committee to study the feasibility and cost of constructing and establishing a dredge to be used to clear channels that are within the State and are not maintained by the Corps of Engineers and for beach renourishment.

This section became effective July 1, 2004. (GSP)

Joint Legislative Transportation Oversight Committee to Study Transportation-Related Drug and Alcohol Tests

S.L. 2004-124, Sec. 30.13 ([HB 1414](#), Sec. 30.13) directs the Joint Legislative Transportation Oversight Committee to study the advisability of instituting a requirement for public transit operators and other employers to report to the Division of Motor Vehicles the name of an employee taking a transportation-related drug test or alcohol test and the results when the employee failed the test. The section also directs the Committee to study the advisability of instituting a requirement for the Division to provide the information it collects on those individuals to other employers required by federal law to test transportation-related employees.

This section became effective July 1, 2004. (GSP)

Joint Legislative Transportation Oversight Studies

S.L. 2004-161, Part XVII ([SB 1152](#), Part XVII) authorizes the Joint Legislative Transportation Oversight Committee to study the following:

- I-95 tolls;
- Alternative fuels;
- Comprehensive transportation issues;
- Registration of all-terrain vehicles; and
- Clarification of disclosure of motor vehicle total loss claims.

The Committee may study these topics and report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

This part became effective August 2, 2004. (GSP)

Highway Trust Fund Study Committee Extended

S.L. 2004-161, Sec. 20.1 ([SB 1152](#), Sec. 20.1) delays the expiration date of the Highway Trust Fund Study Committee to January 31, 2005.

This section became effective August 2, 2004. (GSP)

Referrals to Departments, Agencies, Etc.

Study Of Various Ways To Promote Government Efficiency And Savings In State Spending

S.L. 2004-161, Sec. 16.1(3) ([SB 1152](#), Sec. 16.1(3)) directs The University of North Carolina (through the Office of the President), the Judicial Branch (through the Administrative Office of the Courts), the Executive Branch (through the Department of Administration), the Legislative Branch (through the Legislative Services Office), the Community College System (through the President's Office), and the Department of Public Instruction to jointly study various ways to promote government efficiency and savings on State spending, including drivers license and vehicle registration extensions.

This section became effective August 2, 2004. (GSP)

For a complete list of the studies and reports authorized by the 2004 Session of the 2003 General Assembly, please refer to the Appendix contained in this publication.

Chapter 25 Utilities

Kory Goldsmith (KG) and Steve Rose (SR)

Enacted Legislation

Unauthorized Use of Citizens Band Radio Equipment

S.L. 2004-72 ([HB 257](#)) makes it a Class 3 misdemeanor for a person to willingly and knowingly use federally prohibited power amplifiers on Citizens Band radio equipment.

This act becomes effective December 1, 2004, and applies to offenses committed on or after that date. (KG)

Studies

Legislative Research Commission

Office of State Energy Study

S.L. 2004-161, Sec. 2.1(h) ([SB 1152](#), Sec. 2.1(h)). See **State Government**.

Independent Studies/Commissions

Utility Review Commission Study Alternative and Renewable Energy

S.L. 2004-161, Part IX ([SB 1152](#), Part IX) authorizes the Joint Legislative Utility Review Commission to study the economic, environmental, and social issues associated with the development and use of renewable and alternative energy in North Carolina. The review may include the benefits and challenges associated with renewable and alternative energy, the potential for renewable and alternative energy sources to support rural economic development, renewable and alternative energy initiatives undertaken in other states, permitting options, and opportunities for pilot programs.

This part became effective August 3, 2004. (KG)

For a complete list of the studies and reports authorized by the 2004 Session of the 2003 General Assembly, please refer to the Appendix contained in this publication.

Monetary Comp./Outdoor Advertising

HB 429 would have authorized a city or county to require the removal of a non-conforming off-premises outdoor advertising sign with the payment of monetary compensation. Monetary compensation would have been the fair market value of the sign immediately prior to its removal and without consideration of the effect of the local ordinance governing the placement of the sign. Monetary compensation would not have been required if the outdoor advertising was determined to be a nuisance or the removal was required for governmental development projects. In lieu of monetary compensation, the city or county and the owner could enter into an agreement to relocate the sign or to remove the sign after a set period of time. If the city or county had not entered into a relocation agreement or agreed to the amount of monetary compensation due within 120 days of the city or county's removal notification, the matter would go to nonbinding arbitration. If either party disagreed with the arbitrator's determination, the matter could be appealed to superior court to determine the amount of monetary compensation due the owners. Monetary compensation was defined as fair market value of the outdoor advertising in place immediately prior to its removal. The amount of monetary compensation an owner could recover was capped at 5 times the average gross revenue associated with the sign.

On July 9, 2004, Governor Michael F. Easley vetoed the bill. The Governor stated the following regarding his veto:

"I support fair compensation for the owners of billboards that are removed by localities. I urge the General Assembly to find a reasonable compensation formula because this bill does not accomplish that goal. The formula provided in this legislation is unfair and overly burdensome to city and county governments and the taxpayers they represent. Further, it raises constitutional questions. Therefore, I veto the bill."

On July 12, 2004, the House voted to override the Governor's veto and the bill was sent to the Senate. Instead of voting to override the veto, the Senate passed a substitute bill for House Bill 1213. House Bill 1213 was passed by the House, ratified and signed by the Governor on August 2, 2004. See **Local Government** for a summary of S.L. 2004-152 ([HB 1213](#)). (EC)

APPENDIX

**STUDIES AND REPORTS AUTHORIZED BY 2004
SESSION**

**Legislative Study Commissions
and Committees**

2004 GENERAL ASSEMBLY STUDIES AND REPORTS

BOARD, COMMISSION, COMMITTEE OR DEPARTMENTAL ISSUES	REPORTING DATE	STATUTORY AUTHORITY
<p><u>Administration, Department of</u></p> <ul style="list-style-type: none"> ✓ Advertising, State-Funded (In cooperation with the Office of State Budget and Management) ✓ Advocacy Programs in the Department of Administration ✓ Government Efficiency and Savings in State Spending, Various Ways to Promote (In cooperation with the University of North Carolina Office of the President, the Administrative Office of the Courts, the Legislative Services Office, Community College System Office of the President, and the Department of Public Instruction) ✓ Public Construction Projects, Retainage of Payment on 	<p>Shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on General Government by December 1, 2004</p> <p>Shall report to the Joint Legislative Commission on Governmental Operations and the Chairs of the Senate and House of Representatives Appropriations Committees by May 1, 2005</p> <p>Department of Administration shall report to the Legislative Research Commission by January 15, 2005</p> <p>May report to the 2005 General Assembly upon its convening</p>	<p>S.L. 2004-124 § 19.3.(a)(b)</p> <p>S.L. 2004-124 § 19.6.</p> <p>S.L. 2004-161 Part XVI.</p> <p>S.L. 2004-161 § 21.1.</p>
<p><u>Aging, North Carolina Study Commission on</u></p> <ul style="list-style-type: none"> ✓ Long-Term Care Remediation ✓ Mentally Ill Long-Term Care Residents 	<p>May report to the 2005 General Assembly upon its convening</p> <p>May report to the 2005 General Assembly upon its convening</p>	<p>S.L. 2004-161. § 23.2.</p> <p>S.L. 2004-161 § 23.3.</p>
<p><u>Agriculture and Consumer Services, Department of, and the Agricultural Research Service</u></p> <ul style="list-style-type: none"> ✓ DACS Research Stations; Study Operations, Funding, and Efficiencies for (In cooperation with North Carolina State University) 	<p>Shall report to the Senate and House of Representatives Appropriations Subcommittees on Natural and Economic Resources and the Fiscal Research Division by December 15, 2004</p>	<p>S.L. 2004-124 § 11.2.(a)</p>

<p><u>Agriculture and Forestry Awareness Study Commission</u></p> <ul style="list-style-type: none"> ✓ Agriculture Commodity Incentives ✓ 	<p>May report to the 2005 General Assembly upon its convening</p> <p>May report to the 2005 General Assembly upon its convening</p> <p>May report to the 2005 General Assembly upon its convening</p>	<p>S.L. 2004-161 § 30.2.</p> <p>S.L. 2004-161 § 30.3.</p> <p>S.L. 2004-161 § 30.4.</p>
<p><u>Auditor, Office of the State</u></p> <ul style="list-style-type: none"> ✓ Reduce Span of Control (Elimination of Two Senior Management Positions) 	<p>Shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on General Government by December 1, 2004</p>	<p>S.L. 2004-124 § 20.1.</p>
<p><u>Bar Association, North Carolina</u></p> <ul style="list-style-type: none"> ✓ CLE Credit for Pro Bono Legal Representation (In cooperation with the North Carolina State Bar) 	<p>Shall submit a preliminary report to House Select Committee on Domestic Violence by October 1, 2004, and the final report to the General Assembly by January 15, 2005</p>	<p>S.L. 2004-186 § 7.1.</p>
<p><u>Building Code Council, North Carolina</u></p> <ul style="list-style-type: none"> ✓ Residential Building Code and Housing Affordability 	<p>May report to the 2005 General Assembly upon its convening</p>	<p>S.L. 2004-161 § 10.1.</p>
<p><u>Catawba/Wateree River Basin Advisory Commission</u></p> <ul style="list-style-type: none"> ✓ Annual Report of Activities With Recommendations 	<p>Shall report to the Governor of North Carolina, the Environmental Review Commission of the General Assembly of North Carolina, the Governor of South Carolina by October 1, 2005 and by October 1 of each year thereafter</p>	<p>S.L. 2004-83 § 1.</p>
<p><u>Coastal Resources Commission</u></p> <ul style="list-style-type: none"> ✓ Urban Waterfront Area Developments 	<p>Shall report annually to the Environmental Review Commission beginning October 1, 2005 and its final report by October 1, 2010</p>	<p>S.L. 2004-117 § 4.</p>

<p><u>Commerce, Department of</u></p> <ul style="list-style-type: none"> ✓ Annual Report of Activities With Recommendations ✓ Prison Beds at Pamlico Correctional Center, Reserve for Increasing (In cooperation with the Department of Environment and Natural Resources and Department of Correction) ✓ Tourism Promotion Funds Study ✓ Trade Jobs for Success Initiative (In cooperation with the Employment Security Commission and the Community Colleges System Office) 	<p>Shall report to the Joint Legislative Commission on Governmental Operations and Fiscal Research Division by January 15, 2005</p> <p>Shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by October 1, 2004</p> <p>Shall report to the Chairs of the Appropriations Subcommittees on Natural and Economic Resources of the Senate and the House of Representatives by January 16, 2005</p> <p>Quarterly report shall be provided to the Joint Legislative Commission on Governmental Operations, the to the chairs of the Senate and House of Representatives Appropriations Committees and to the Fiscal Research Division</p>	<p>S.L. 2004-124 § 13.1.</p> <p>S.L. 2004-124 § 17.6C.(d)</p> <p>S.L. 2004-124 § 13.3.</p> <p>S.L. 2004-124 § 13.7A.(d)</p>
<p><u>Community College System - Office of the President</u></p> <ul style="list-style-type: none"> ✓ Government Efficiency and Savings in State Spending, Various Ways to Promote (In cooperation with the University of North Carolina Office of the President, the Administrative Office of the Courts, the Legislative Services Office, Department of Administration, and the Department of Public Instruction) 	<p>Department of Administration shall report to the Legislative Research Commission by January 15, 2005</p>	<p>S.L. 2004-161 Part XVI.</p>
<p><u>Community Colleges, State Board of</u></p> <ul style="list-style-type: none"> ✓ Craven Technical High School Task Force (In cooperation with the State Board of Education, Craven Community College and the Craven County Schools) ✓ Education of Juveniles Committed to the Department of Juvenile Justice and Delinquency Prevention (In cooperation with the State Board of Education and the Community Colleges Systems Office) 	<p>If the task force is established, shall report to the Joint Legislative Education Oversight Committee by January 15, 2005</p> <p>Shall report to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by March 1, 2005</p>	<p>S.L. 2004-161 § 43.1.</p> <p>S.L. 2004-124 § 16.8.</p>

<p><u>Community Colleges, State Board of – CONTINUED</u></p> <ul style="list-style-type: none"> ✓ FTE Funding Formula ✓ Higher Education Strategy, University System and Community College System Joint Study of (In cooperation with The University of North Carolina Board of Governors) ✓ Industry Training Program, Modify Reporting Requirement for New and Expanding ✓ Pamlico Technical High School Task Force (In cooperation with the State Board of Education, Pamlico Community College and the Pamlico County Schools) ✓ Textile Technology, North Carolina Center for Applied ✓ Trade Jobs for Success Initiative (In cooperation with the Department of Commerce and the Employment Security Commission) 	<p>Shall report to the Joint Legislative Education Oversight Committee and to the Chairs of the Appropriations Committees of the Senate and the House of Representatives by January 15, 2005</p> <p>Shall report the preliminary results to a Higher Education Subcommittee of the Joint Legislative Education Oversight Committee by April 15, 2005 and shall file a final report to the General Assembly and the Joint Legislative Education Oversight Committee no later than December 31, 2005</p> <p>Shall report to the Joint Legislative Education Oversight Committee on September 1 of each year</p> <p>If established, shall report to the Joint Legislative Education Oversight Committee by January 15, 2005</p> <p>Shall report to the Office of Budget and Management, Chairs of the Joint Legislative Education Oversight Committee, and Chairs of the Finance Committees of the Senate and the House of Representatives no later than October 30, 2004</p> <p>Quarterly report shall be provided to the Joint Legislative Commission on Governmental Operations, to the Chairs of the Senate and House of Representatives Appropriations Committees and to the Fiscal Research Division</p>	<p>S.L. 2004-124 § 8.13.</p> <p>S.L. 2004-179 § 6.1.</p> <p>S.L. 2004-124 § 8.4.</p> <p>S.L. 2004-161 § 43.2.</p> <p>S.L. 2004-124 § 8.6.(a)</p> <p>S.L. 2004-124 § 13.7A.(d)</p>
<p><u>Courts, Administrative Office of the</u></p> <ul style="list-style-type: none"> ✓ Domestic Violence, Training for Judges and Court Personnel in the Area of ✓ Drug Court Services, Plan to Continue ✓ Government Efficiency and Savings in State Spending, Various Ways to Promote (In cooperation with the University of North Carolina Office of the President, the Department of Administration, the Legislative Services Office, Community College System Office of the President, and the Department of Public Instruction) 	<p>Shall report to the 2005 Regular Session of the 2005 General Assembly</p> <p>Shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by March 1, 2005</p> <p>Department of Administration shall report to the Legislative Research Commission by January 15, 2005</p>	<p>S.L. 2004-186 § 20.2.</p> <p>S.L. 2004-124 § 14.2B.</p> <p>S.L. 2004-161 Part XVI.</p>

<p><u>Courts, Administrative Office of the – CONTINUED</u></p> <ul style="list-style-type: none"> ✓ Judges, Mandatory Retirement for ✓ Magistrates Across the State and Shall Reexamine the Caseload Formula, Need for ✓ Restitution, Collection and Payment (In cooperation with the Department of Correction) 	<p>Shall report to the General Assembly by February 1, 2005</p> <p>Shall report to the General Assembly by March 15, 2005</p> <p>Shall report to the 2005 General Assembly upon its convening</p>	<p>S.L. 2004-124 § 31.18B.</p> <p>S.L. 2004-124 § 14.1.(b)</p> <p>S.L. 2004-124 § 26.1</p>
<p><u>Correction, Department of</u></p> <ul style="list-style-type: none"> ✓ Correction Security Staffing Formulas, Department of ✓ Criminal Justice Partnership Program ✓ Electronic Monitoring, Request for Proposals ✓ Federal Grant Matching Funds ✓ Inmate Custody and Classification System ✓ Offender Fees, Collection of (In cooperation with the Judicial Department) ✓ Pamlico Correctional Center, Reserve for Increasing Prison Beds at (In cooperation with the Department of Environment and Natural Resources and Department of Commerce) 	<p>Shall report to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by February 1, 2005</p> <p>Shall report to the Chairs of the Senate and House of Representatives Appropriations Committees, the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by February 1 of each year</p> <p>Shall report to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by March 1, 2005</p> <p>Shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations prior to using funds</p> <p>Shall report to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by April 15, 2005</p> <p>Shall report to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by April 1, 2004 and March 1, 2005</p> <p>Shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by October 1, 2004</p>	<p>S.L. 2004-124 § 17.2.</p> <p>S.L. 2004-124 § 17.8.</p> <p>S.L. 2004-124 § 17.8.</p> <p>S.L. 2004-124 § 17.4.</p> <p>S.L. 2004-124 § 17.6.(b)</p> <p>S.L. 2004-124 § 17.12.</p> <p>S.L. 2004-124 § 17.6C.(d)</p>

<p><u>Correction, Department of – CONTINUED</u></p> <ul style="list-style-type: none"> ✓ Restitution, Collection and Payment (In cooperation with the Administrative Office of the Courts) ✓ Security Staff, Shift Pay for 	<p>Shall report to the 2005 General Assembly upon its convening</p> <p>Shall report to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by March 1, 2005</p>	<p>S.L. 2004-161 § 26.1.</p> <p>S.L. 2004-124 § 17.1.</p>
<p><u>Committee</u></p> <ul style="list-style-type: none"> ✓ Federal Structured Sentencing System ✓ Incapacitated Inmates, Confinement of ✓ Juvenile Escapes, Deter ✓ Mediation Funding Study ✓ Youth Development Centers, Planning for New 	<p>May report to the 2005 General Assembly upon its convening</p> <p>May report to the 2005 General Assembly upon its convening</p> <p>May report to the 2005 General Assembly upon its convening</p> <p>Shall report to the 2005 General Assembly</p> <p>Shall report to the 2005 General Assembly upon its convening</p>	<p>S.L. 2004-161 § 29.3</p> <p>S.L. 2004-161 § 29.4</p> <p>S.L. 2004-161 § 29.2</p> <p>S.L. 2004-124 § 14.2A.</p> <p>S.L. 2004-124 § 16.3.(b)</p>
<p><u>Craven Community College and Craven County Schools</u></p> <ul style="list-style-type: none"> ✓ Craven Technical High School Task Force (In cooperation with the State Board of Community Colleges and the State Board of Education) 	<p>If established, shall report to the Joint Legislative Education Oversight Committee by January 15, 2005</p>	<p>S.L. 2004-161 § 43.1.</p>
<p><u>Crime Control and Public Safety, Department of</u></p> <ul style="list-style-type: none"> ✓ Viper System 	<p>Shall report to the Joint Legislative Transportation Oversight Committee and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by December 1, 2004</p>	<p>S.L. 2004-124 § 18.4.</p>
<p><u>Criminal Justice Information Network (CJIN) Governing Board</u></p> <ul style="list-style-type: none"> ✓ Viper System 	<p>Shall report to the Joint Legislative Transportation Oversight Committee and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by December 1, 2004</p>	<p>S.L. 2004-124 § 18.4.</p>

<p><u>Debt Affordability Advisory Committee</u></p> <ul style="list-style-type: none"> ✓ Findings and Recommendations Report 	<p>Shall report to the Governor, the President Pro Tempore of the Senate, the Speaker of the House or Representatives, and the Fiscal Research Division by February 1 of each year</p>	<p>S.L. 2004-179 § 5.1.</p>
<p><u>Dorothea Dix Hospital Property Study Commission</u></p> <ul style="list-style-type: none"> ✓ Sale of the Property, Recommendations on the Options for 	<p>Shall report to the Joint Legislative Commission on Governmental Operations, the 2005 General Assembly, and the Appropriations Committees of the Senate and the House of Representatives before the sale of any or all parts of the property.</p>	<p>S.L. 2004-124 § 10.26A.(b)</p>
<p><u>Drought Management Advisory Council</u></p> <ul style="list-style-type: none"> ✓ Drought Advisories, Review of 	<p>Shall report to the Secretary of Environment and Natural Resources, the Governor, and the Environmental Review Commission by October 1, 2005 and by October 1 of each year thereafter</p>	<p>S.L. 2004-195 § 2.6.</p>
<p><u>Economic Development Infrastructure, Study Commission on</u></p> <p style="text-align: center;">CREATED</p> <ul style="list-style-type: none"> ✓ Findings and Recommendations 	<p>Shall submit a final report to the 2005 General Assembly upon its convening</p>	<p>S.L. 2004-161 § 49.7.</p>
<p><u>Education Oversight Committee,</u></p> <ul style="list-style-type: none"> ✓ Achievement Gap, Close ✓ At-Risk Students Single Funding Stream ✓ Articulation Agreement, Comprehensive Under Six ✓ E-Textbooks for Students 	<p>May report to the 2005 General Assembly upon its convening</p> <p>May report to the 2005 General Assembly upon its convening</p> <p>Report may be issued by the committee</p> <p>May report to the 2005 General Assembly upon its convening</p> <p>May report to the 2005 General Assembly upon its convening</p>	<p>S.L. 2004-161 § 13.7.</p> <p>S.L. 2004-161 § 13.6.</p> <p>S.L. 2004-124 § 8.8.(a)</p> <p>S.L. 2004-161 § 13.15.</p> <p>S.L. 2004-161 § 13.8.</p>

<u>Education Oversight Committee, Joint Legislative – CONTINUED</u>		
✓ Graduation Rate Incentives, High School	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 13.5.
✓ Kindergarten Admission Requirements	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 13.10.
✓ Local School Construction Study Commission	Shall make an Interim Report to the 2005 General Assembly no later than January 31, 2005 and shall report a Final Report to the 2006 Regular Session no later than March 31, 2006	S.L. 2004-124 § 7.32.
✓ Low-Wealth School Funds, Adequacy of	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 13.18.
✓ Physical Restraints/Seclusion in Schools	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 13.4.
✓ Rural Schools	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 13.3.
✓ School Construction	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 13.14.
✓ School Counselors, Update the Job Description	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 13.11.
✓ School Nutrition/Physical Activity	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 13.17.
✓ Science & Math School Tuition Grants, Evaluate	Shall report to the 2005 General Assembly	S.L. 2004-124 § 9.6A.(c)
✓ Staff Development Through Regional Education Service Alliances, Efficacy of Providing	May study and report results to the 2005 General Assembly	S.L. 2004-124 § 7.31.
✓ Student Participation in Teacher Preparation Programs, Strategies for Facilitating	Shall report recommendations to the 2005 General Assembly not later than January 15, 2005	S.L. 2004-124 § 7.19A.
✓ Students on Long-Term Suspension, Appropriate Education for	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 13.16.
✓ Teacher Assistant Salary Schedule	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 13.2.
✓ Teachers to Become Coaches, Attracting	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 13.9.
✓ Testing Reform	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 13.12.
✓ Total Teacher Program	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 13.13.

<p><u>Education, State Board of</u></p> <ul style="list-style-type: none"> ✓ Alternative Learning Programs and Alternative Schools, Funding Formula for ✓ At-Risk Funds for Services to Students Who Are Suspended From School for More Than Ten Days, Specified Percentage of ✓ Craven Technical High School Task Force (In cooperation with the State Board of Community Colleges, Craven Community College and the Craven County Schools ✓ Education of Juveniles Committed to the Department of Juvenile Justice and Delinquency Prevention (In cooperation with the Department of Juvenile Justice and Delinquency Prevention and the Community Colleges Systems Office) ✓ Noninstructional Teacher Workdays, Scheduling of and Purposes on ✓ Pamlico Technical High School Task Force (In cooperation with the State Board of Community Colleges, Pamlico Community College and the Pamlico County Schools) ✓ State Board Teacher Retention Task Force ✓ Teacher Preparation Programs in Diversity Training, Anger Management, Conflict Resolution, and Classroom Management 	<p>Shall report to the Joint Legislative Education Oversight Committee by December 15, 2004</p> <p>Shall report to the Joint Legislative Education Oversight Committee by December 15, 2004</p> <p>If established, shall report to the Joint Legislative Education Oversight Committee by January 15, 2005</p> <p>Shall report to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by March 1, 2005</p> <p>Shall report to the Joint Legislative Education Oversight Committee by December 15, 2004</p> <p>If established, shall report to the Joint Legislative Education Oversight Committee by January 15, 2005</p> <p>Shall report to the Joint Legislative Education Oversight Committee by February 15, 2005</p> <p>Shall report to the Joint Legislative Education Oversight Committee by December 15, 2004</p>	<p>S.L. 2004-76 § 1.</p> <p>S.L. 2004-73 § 1.</p> <p>S.L. 2004-161 § 43.1.</p> <p>S.L. 2004-124 § 16.8.</p> <p>S.L. 2004-180 § 4.</p> <p>S.L. 2004-161 § 43.2.</p> <p>S.L. 2004-161 Part XXVIII.</p> <p>S.L. 2004-116 § 1.</p>
<p style="text-align: center;">CREATED</p> <ul style="list-style-type: none"> ✓ Digital Record Electronic (DRE) Voting Systems 	<p>Shall submit a final report to the 2005 General Assembly upon its convening</p>	<p>S.L. 2004-161 Part VII.</p>

<p><u>Electronics and Information Technologies Association, North Carolina</u></p> <ul style="list-style-type: none"> ✓ Statewide Military Business Center and Homeland Security Business Incubator (Funded by Community Colleges System Office) 	<p>Shall report to the Joint Legislative Education Oversight Committee no later than February 28, 2005</p>	<p>S.L. 2004-124 § 8.17.(a)</p>
<p><u>Employee Hospital and Medical Benefits, Committee on</u></p> <ul style="list-style-type: none"> ✓ Newborn Coverage 	<p>May report to the 2005 General Assembly</p>	<p>S.L. 2004-161 § 31.1.</p>
<p><u>Employment Security Commission</u></p> <ul style="list-style-type: none"> ✓ Trade Jobs for Success Initiative (In cooperation with the Department of Commerce and the Community Colleges System Office) 	<p>Quarterly report shall be provided to the Joint Legislative Commission on Governmental Operations, to the Chairs of the Senate and House of Representatives Appropriations Committees and to the Fiscal Research Division</p>	<p>S.L. 2004-124 § 13.7A.(d)</p>
<p><u>Environment and Natural Resources, Department of</u></p> <ul style="list-style-type: none"> ✓ Fort Fisher State Recreation Area During the Fall and Winter, Twenty-Four Hour Access to /Activities at Fort Fisher ✓ Museum of Natural Sciences, Schematic Site Plan for Expansion of the ✓ Pamlico Correctional Center, Reserve for Increasing Prison Beds at (Including Department of Correction and Department of Commerce) ✓ Phosphorus Nutrient Management/Animal Feedlots ✓ Sedimentation Pollution Control Act of 1973, Implementation of the ✓ Stream Mapping: Improve Mapping and Digital Representation of Surface Waters (In Cooperation With the Geographic Information Coordinating Council) 	<p>Shall report to the Environmental Review Commission no later than February 1, 2005</p> <p>Shall report during the 2004-2005 fiscal year</p> <p>Shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by October 1, 2004</p> <p>Shall report to the Environmental Review Commission by January 1, 2005</p> <p>Shall report the first report to the Environmental Review Commission by October 1, 2005 and by October 1 of each year thereafter</p> <p>Shall report to the General Assembly and the Environmental Review Commission on January 15, 2005</p>	<p>S.L. 2004-124 § 12.3.(b)</p> <p>S.L. 2004-124 § 12.17.</p> <p>S.L. 2004-124 § 17.6C.(d)</p> <p>S.L. 2004-176 § 7.</p> <p>S.L. 2004-195 § 2.1.</p> <p>S.L. 2004-161 Part XXXIII.</p>

<p><u>Environment and Natural Resources, Department of</u> <u>- CONTINUED</u></p> <ul style="list-style-type: none"> ✓ Water Resources Development Project Funds 	<p>Shall report semiannually to the Joint Legislative Commission on Government Operations, the Fiscal Research Division, and the Office of State Budget and Management</p>	<p>S.L. 2004-124 § 32.2.(c)</p>
<ul style="list-style-type: none"> ✓ Clean Air Trust Fund ✓ Environmental Programs, Effectiveness of ✓ Fair Bargain Act ✓ Floodplain Mapping Information, Plan to Share ✓ Highway Use Tax Based on Efficiency/Vehicle Registration Based on Miles Traveled ✓ Leaking Petroleum Underground Storage Tank Cleanup (In cooperation with the Joint Legislative Transportation Oversight Committee) ✓ Property Owners Adjacent to Activities for Which a Stormwater Permit Is Issued, Protecting ✓ Regional Water Supplies ✓ Stormwater Issues ✓ Stormwater Runoff, Deterrents to ✓ Water Restriction Guideline 	<p>May report to the 2005 General Assembly upon its convening</p> <p>May report to the 2005 General Assembly upon its convening</p> <p>May report to the 2005 General Assembly upon its convening</p> <p>May report to the 2005 General Assembly upon its convening</p> <p>May report to the 2005 General Assembly upon its convening</p> <p>Shall report to the 2005 General Assembly by January 31, 2005</p> <p>May report to the 2005 General Assembly upon its convening</p> <p>May report to the 2005 General Assembly upon its convening</p> <p>May report to the 2005 General Assembly upon its convening</p> <p>May report to the 2005 General Assembly upon its convening</p> <p>May report to the 2005 General Assembly upon its convening</p>	<p>S.L. 2004-161 § 19.6.</p> <p>S.L. 2004-161 § 19.2.</p> <p>S.L. 2004-161 § 19.7.</p> <p>S.L. 2004-161 § 19.3.</p> <p>S.L. 2004-161 § 19.10.</p> <p>S.L. 2004-124 § 30.10.(f)(g)</p> <p>S.L. 2004-161 § 19.9.</p> <p>S.L. 2004-161 § 19.5.</p> <p>S.L. 2004-161 § 19.11.</p> <p>S.L. 2004-161 § 19.8.</p> <p>S.L. 2004-161 § 19.4.</p>
<p><u>Executive Budget Act Revisions, Committee on</u></p> <ul style="list-style-type: none"> ✓ Contemporary Financial Management Practices 	<p>Shall report to the 2005 General Assembly upon its convening</p>	<p>S.L. 2004-161 § 47.1.</p>

<p><u>Fayetteville State University</u></p> <ul style="list-style-type: none"> ✓ Statewide Military Business Center and Homeland Security Business Incubator 	<p>Shall report to the Joint Legislative Education Oversight Committee prior to September 1, 2005, on the expenditure of funds</p>	<p>S.L. 2004-124 § 8.17.(c)</p>
<p><u>Representatives, Chairs of</u></p> <ul style="list-style-type: none"> ✓ Job Development Investment Grant Program 	<p>Shall report to the 2005 General Assembly by April 1, 2005</p>	<p>S.L. 2004-124 § 32G.1.(i)</p>
<p><u>General Statutes Commission</u></p> <ul style="list-style-type: none"> ✓ Electronic Recordation ✓ Uniform Incorporated Nonprofit Association Act 	<p>Shall report to the 2005 General Assembly upon its convening</p> <p>Shall report to the 2005 Regular Session of the General Assembly</p>	<p>S.L. 2004-161 § 6.1.</p> <p>S.L. 2004-161 Part VII.</p>
<p><u>Geographic Information Coordinating Council</u></p> <ul style="list-style-type: none"> ✓ Stream Mapping: Improve Mapping and Digital Representation of Surface Waters (In Cooperation With the Department of Environment and Natural Resources) 	<p>Shall report to the General Assembly and the Environmental Review Commission on January 15, 2005</p>	<p>S.L. 2004-161 Part XXXIII.</p>
<p><u>Governor's Crime Commission</u></p> <ul style="list-style-type: none"> ✓ Allocation of State Funds May Be Used As Federal Matching Funds (Including the Office of State Budget and Management and the Department of Juvenile Justice and Delinquency Prevention) 	<p>Shall report to the Senate and House of Representatives Appropriations Committees and the Joint Legislative Commission on Governmental Operations</p>	<p>S.L. 2004-124 § 15.4.</p>
<p><u>Growth Strategies Oversight Committee, Joint Legislative</u></p> <ul style="list-style-type: none"> ✓ ✓ Modernizing City and County Planning ✓ Transferable Development Rights 	<p>Shall report to the General Assembly prior to its expiration on January 16, 2007</p> <p>Shall report to the General Assembly prior to its expiration on January 16, 2007</p> <p>Shall report to the General Assembly prior to its expiration on January 16, 2007</p>	<p>S.L. 2004-161 § 3.1.(1)</p> <p>S.L. 2004-161 § 3.1.(2)</p> <p>S.L. 2004-161 § 3.1.(3)</p>

<p><u>Harriet's House</u></p> <ul style="list-style-type: none"> ✓ Nonprofit Program Report 	<p>Shall report to the Joint Legislative Commission on Governmental Operations by February 1 of each year</p>	<p>S.L. 2004-124 § 17.7.</p>
<p><u>Health and Human Services, Department of</u></p> <ul style="list-style-type: none"> ✓ Adult Day Services Training and Reimbursement Methodology ✓ Long-Term Care Providers Caring for Residents with Mental Illnesses ✓ Medicaid Institutional Bias ✓ Mental Health, Developmental Disabilities, and Substance Abuse Services, Financing of ✓ Mental Health Services for Domestic Violence Victims ✓ Mentally Ill Residents of Long-Term Care Facilities, Issues Related to 	<p>Shall report to the North Carolina Study Commission on Aging by January 1, 2005</p> <p>Shall submit an interim report to the North Carolina Study Commission on Aging and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services by October 30, 2004 and submit its final report by October, 30, 2005</p> <p>Shall report to the North Carolina Study Commission on Aging by January 2005</p> <p>Shall report to the Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division by July 1, 2005</p> <p>Shall submit a preliminary report to the House Select Committee on Domestic Violence and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services by October 1, 2004; Shall submit a final report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services and the General Assembly by January 15, 2005</p> <p>Shall report to the North Carolina Study Commission on Aging by October 1, 2005</p>	<p>S.L. 2004-124 § 10.21.(a)</p> <p>S.L. 2004-144 § 4.</p> <p>S.L. 2004-124 § 10.13.</p> <p>S.L. 2004-161 Part XVII.</p> <p>S.L. 2004-186 § 6.1.</p> <p>S.L. 2004-124 § 10.2.</p>
<p><u>Health Care Oversight Committee, Joint Legislative</u></p> <ul style="list-style-type: none"> ✓ Cancer, Environmental Causes of ✓ Medical Errors ✓ Nursing Shortage ✓ Ovarian Cancer Risks and Prevention, Educating the Public on 	<p>May report to the 2005 General Assembly upon its convening</p> <p>May report to the 2005 General Assembly upon its convening</p> <p>May report to the 2005 General Assembly upon its convening</p> <p>May report to the 2005 General Assembly upon its convening</p>	<p>S.L. 2004-161 § 15.5.(3)</p> <p>S.L. 2004-161 § 15.5.(2)</p> <p>S.L. 2004-161 § 15.5.(1)</p> <p>S.L. 2004-161 § 15.5.(4)</p>

<p><u>Health Care Oversight Committee, Joint Legislative -</u></p> <ul style="list-style-type: none"> ✓ Pain Management and Palliative Care ✓ Pharmaceutical Drugs, Bulk Purchasing of ✓ Prescription Drugs, Internet Sale of ✓ Prescription Drugs, State Cost of ✓ Prevention Drug Costs, Reducing ✓ State Employee Dependents, Benefits for 	<p>May report to the 2005 General Assembly upon its convening</p> <p>May report to the 2005 General Assembly upon its convening</p> <p>May report to the 2005 General Assembly upon its convening</p> <p>May report to the 2005 General Assembly upon its convening</p> <p>May report to the 2005 General Assembly upon its convening</p> <p>May report to the 2005 General Assembly upon its convening</p> <p>May report to the 2005 General Assembly upon its convening</p>	<p>S.L. 2004-161 § 15.5.(8)</p> <p>S.L. 2004-161 § 15.5.(6)</p> <p>S.L. 2004-161 § 15.5.(7)</p> <p>S.L. 2004-161 § 15.4.</p> <p>S.L. 2004-161 § 15.5.(5)</p> <p>S.L. 2004-161 § 15.2.</p> <p>S.L. 2004-161 § 15.3.</p>
<p><u>Health Care Workforce Study Commission</u></p> <p style="text-align: center;">CREATED</p> <ul style="list-style-type: none"> ✓ Health Care Workforce Development 	<p>Shall submit an interim report to the 2005 Regular Session of the General Assembly; Shall submit its final report to the 2006 Regular Session of the 2005 General Assembly</p>	<p>S.L. 2004-161 Part XXXIV.</p>
<p><u>Health Services, Commission for</u></p> <ul style="list-style-type: none"> ✓ Peat-Based Wastewater Systems, Innovative 	<p>Shall report to the Senate and House of Representatives Appropriations Subcommittees on Natural and Economic Resources, Fiscal Research Division, and the Environmental Review Commission by January 15, 2005</p>	<p>S.L. 2004-161 Part VIII.</p>
<ul style="list-style-type: none"> ✓ Interim and Final Committee Report of Activities 	<p>May submit interim reports and shall submit a final report to the Joint Legislative Transportation Oversight Committee by January 31, 2005</p>	<p>S.L. 2004-161 § 20.1.</p>

<p><u>House Finance Agency, North Carolina</u></p> <ul style="list-style-type: none"> ✓ Home Protection Pilot Program, North Carolina ✓ Recommendations Report 	<p>Shall report to the General Assembly no later than May 1, 2005</p> <p>Shall report to the General Assembly by May 1, 2005</p>	<p>S.L. 2004-124 124 § 20A.1.(a)(6)</p> <p>S.L. 2004-124 124 § 20A.1.(c)</p>
<p><u>Humanities Council, North Carolina</u></p> <ul style="list-style-type: none"> ✓ Program Activities Report and Annual Audited Financial Statement 	<p>Shall report to the Joint Legislative Commission on Government Operations by January 15, 2005 and provide the Fiscal Research Division a copy within 30 days of issuance</p>	<p>S.L. 2004-124 § 27.1.</p>
<p style="text-align: center;">CREATED</p> <ul style="list-style-type: none"> ✓ Development and Establishment of Hurricane Evacuation Standards for the State 	<p>Shall report to the Governor and the Joint Legislative Transportation Oversight Committee by January 15, 2005</p>	<p>S.L. 2004-161 Part XXXII.</p>
<p><u>Indigent Defense Services, Office of</u></p> <ul style="list-style-type: none"> ✓ Expansion Funds/Juvenile Defender Report 	<p>Shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety</p>	<p>S.L. 2004-124 § 14.3.(a)</p>
<p><u>Committee on</u></p> <ul style="list-style-type: none"> ✓ Annual Committee Report of Activities 	<p>Shall report to the General Assembly on or before the convening of the regular session of the General Assembly each year and submit interim reports as it deems appropriate</p>	<p>S.L. 2004-129 § 7A.(c)</p>
<p><u>Information Technology Services, Office of</u></p> <ul style="list-style-type: none"> ✓ State Agency Legacy Systems, Analysis of 	<p>Shall complete its assessment by January 31, 2005, and report to the 2005 General Assembly; Shall submit an updated report on modernization needs, costs, and time lines to the General Assembly on the opening day of each biennial session</p>	<p>S.L. 2004-129 § 2.2.</p>

<p><u>Insurance, Department of</u></p> <ul style="list-style-type: none"> ✓ Professional Employer Organization Act, North Carolina 	<p>Shall report to the 2005 General Assembly</p>	<p>S.L. 2004-162 § 2.</p>
<p style="text-align: center;">CREATED</p> <ul style="list-style-type: none"> ✓ Activities Report 	<p>Shall issue a report of its activities each year</p>	<p>S.L. 2004-114 § 1.(d)</p>
<p><u>Judicial Department</u></p> <ul style="list-style-type: none"> ✓ Basis for Equipment to Be Purchased or Repaired Using Any Balances Remaining in the Collection of Worthless Checks Fund and Creation of Positions and Providing Equipment for District Attorney's Offices That Are Establishing or Expanding Worthless Check Programs ✓ Offender Fees, Collection of (In cooperation with the Department of Correction) ✓ SBI Lab Analysts Testimony by Videoconference, Feasibility of a Statewide Program for Providing (In cooperation with the Department of Justice) 	<p>Shall report to Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by March 1, 2005</p> <p>Shall report to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by April 1, 2004 and March 1, 2005</p> <p>Shall report to the Chairs of the Senate and House of Representatives Appropriations Committees by January 1, 2005</p>	<p>S.L. 2004-124 § 13.2.</p> <p>S.L. 2004-124 § 17.12.</p> <p>S.L. 2004-124 § 14.5.(d)</p>
<p><u>Justice, Department of</u></p> <ul style="list-style-type: none"> ✓ SBI Lab Analysts Testimony by Videoconference, Feasibility of a Statewide Program for Providing (In cooperation with the Judicial Department) ✓ Rape Kits/Admissibility of Forensic Evidence, Reduce Backlog 	<p>Shall report to the Chairs of the Senate and House of Representatives Appropriations Committees by January 1, 2005</p> <p>Shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by May 1, 2005</p>	<p>S.L. 2004-124 § 14.5.(d)</p> <p>S.L. 2004-124 § 15.2.(b)</p>

<p><u>Juvenile Justice and Delinquency Prevention, Department of</u></p> <ul style="list-style-type: none"> ✓ Allocation of State Funds May Be Used As Federal Matching Funds (In cooperation with the Office of State Budget and Management and the Governor's Crime Commission) ✓ Education of Juveniles Committed to the Department of Juvenile Justice and Delinquency Prevention (Including the State Board of Education and the Community Colleges Systems Office) ✓ Juveniles, Electronic Monitoring of ✓ Youth Development Centers, Planning for New ✓ Youth Development Center Staffing/Therapeutic Staff Model 	<p>Shall report to the Senate and House of Representatives Appropriations Committees and the Joint Legislative Commission on Governmental Operations</p> <p>Shall report to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by March 1, 2005</p> <p>Shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by March 1, 2005</p> <p>Shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, the Chairs of the Senate and House of Representatives Appropriations Committees, and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by November 1, 2004</p> <p>Shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, the Chairs of the Senate and House of Representatives Appropriations Committees, and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by December 1, 2004</p>	<p>S.L. 2004-124 § 16.1.</p> <p>S.L. 2004-124 § 16.8.</p> <p>S.L. 2004-124 § 16.6.</p> <p>S.L. 2004-124 § 16.3.(a)</p> <p>S.L. 2004-124 § 16.4.(c)</p>
<hr/> <p>of</p> <ul style="list-style-type: none"> ✓ Boards and Commissions, Size and Scope of ✓ Consumer Issues <ul style="list-style-type: none"> ▪ Debt Collection Practices 	<p>Shall report to the 2005 General Assembly prior to the convening of the 2006 Regular Session</p> <p>May report to the 2005 General Assembly upon its convening</p> <p>May report to the 2005 General Assembly upon its convening</p>	<p>S.L. 2004-171 § 17.</p> <p>S.L. 2004-161 § 2.1.(a)</p> <p>S.L. 2004-161 § 2.1.(3)</p>

<u>Legislative Research Commission – CONTINUED</u>		
<ul style="list-style-type: none"> ✓ Criminal Law Issues <ul style="list-style-type: none"> ▪ Adjust Penalties for B1 to E Offenses ▪ Arson Offenses ▪ Drug Trafficking Laws ▪ Habitual Felons Law, Amend ▪ Judicial Approval for Pleas in Certain Cases ▪ Mechanics Lien Storage Charges of Vehicles Seized Under the DWI Forfeiture Laws, Giving Notice of Rights to Contest ▪ Restructure Prior Criminal Record Points ▪ Sentence Lengths ▪ Sentencing Guidelines, Review of ▪ Statutory Rape, Reclassify ▪ Street Gang Terrorism Prevention ▪ Youthful Offenders 	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 2.1.(5)
<ul style="list-style-type: none"> ✓ Emergency Communications Planning, Comprehensive Statewide 	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 2.1.(i)
<ul style="list-style-type: none"> ✓ Equity-Building Homes 	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 2.1.(k)
<ul style="list-style-type: none"> ✓ Government Regulatory Issues <ul style="list-style-type: none"> ▪ Alcoholic Beverage Control ▪ Fire Safety in Local Confinement Facilities ▪ Landscape/Irrigation Contractors ▪ Lobbying, Legislative and Executive Branch ▪ Light Pollution ▪ Massage Therapy, Regulations Regarding ▪ State Fire Protection ▪ Urban Cores 	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 2.1.(1)
<ul style="list-style-type: none"> ✓ Health and Human Services Issues <ul style="list-style-type: none"> ▪ Dix Hospital Property ▪ Residential Care Facilities, Care and Safety of Residents of ▪ Patient Safety in the Provision of Health Care, Promoting ▪ Emergency Medical Services in Rural Counties and Their Funding Mechanism, Provision of 	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 2.1.(8)

<u>Legislative Research Commission – CONTINUED</u>		
✓ Hispanics , Availability and Delivery of Government Services to	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 2.1.(g)
✓ Insurance Issues	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 2.1.(4)
<ul style="list-style-type: none"> ▪ Health Insurance Mandates ▪ High-Risk Health Insurance Pools ▪ Workers' Compensation/Agricultural Employment ▪ Workers' Compensation/Trucking Companies ▪ Workers' Compensation Premiums, Reduce 		
✓ Junk Vehicles , Abandoned	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 2.1.(n)
✓ Labor, Employment, and Economic Development Issues	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 2.1.(7)
<ul style="list-style-type: none"> ▪ Film Industry Incentives ▪ Hiring Practices, Credit for ▪ Labor Audit Systems/Incentives ▪ Manufacturing Businesses, Loss of ▪ Worker Safety, Non-English Speaking 		
✓ Medicaid Funding: Feasibility of Eliminating County Financial Participation	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 2.1.(e)
✓ Naturopathy	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 2.1.(j)
✓ Occupational Licensing Boards , Funding/Budgeting of	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 2.1.(l)
✓ Other Issues	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 2.1.(9)
<ul style="list-style-type: none"> ▪ Agribusiness and Agriculture Teaching Fellows ▪ Attorney Solicitation Regulation ▪ Casino Nights for Nonprofit Organizations ▪ Charitable Bingo/Beach Bingo ▪ Defined Retirement Age, Meeting IRS Request for a ▪ Eugenic Sterilization, Compensation for ▪ Homeowners Associations, Authority and Responsibility ▪ Immigration ▪ Soil and Water Conservation Issues ▪ Timeshares, Regulation of Sellers of ▪ Trafficking of Persons 		

<u>Legislative Research Commission – CONTINUED</u>		
✓ Pawnbrokers	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 2.1.(d)
✓ School Calendar/Later First Instructional Workday/Teacher Workdays	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 2.1.(p)
✓ Small Businesses , Health Insurance for	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 2.1.(b)
✓ State and Local Relationships	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 2.1.(m)
✓ State Energy , Office of; Functions, Duties and Responsibilities	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 2.1.(h)
✓ State 401(k) and 457 Plans , Single Administrator for	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 2.1.(o)
✓ State/Local Government Employee Issues	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 2.1.(6)
<ul style="list-style-type: none"> ▪ Job Sharing ▪ Local Governments, Optional Graduated 25-Year Retirement Plan for ▪ Pay Equity ▪ Postretirement Earning ▪ Retirees, Reemployment of ▪ State Government Employment 		
✓ Transportation Issues	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 2.1.(2)
<ul style="list-style-type: none"> ▪ Buses, Purchasing Alternative-Fuel or Low Emission School ▪ Cell Phone Use While Driving, Handheld ▪ Commercial Drivers License Requirements and Emergency Situations ▪ State Ports ▪ Towing Laws, Salvage Laws, and Lienholder Notification When Vehicles are Abandoned or Seized 		
✓ Uninsurable Individuals , Health Insurance for	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 2.1.(c)
✓ Wastewater Systems Study , Innovative Peat-Based	Shall report to the Senate and House of Representatives Appropriations Subcommittees on Natural and Economic Resources, Fiscal Research Division, and the Environmental Review Commission by January 15, 2005	S.L. 2004-161 § 8.1.

<p><u>Legislative Services Office</u></p> <ul style="list-style-type: none"> ✓ Government Efficiency and Savings in State Spending, Various Ways to Promote (In cooperation with the University of North Carolina Office of the President, the Administrative Office of the Courts, the Department of Administration, the Community College System, and the Department of Public Instruction) 	<p>Department of Administration shall report to the Legislative Research Commission by January 15, 2005</p>	<p>S.L. 2004-161 Part XVI.</p>
<p><u>Local School Construction Financing, Study Commission</u></p> <p style="text-align: center;">CREATED</p>	<p>Shall submit an interim report to the 2005 General Assembly by January 31, 2005, and submit a final report to the 2006 Regular Session of the 2005 General Assembly by March 31, 2006</p>	<p>S.L. 2004-161 Part XI.</p>
<p><u>Marine Corps Museum of the Carolinas</u></p> <ul style="list-style-type: none"> ✓ Quarterly Expenditures Report 	<p>Shall report quarterly to the Office of State Budget and Management and to the Fiscal Research Division</p>	<p>S.L. 2004-124 § 27.3.</p>
<p><u>Marine Fisheries Commission</u></p> <ul style="list-style-type: none"> ✓ Shellfish Cultivation Leases, Corporate Ownership of ✓ Shellfish Cultivation Leases Terminated 	<p>Shall report to the Joint Legislative Commission on Seafood and Aquaculture by December 1, 2004</p> <p>Shall report to the Joint Legislative Commission on Seafood and Aquaculture by December 1, 2004</p>	<p>S.L. 2004-150 § 7.</p> <p>S.L. 2004-150 § 6.</p>
<ul style="list-style-type: none"> ✓ Findings and Recommendations 	<p>Shall submit its final report to the 2005 General Assembly by February 1, 2005</p>	<p>S.L. 2004-161 Part LII.</p>

<p><u>Mental Health, Developmental Disabilities and Substance Abuse Services, Joint Legislative Oversight Committee on</u></p> <ul style="list-style-type: none"> ✓ Children With Multiple System Service Needs, Integration of Care ✓ Mental Health in Prisons ✓ Substance Abuse Assessment Agencies 	<p>May report to the 2005 General Assembly upon its convening</p> <p>May report to the 2005 General Assembly upon its convening</p> <p>Shall report to the 2005 General Assembly</p>	<p>S.L. 2004-161 § 24.2.</p> <p>S.L. 2004-161 § 24.3.</p> <p>S.L. 2004-197 § 4.</p>
<p><u>Military Bases and Training Areas, Study Commission on Residential and Urban Development Encroachment on</u></p> <p style="text-align: center;">CREATED</p> <ul style="list-style-type: none"> ✓ Findings and Recommendations 	<p>Shall submit a final report to the 2005 General Assembly upon its convening</p>	<p>S.L. 2004-161 Part XIV.</p>
<p><u>North Carolina Central University</u></p> <ul style="list-style-type: none"> ✓ Minority Youth in Youth Development Centers, Overrepresentation of 	<p>If study is undertaken, may report to the Department of Juvenile Justice and Delinquency Prevention and the General Assembly by January 15, 2005</p>	<p>S.L. 2004-161 Part XLVIII.</p>
<p><u>North Carolina State Education Assistance Authority</u></p> <ul style="list-style-type: none"> ✓ Student Debt Program, Feasibility of Forgiveness of (In cooperation with the Board of Governors of The University of North Carolina) 	<p>Shall report to the Joint Legislative Education Oversight Committee by January 15, 2005</p>	<p>S.L. 2004-161 Part XXVII.</p>
<p><u>North Carolina State University</u></p> <ul style="list-style-type: none"> ✓ DACS Research Stations; Study Operations, Funding, and Efficiencies for (In cooperation with Department of Agriculture and Consumer Services and the Agricultural Research Service) 	<p>Shall report to the Senate and House of Representatives Appropriations Subcommittees on Natural and Economic Resources and the Fiscal Research Division by December 15, 2004</p>	<p>S.L. 2004-124 § 11.2.(a)</p>

<p><u>Pamlico Community College and Pamlico County Schools</u></p> <ul style="list-style-type: none"> ✓ Pamlico Technical High School Task Force (In cooperation with the State Board of Community Colleges and the State Board of Education) 	<p>If established, shall report to the Joint Legislative Education Oversight Committee by January 15, 2005</p>	<p>S.L. 2004-161 § 43.2.</p>
<p><u>Parks and Recreation, Division of</u></p> <ul style="list-style-type: none"> ✓ State Recreation Area at Blewett Falls Lake 	<p>Shall report to the Environmental Review Commission by December 1, 2005</p>	<p>S.L. 2004-24 § 2.</p>
<p><u>Post-Release Supervision and Parole Commission</u></p> <ul style="list-style-type: none"> ✓ Inmates Eligible for Parole ✓ Restructuring the Organization, Operation of the Commission, and Implementing Staff Reductions ✓ Restructure the Organization, Operation of the Commission, and Implementing Staff Reductions, Implementation Report to 	<p>Shall report to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by January 15 and July 15 of each year</p> <p>Shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by October 1, 2005</p> <p>Shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by January 1, 2005</p>	<p>S.L. 2004-124 § 17.9.</p> <p>S.L. 2004-124 § 17.10.</p> <p>S.L. 2004-124 § 17.10.</p>
<p><u>Public Instruction, Department of</u></p> <ul style="list-style-type: none"> ✓ Anti-Violence Education in Schools (In Collaboration With State Board of Education) ✓ Government Efficiency and Savings in State Spending, Various Ways to Promote (In cooperation with the University of North Carolina Office of the President, the Administrative Office of the Courts, the Legislative Services Office, Department of Administration, and the Community College System Office of the President) 	<p>Shall make a preliminary report to the House Select Committee on Domestic Violence and the Joint Legislative Education Oversight Committee by November 15, 2004; Final report shall be made to the Joint Legislative Education Oversight Committee and the General Assembly by January 15, 2004</p> <p>Department of Administration shall report to the Legislative Research Commission by January 15, 2005</p>	<p>S.L. 2004-186 § 3.1.</p> <p>S.L. 2004-161 Part XVI.</p>

<p><u>Public Instruction, Department of - CONTINUED</u></p> <ul style="list-style-type: none"> ✓ Training for School Personnel Dealing with Students Who Are Victims of Physical Violence and Mental or Verbal Abuse (In Collaboration With State Board of Education) 	<p>Shall make a preliminary report to the House Select Committee on Domestic Violence and the Joint Legislative Education Oversight Committee by November 15, 2004; Final report shall report to the Joint Legislative Education Oversight Committee and the General Assembly by January 15, 2004</p>	<p>S.L. 2004-186 § 3.2.</p>
<p><u>Research, Demonstrations, and Rural Health Development, (Department of DHHS)</u></p> <ul style="list-style-type: none"> ✓ Community Health Grant Funds 	<p>Shall report to the 2005 General Assembly upon its convening</p>	<p>S.L. 2004-124 § 10.3.(d)</p>
<p><u>Respiratory Care Board</u></p> <ul style="list-style-type: none"> ✓ Annual Report of Activities 	<p>Shall report to the North Carolina Medical Board, the North Carolina Hospital Association, the North Carolina Society of Respiratory Care, the Governor, and the General Assembly</p>	<p>S.L. 2004-89 § 1.(10)</p>
<p><u>Revenue, Department of</u></p> <ul style="list-style-type: none"> ✓ Debt Fee for Taxpayer Locator Services and Collection ✓ Fuel Tax Action Plan ✓ Modify Reporting to the Joint Legislative Commission on Governmental Operations ✓ Tax Credit, Research and Development 	<p>Shall report to the 2005 General Assembly</p> <p>Shall report to the Joint Legislative Transportation Oversight Committee and the Joint Legislative Commission on Governmental Operations. Shall submit initial report August 1, 2004 and subsequent reports submitted every three months starting November 1, 2004, until the end of the plan</p> <p>Shall report semiannually to the Joint Legislative Commission on Governmental Operations and to the Revenue Laws Study Committee</p> <p>Shall report to the Revenue Laws Study Committee and the Fiscal Research Division by May 1 of each year</p>	<p>S.L. 2004-124 § 23.2.(b)</p> <p>S.L. 2004-124 § 30.9.</p> <p>S.L. 2004-124 § 23.3.(c)</p> <p>S.L. 2004-124 § 32D.2.</p>

Revenue Laws Study Committee		
✓ Bank Expense Deduction, Conform	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 14.4.
✓ Business Taxation	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 14.13.
✓ Manufacturing, Income Tax Derived From	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 14.6.
✓	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 14.16.
✓ Preservation of Open Spaces, Tax Incentives to Promote	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 14.9.
✓ Private Activity Bonds	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 14.3.
✓ Real Property Donations, Delay the Imposition of Partnerships of the Dollar Amount Limitation on the Credit Allowed For	Shall report to the 2005 General Assembly by February 1, 2005	S.L. 2004-134 § 2.(a)(b)
✓ Sales and Use Tax Exemption	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 14.10.
✓ Small Business Health Insurance Credit	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 14.15.
✓ Subdivisions, Valuation of Lots in	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 14.2.
✓ Subsidiary Dividend Taxes	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 14.5.
✓ Tax Burden, Comparative	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 14.8.
✓ Tax Foreclosures	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 14.7.
✓ Tax Preferences	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 14.11.
✓ Third One-Half Cent Local Government Sales and Use Tax: Transitional Government Hold Harmless	Shall report amount distributed under this section to the committee not later than January 31 of each year through 2005	S.L. 2004-124 § 6.3.
✓ Travel and Tourism Capital Investment	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 14.14.
✓ Utility Equipment Sales, Reduce	May report to the 2005 General Assembly upon its convening	S.L. 2004-161 § 14.12.

<p><u>Rural Economic Development Center</u></p> <ul style="list-style-type: none"> ✓ e-NC Authority 	<p>Shall report by January 31, 2005 to the 2005 General Assembly, and quarterly thereafter, to the Joint Legislative Commission on Governmental Operations</p>	<p>S.L. 2004-124 § 13.8.</p>
<p><u>Saltwater Fishing Fund, Board of Trustees of the North Carolina</u></p> <ul style="list-style-type: none"> ✓ Fishing License for Recreational Fishing Implementation Plan, Unified Recreational 	<p>Shall report to the Joint Legislative Commission on Seafood and Aquaculture by April 15, 2005</p>	<p>S.L. 2004-187 § 12.(c)(d)</p>
<p><u>Secretary of State, Department of</u></p> <ul style="list-style-type: none"> ✓ Notary Public Laws, Amending 	<p>Secretary of State shall report to the 2005 General Assembly upon its convening</p>	<p>S.L. 2004-161 § 6.2.</p>
<p><u>Seafood and Aquaculture, Joint Legislative Study Commission</u></p> <ul style="list-style-type: none"> ✓ Unlawful to Take Shrimp from Trawl Nets in Certain Inland Waters 	<p>Shall report to the 2005 General Assembly upon its convening</p>	<p>S.L. 2004-161 § 25.1.</p>
<p><u>Sentencing and Policy Advisory Commission, North Carolina</u></p> <ul style="list-style-type: none"> ✓ Juvenile Recidivism Biennial Report ✓ North Carolina Structured Sentencing In Light of the United Supreme Court Decision, Blakely v. Washington ✓ Post-Release Supervision Sentencing System and Alternatives for Transferring to Another Division 	<p>Shall report to the 2005 General Assembly by March 5, 2005</p> <p>Shall report to the 2005 General Assembly upon its convening</p> <p>Shall report written recommendations to the Chairs of the Senate and House of Representatives Appropriations Committees, the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations by March 1, 2005</p>	<p>S.L. 2004-124 § 16.5.</p> <p>S.L. 2004-161 § 44.1.</p> <p>S.L. 2004-124 § 17.10.</p>

<p><u>Smart Start Funding Commission</u></p> <p>CREATED</p> <p>✓ North Carolina Partnership for Children, Inc., Review of</p>	<p>Shall submit a final report to the 2005 General Assembly</p>	<p>S.L. 2004-161 Part XXXV.</p>
<p><u>State Bar, North Carolina</u></p> <p>✓ CLE Credit for Pro Bono Legal Representation (In cooperation with the North Carolina Bar Association)</p>	<p>Shall submit a preliminary report to House Select Committee on Domestic Violence by October 1, 2004, and the final report to the General Assembly by January 15, 2005</p>	<p>S.L. 2004-186 § 7.1.</p>
<p><u>on the Organization, Powers, Duties, Functions, Funding, and Potential Consolidation of</u></p> <p>CREATED</p>	<p>Shall report to the 2005 General Assembly upon its convening</p>	<p>S.L. 2004-161 Part L.</p>
<p><u>State Budget and Management, Office of</u></p> <p>✓ Advertising, State-Funded (In cooperation with the Department of Administration)</p> <p>✓ Allocation of State Funds May Be Used As Federal Matching Funds (Including the Governor's Crime Commission and the Department of Juvenile Justice and Delinquency Prevention)</p> <p>✓ DCI-Pin System, Cost of the</p> <p>✓ Non-State Entities Receiving State Funds</p>	<p>Shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on General Government by December 1, 2004</p> <p>Shall report to the Senate and House of Representatives Appropriations Committees and the Joint Legislative Commission on Governmental Operations</p> <p>Shall report to the Chairs of the Senate and House of Representatives Appropriations Committees, the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Fiscal Research Division by March 1, 2005</p> <p>Shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division by May 1, 2007, and by May 1 of every succeeding year</p>	<p>S.L. 2004-124 § 19.3.(a)(b)</p> <p>S.L. 2004-124 § 15.4.</p> <p>S.L. 2004-124 § 15.1.</p> <p>S.L. 2004-196 § 2.(i)</p>

<p><u>State Controller, Office of the</u></p> <ul style="list-style-type: none"> ✓ Special Reserve Account Report 	<p>Shall report quarterly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division</p>	<p>S.L. 2004-124 § 28.1.(e)</p>
<p style="text-align: center;">CREATED</p> <ul style="list-style-type: none"> ✓ Findings and Recommendations 	<p>May submit an interim report to the 2005 General Assembly upon its convening and shall submit its final report to the 2006 Regular Session of the 2005 General Assembly upon its convening</p>	<p>S.L. 2004-161 Part XLV.</p>
<p><u>State Personnel Commission</u></p> <ul style="list-style-type: none"> ✓ Leave Policy, Proposed Unified (Including the Board of Governors of The University of North Carolina) 	<p>Shall report to the Senate and House of Representatives Appropriations Committees by February 15, 2005</p>	<p>S.L. 2004-124 § 31.16C.(a)</p>
<p><u>State Personnel, Office of</u></p> <ul style="list-style-type: none"> ✓ Sworn Law Enforcement Officers Employed in the Division of Parks and Recreation of the Department of Environment and Natural Resources, Reclassification of All 	<p>Shall report to the General Assembly and the Fiscal Research Division by January 3, 2005</p>	<p>S.L. 2004-161 § 42.1.</p>
<p><u>State Personnel Statutes, Legislative Study Commission on</u></p> <ul style="list-style-type: none"> ✓ State Personnel Act, Issues Related to the 	<p>May submit and interim report to the 2005 General Assembly and shall submit a final report to the 2006 Regular Session of the 2005 General Assembly</p>	<p>S.L. 2004-161 § 5.1.</p>
<p><u>State Treasurer, Department of</u></p> <ul style="list-style-type: none"> ✓ Chief Investment Officer, Incentive Bonus Pay to ✓ Postretirement Reemployment Study Conducted by Retirement Systems Division 	<p>Shall report to the Joint Legislative Commission on Governmental Operations by October 1 of each year</p> <p>Shall report to General Assembly by February 1, 2005</p>	<p>S.L. 2004-124 § 29.1</p> <p>S.L. 2004-124 § 31.18A.(e)</p>

<p><u>State Treasurer, Department of – CONTINUED</u></p> <ul style="list-style-type: none"> ✓ State Financing Study, Innovative 	<p>Shall report to the Joint Legislative Commission on Governmental Operations by February 1, 2005</p>	<p>S.L. 2004-179 § 5.1</p>
<p><u>Summit House</u></p> <ul style="list-style-type: none"> ✓ Nonprofit Program Report 	<p>Shall report to the Joint Legislative Commission on Governmental Operations by February 1 of each year</p>	<p>S.L. 2004-124 § 17.7.</p>
<p><u>Transportation, Department of</u></p> <ul style="list-style-type: none"> ✓ Construction Project Delivery, Study Implementation ✓ Right-of-Way Data Report, Failure to Yield the ✓ Small Construction and Contingency Funds Projects 	<p>Shall report quarterly to the Joint Legislative Transportation Oversight Committee, beginning on October 15, 2004, and continuing until October 15, 2006</p> <p>Shall report annually to the Joint Legislative Transportation Oversight Committee beginning January 1, 2006</p> <p>Shall report to the Members of the General Assembly on projects funded pursuant to this section in each member's district prior to the Board of Transportation's action. DOT shall report a quarterly comprehensive report to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division</p>	<p>S.L. 2004-124 § 30.14.</p> <p>S.L. 2004-172 § 5.</p> <p>S.L. 2004-124 § 30.1.(a)</p>
<p><u>Transportation Oversight Committee, Joint Legislative</u></p> <ul style="list-style-type: none"> ✓ All-Terrain Vehicles, Registration of ✓ Alternative Fuels ✓ Customer Service at DMV License Offices, Registration Offices, and Services Provided by Commission Contract Agents ✓ Drug and Alcohol Tests, Transportation Related ✓ Dredge Study, State ✓ I-95 Tolls 	<p>May report to the 2005 General Assembly upon its convening</p> <p>May report to the 2005 General Assembly upon its convening</p> <p>Shall report to the General Assembly on the first day of the 2005 regular session</p> <p>No reporting dates specified</p> <p>No reporting dates specified; Committee may hire an outside consultant</p> <p>May report to the 2005 General Assembly upon its convening</p>	<p>S.L. 2004-161 § 17.5.</p> <p>S.L. 2004-161 § 17.3.</p> <p>S.L. 2004-77 § 3.</p> <p>S.L. 2004-124 § 30.13.</p> <p>S.L. 2004-124 § 30.12.</p> <p>S.L. 2004-161 § 17.2.</p>

<p><u>Transportation Oversight Committee, Joint Legislative – CONTINUED</u></p> <ul style="list-style-type: none"> ✓ Leaking Petroleum Underground Storage Tank Cleanup (In cooperation with the Environmental Review Commission) ✓ Motor Vehicle Total Loss Claims, Clarify Disclosure of ✓ Transportation Issues, Comprehensive 	<p>Shall report to the 2005 General Assembly by January 31, 2005</p> <p>May report to the 2005 General Assembly upon its convening</p> <p>May report to the 2005 General Assembly upon its convening</p>	<p>S.L. 2004-124 § 30.10.(f)(g)</p> <p>S.L. 2004-161 § 17.6.</p> <p>S.L. 2004-161 § 17.4.</p>
<p><u>Twenty-First Century Revenue System, Legislative Study Commission on</u></p> <p style="text-align: center;">CREATED</p> <ul style="list-style-type: none"> ✓ Findings and Recommendations 	<p>May submit and interim report to the 2005 General Assembly by its convening and shall submit a final report to the 2006 Regular Session of the 2005 General Assembly</p>	<p>S.L. 2004-161 Part XLVI.</p>
<p><u>University of North Carolina Office of the President</u></p> <ul style="list-style-type: none"> ✓ Government Efficiency and Savings in State Spending, Various Ways to Promote (In cooperation with the Administrative Office of the Courts, the Department of Administration, the Legislative Services Office, Community College System Office of the President, and the Department of Public Instruction) 	<p>Department of Administration shall report to the Legislative Research Commission by January 15, 2005</p>	<p>S.L. 2004-161 Part XVI.</p>
<p><u>University of North Carolina Board of Governors</u></p> <ul style="list-style-type: none"> ✓ Higher Education Strategy, University System and Community College System Joint Study of (In cooperation with the State Board of Community Colleges) ✓ Leave Policy, Proposed Unified (In cooperation with the State Personnel Commission) ✓ Student Debt Program, Feasibility of Forgiveness of (In cooperation with North Carolina State Education Assistance Authority) 	<p>Shall report the preliminary results to a Higher Education Subcommittee of the Joint Legislative Education Oversight Committee by April 15, 2005 and shall file a final report to the General Assembly and the Joint Legislative Education Oversight Committee no later than December 31, 2005</p> <p>Shall report to the Senate and House of Representatives Appropriations Committees by February 15, 2005</p> <p>Shall report to the Joint Legislative Education Oversight Committee by January 15, 2005</p>	<p>S.L. 2004-179 § 6.</p> <p>S.L. 2004-124 § 31.16C.(a)</p> <p>S.L. 2004-124 Part XXVII.</p>

<p><u>University of North Carolina Board of Governors Study Commission</u></p> <p style="text-align: center;">CREATED</p> <p>✓ Findings and Recommendations</p>	<p>Shall report to the 2005 Regular Session of the General Assembly</p>	<p>S.L. 2004-161 Part XXII.</p>
<p><u>Wilmington Race Riot Commission</u></p> <p>✓ Findings and Recommendations</p>	<p>May submit an interim report and shall submit a final report to the General Assembly by December 31, 2005</p>	<p>S.L. 2004-161 § 41.1.</p>
<p><u>Utility Review Committee, Joint Legislative</u></p> <p>✓ Energy, Renewable and Alternative</p>	<p>May report to the 2005 General Assembly</p>	<p>S.L. 2004-161 Part IX.</p>
<p><u>Women at Risk</u></p> <p>✓ Nonprofit Program Report</p>	<p>Shall report to the Joint Legislative Commission on Governmental Operations by February 1 of each year</p>	<p>S.L. 2004-124 § 17.7.</p>
<p style="text-align: center;">CREATED</p> <p>✓ Findings and Recommendations</p>	<p>Shall report to the 2005 General Assembly upon its convening</p>	<p>S.L. 2004-161 Part LI.</p>
<p><u>Yadkin/Pee Dee River Basin Advisory Commission</u></p> <p>✓ Annual Report of Activities With Recommendations</p>	<p>Shall report to the Governor of North Carolina, the Environmental Review Commission of the General Assembly of North Carolina, the Governor of South Carolina by October 1, 2005 and by October 1 of each year thereafter</p>	<p>S.L. 2004-83 § 2.</p>

INDEX

House Bills

HB 2 , 2003 Second Extra Session	92	HB 1112	2, 83
HB 3 , 2003 Extra Session.....	28	HB 1112 , Sec. 7	90
HB 26	49, 185	HB 1119	30
HB 173	140	HB 1213	24, 134, 194
HB 257	49, 193	HB 1264 , Part 6.....	71
HB 281 , Sec. 14	20	HB 1264 , Parts 2, 3, 4, and 8.....	86
HB 281 , Sec. 19	62	HB 1264 , Parts 5 and 7	99
HB 281 , Sec. 21	54	HB 1303	93
HB 281 , Sec. 24	4	HB 1345	51, 189
HB 281 , Sec. 25	5	HB 1352	22, 94, 133
HB 281 , Sec. 29	5	HB 1354	8
HB 281 , Sec. 31	147	HB 1354 , Part III	72
HB 281 , Sec. 39	124	HB 1354 , Part VI	116
HB 281 , Sec. 41	111	HB 1354 , Part VII	145
HB 281 , Sec. 42	14, 21	HB 1354 , Part XVIII	124
HB 281 , Sec. 45	62	HB 1354 , Parts II, IV, XII, and XX.....	44
HB 281 , Sec. 46	66	HB 1354 , Parts VIII-XI and XIII-XV	54
HB 281 , Sec. 47	67	HB 1354 , Parts XVI, XVII, and XIX	19
HB 281 , Sec. 49	164	HB 1356	111, 115
HB 281 , Sec. 52	111, 112, 158	HB 1366	34, 103
HB 281 , Sec. 54	45	HB 1373	49, 133, 188
HB 281 , Sec. 58	32	HB 1411	73
HB 281 , Sec. 59	32	HB 1414	94, 159, 160
HB 281 , Sec. 60	32	HB 1414 , Sec. 10.1	6, 104, 156, 162
HB 281 , Sec. 66	176	HB 1414 , Sec. 10.11	106
HB 281 , Sec. 70	188	HB 1414 , Sec. 10.12	157
HB 281 , Sec. 74(b).....	171	HB 1414 , Sec. 10.13	107, 160
HB 281 , Sec. 80	138, 143	HB 1414 , Sec. 10.19A	6
HB 354	125, 151	HB 1414 , Sec. 10.19B	6
HB 356 , Sec. 3.....	164, 180	HB 1414 , Sec. 10.19D	107, 157
HB 356 , Secs. 1 and 2	142, 180	HB 1414 , Sec. 10.2	159
HB 669	110	HB 1414 , Sec. 10.21	160
HB 737	29	HB 1414 , Sec. 10.21A	158
HB 817	53	HB 1414 , Sec. 10.22A	107
HB 831 , Sec. 5.....	172	HB 1414 , Sec. 10.26	108
HB 831 , Secs. 12(c) and 12(d)	87	HB 1414 , Sec. 10.26A	169
HB 831 , Secs. 1-4 and 6-13	76	HB 1414 , Sec. 10.27	34
HB 859	143	HB 1414 , Sec. 10.28A	108
HB 918	16	HB 1414 , Sec. 10.28B	109, 134
HB 951	20	HB 1414 , Sec. 10.29	6
HB 964	170	HB 1414 , Sec. 10.2B	156
HB 965	53, 186	HB 1414 , Sec. 10.2C	162, 179
HB 1046	55, 119, 186	HB 1414 , Sec. 10.2D	125
HB 1083	74, 147	HB 1414 , Sec. 10.2E	104, 140
HB 1107	53, 118	HB 1414 , Sec. 10.2F	104

HB 1414 , Sec. 10.3	105	HB 1414 , Sec. 17.6	40
HB 1414 , Sec. 10.32.....	109, 134	HB 1414 , Sec. 17.6A.....	40, 49, 126
HB 1414 , Sec. 10.34.....	110	HB 1414 , Sec. 17.6B.....	40, 169
HB 1414 , Sec. 10.35.....	6	HB 1414 , Sec. 17.7.....	41
HB 1414 , Sec. 10.36.....	7	HB 1414 , Sec. 17.8.....	41
HB 1414 , Sec. 10.37.....	7, 165	HB 1414 , Sec. 17.9.....	41
HB 1414 , Sec. 10.38.....	7	HB 1414 , Sec. 18.1.....	42
HB 1414 , Sec. 10.39.....	7	HB 1414 , Sec. 18.2.....	165
HB 1414 , Sec. 10.4	105	HB 1414 , Sec. 18.3.....	189
HB 1414 , Sec. 10.9	156	HB 1414 , Sec. 18.4.....	43
HB 1414 , Sec. 11.1	1	HB 1414 , Sec. 19.10	171
HB 1414 , Sec. 11.2	3	HB 1414 , Sec. 19.2.....	137
HB 1414 , Sec. 12.11.....	79	HB 1414 , Sec. 19.3.....	177
HB 1414 , Sec. 12.12.....	85	HB 1414 , Sec. 19.6.....	137, 177
HB 1414 , Sec. 12.14.....	85	HB 1414 , Sec. 19.8.....	169
HB 1414 , Sec. 12.16.....	76, 78	HB 1414 , Sec. 20A.1.....	23, 26, 163
HB 1414 , Sec. 12.3	79, 170	HB 1414 , Sec. 21.2.....	117, 171
HB 1414 , Sec. 12.4	1, 162	HB 1414 , Sec. 21.3.....	43, 140
HB 1414 , Sec. 12.5	2, 165	HB 1414 , Sec. 22.1.....	180
HB 1414 , Sec. 12.6	2	HB 1414 , Sec. 22A.1.....	163
HB 1414 , Sec. 12.7B	75	HB 1414 , Sec. 23.2.....	97
HB 1414 , Sec. 12.7C	84	HB 1414 , Sec. 23.3.....	97
HB 1414 , Sec. 12.9	85	HB 1414 , Sec. 23.4.....	97
HB 1414 , Sec. 13.3	177	HB 1414 , Sec. 23.5.....	101
HB 1414 , Sec. 13.6	22, 27, 65, 171	HB 1414 , Sec. 27.3.....	137, 170
HB 1414 , Sec. 13.7A	121, 162	HB 1414 , Sec. 29.1.....	163
HB 1414 , Sec. 13.7B(a)-(d) and (g).....	122	HB 1414 , Sec. 30.10	79
HB 1414 , Sec. 13.8	179	HB 1414 , Sec. 30.10(f).....	88
HB 1414 , Sec. 13.9A	23, 162	HB 1414 , Sec. 30.10(f)-(g).....	190
HB 1414 , Sec. 14.1 (b).....	47	HB 1414 , Sec. 30.12	191
HB 1414 , Sec. 14.2	34	HB 1414 , Sec. 30.13	191
HB 1414 , Sec. 14.2A	46	HB 1414 , Sec. 30.14	182
HB 1414 , Sec. 14.2B	35	HB 1414 , Sec. 30.19	182
HB 1414 , Sec. 14.3	35	HB 1414 , Sec. 30.20	81, 182
HB 1414 , Sec. 14.4	35	HB 1414 , Sec. 30.21	182
HB 1414 , Sec. 14.5	35, 47, 180	HB 1414 , Sec. 30.3E	188
HB 1414 , Sec. 14.6	36	HB 1414 , Sec. 30.5.....	138, 182
HB 1414 , Sec. 14.7	36	HB 1414 , Sec. 30.6.....	50, 186
HB 1414 , Sec. 15.1	47	HB 1414 , Sec. 30.9.....	97, 182
HB 1414 , Sec. 15.2	36	HB 1414 , Sec. 31.16	126
HB 1414 , Sec. 16.1	37	HB 1414 , Sec. 31.16C.....	66, 127
HB 1414 , Sec. 16.3	38	HB 1414 , Sec. 31.17	151
HB 1414 , Sec. 16.4	38, 125	HB 1414 , Sec. 31.18	151
HB 1414 , Sec. 16.5	39	HB 1414 , Sec. 31.18A	61, 151, 154
HB 1414 , Sec. 16.6	47	HB 1414 , Sec. 31.18B	155
HB 1414 , Sec. 16.8	39, 60, 65	HB 1414 , Sec. 31.18C.....	152
HB 1414 , Sec. 17.1	39, 125	HB 1414 , Sec. 31.20	128, 152
HB 1414 , Sec. 17.10.....	41	HB 1414 , Sec. 31.21	117, 128
HB 1414 , Sec. 17.11.....	42	HB 1414 , Sec. 31.24	117, 128, 152
HB 1414 , Sec. 17.12.....	42	HB 1414 , Sec. 31.25	117, 128
HB 1414 , Sec. 17.2	39, 126	HB 1414 , Sec. 31.26	117, 128
HB 1414 , Sec. 17.4	39	HB 1414 , Sec. 31.27	129
HB 1414 , Sec. 17.5	40	HB 1414 , Sec. 31.27(a)-(b)	118

HB 1414 , Sec. 31.28.....	118, 129	HB 1414 , Secs. 10.8(a) and (b).....	106
HB 1414 , Sec. 32F	118	HB 1414 , Secs. 12.3(b) and 12.3(c)	90
HB 1414 , Sec. 6.1	170	HB 1420	134
HB 1414 , Sec. 6.12	166	HB 1427	76
HB 1414 , Sec. 6.24	166	HB 1427 , Secs. 6 and 7	90
HB 1414 , Sec. 6.26(a)-(d).....	167	HB 1429	75
HB 1414 , Sec. 6.28	65	HB 1430	94
HB 1414 , Sec. 6.29	22, 81	HB 1448	22, 93
HB 1414 , Sec. 6.3	133	HB 1449	164
HB 1414 , Sec. 6.31	1	HB 1453	54, 62
HB 1414 , Sec. 6.4	168	HB 1455	57, 69
HB 1414 , Sec. 6.5	49, 185	HB 1456	57, 69
HB 1414 , Sec. 7.11	57	HB 1456 , Sec. 7.12.....	58
HB 1414 , Sec. 7.15	58	HB 1459	69
HB 1414 , Sec. 7.17	58	HB 1463	110, 120
HB 1414 , Sec. 7.19	58	HB 1464	61, 72
HB 1414 , Sec. 7.19A	68	HB 1465	1, 92
HB 1414 , Sec. 7.20	59	HB 1469	104
HB 1414 , Sec. 7.20A	59, 69	HB 1478	57, 151
HB 1414 , Sec. 7.21	59	HB 1497	93
HB 1414 , Sec. 7.22	59, 60, 69	HB 1513	152
HB 1414 , Sec. 7.27	60	HB 1518	51
HB 1414 , Sec. 7.29	60, 69	HB 1519	17, 52
HB 1414 , Sec. 7.31	68	HB 1555	185
HB 1414 , Sec. 7.32	68	HB 1555 , Sec. 3	190
HB 1414 , Sec. 7.33	60	HB 1574	78, 170
HB 1414 , Sec. 8.13	70	HB 1574 , Sec. 2	90
HB 1414 , Sec. 8.17	64, 137	HB 1594	143
HB 1414 , Sec. 8.4	63	HB 1602	79, 98, 101
HB 1414 , Sec. 8.6	64, 165	HB 1607	78, 170
HB 1414 , Sec. 8.6A	69	HB 1624	153
HB 1414 , Sec. 8.9	64, 70	HB 1636	98
HB 1414 , Sec. 9.13	66	HB 1665	17, 44
HB 1414 , Sec. 9.4	168	HB 1699	67, 100
HB 1414 , Sec. 9.5	65	HB 1723	61, 153
HB 1414 , Sec. 9.6A	70	HB 1795	43, 98
HB 1414 , Sec. 9.7	66		

Senate Bills

SB 3	189	SB 444	57, 104
SB 20	118, 123, 142	SB 464	184
SB 51	93	SB 470	17, 44, 146
SB 52	127	SB 486	117
SB 52 , Secs. 1 and 2	17, 66	SB 577	7
SB 52 , Secs. 3-12.....	51	SB 577 , Secs. 1, 2, and 19	43
SB 64	165	SB 577 , Secs. 16-18.....	32
SB 74	4	SB 577 , Secs. 3, 7-14, and 15.....	50
SB 137	134, 188	SB 577 , Secs. 4-6	16
SB 230	24	SB 582	103, 133
SB 277	99	SB 623	133, 156

SB 657	24, 110	SB 1152 , Part XVIII	115
SB 676	24, 26, 142	SB 1152 , Part XXI	178
SB 732	73, 87, 133	SB 1152 , Part XXII.....	68
SB 754	184	SB 1152 , Part XXIV	114
SB 805	169	SB 1152 , Part XXIX.....	46
SB 823	2, 86	SB 1152 , Part XXV	89
SB 823 , Sec. 1.9	83, 84, 90, 91	SB 1152 , Part XXVI.....	48
SB 823 , Sec. 7	172	SB 1152 , Part XXVII.....	70
SB 852	110, 187	SB 1152 , Part XXVIII	71
SB 859	84, 170	SB 1152 , Part XXX	3
SB 916	8, 19, 124	SB 1152 , Part XXXI.....	131
SB 933	86, 100, 164	SB 1152 , Part XXXII.....	190
SB 991	163, 180	SB 1152 , Part XXXIII.....	91
SB 1008	167	SB 1152 , Part XXXIV	113, 131
SB 1043	189	SB 1152 , Part XXXV	14
SB 1054	44, 53	SB 1152 , Sec 2.1(9)k	154
SB 1058	63, 138	SB 1152 , Sec. 13.10.....	68
SB 1063	98	SB 1152 , Sec. 13.11.....	68
SB 1078	134, 186	SB 1152 , Sec. 13.12.....	68
SB 1083	187	SB 1152 , Sec. 13.13.....	69
SB 1086	133, 188	SB 1152 , Sec. 13.14.....	69
SB 1089	135, 183	SB 1152 , Sec. 13.15.....	69
SB 1092	171, 188	SB 1152 , Sec. 13.16.....	69
SB 1118	184	SB 1152 , Sec. 13.17.....	69
SB 1128	44, 142	SB 1152 , Sec. 13.18.....	69
SB 1144	138, 184	SB 1152 , Sec. 13.2	68
SB 1145	99	SB 1152 , Sec. 13.3	68
SB 1148	161	SB 1152 , Sec. 13.4	68
SB 1152 , Sec. 2.1(4)	113	SB 1152 , Sec. 13.5	68
SB 1152 , Sec. 2.1(e)	112	SB 1152 , Sec. 13.6	68
SB 1152 , Sec. 2.1(j)	113	SB 1152 , Sec. 13.7	68
SB 1152 , Part III.....	89, 136	SB 1152 , Sec. 13.8	68
SB 1152 , Part IV	136, 138	SB 1152 , Sec. 13.9	68
SB 1152 , Part IX	193	SB 1152 , Sec. 16.1(3)	192
SB 1152 , Part L.....	176	SB 1152 , Sec. 2.1(1)a	46
SB 1152 , Part LI.....	131	SB 1152 , Sec. 2.1(1)b	25
SB 1152 , Part LII	115	SB 1152 , Sec. 2.1(1)e	173
SB 1152 , Part V	130	SB 1152 , Sec. 2.1(1)f.....	5
SB 1152 , Part VI	148	SB 1152 , Sec. 2.1(1)g	173
SB 1152 , Part VIII.....	88	SB 1152 , Sec. 2.1(1)h	144
SB 1152 , Part X	177	SB 1152 , Sec. 2.1(1)i	144
SB 1152 , Part XII.....	33	SB 1152 , Sec. 2.1(2).....	190
SB 1152 , Part XIV	101	SB 1152 , Sec. 2.1(2)a	67
SB 1152 , Part XIX	88, 183	SB 1152 , Sec. 2.1(3).....	25
SB 1152 , Part XLI.....	176	SB 1152 , Sec. 2.1(4).....	119, 129
SB 1152 , Part XLII	91, 132	SB 1152 , Sec. 2.1(6)a	129
SB 1152 , Part XLIV.....	47	SB 1152 , Sec. 2.1(6)b	130
SB 1152 , Part XLIX.....	102, 175	SB 1152 , Sec. 2.1(6)c	130
SB 1152 , Part XLV.....	113, 158	SB 1152 , Sec. 2.1(6)d	154
SB 1152 , Part XLVI.....	102	SB 1152 , Sec. 2.1(6)e	130
SB 1152 , Part XLVIII	48, 71	SB 1152 , Sec. 2.1(6)f.....	154
SB 1152 , Part XV.....	113	SB 1152 , Sec. 2.1(7)a	100
SB 1152 , Part XVII	191	SB 1152 , Sec. 2.1(7)b	100

SB 1152 , Sec. 2.1(7)c.....	101	SB 1167 , Secs. 7 and 8	49
SB 1152 , Sec. 2.1(7)d	101	SB 1202	74
SB 1152 , Sec. 2.1(7)e.....	130	SB 1210	81
SB 1152 , Sec. 2.1(8)	173	SB 1218	14, 187
SB 1152 , Sec. 2.1(8)b	158	SB 1219	81
SB 1152 , Sec. 2.1(9)e.....	147	SB 1225 , Sec. 11	4
SB 1152 , Sec. 2.1(9)f	144	SB 1225 , Sec. 12	2
SB 1152 , Sec. 2.1(9)h	148	SB 1225 , Sec. 13(a).....	45
SB 1152 , Sec. 2.1(9)j	3	SB 1225 , Sec. 13(b).....	45, 119
SB 1152 , Sec. 2.1(a)	173	SB 1225 , Sec. 17	147
SB 1152 , Sec. 2.1(b)	113, 119	SB 1225 , Sec. 18	147
SB 1152 , Sec. 2.1(c).....	113, 120	SB 1225 , Sec. 21	119
SB 1152 , Sec. 2.1(d)	25, 135	SB 1225 , Sec. 22	153
SB 1152 , Sec. 2.1(f)	67	SB 1225 , Sec. 25	110
SB 1152 , Sec. 2.1(g)	174	SB 1225 , Sec. 26	143
SB 1152 , Sec. 2.1(h)	174, 193	SB 1225 , Sec. 27	2
SB 1152 , Sec. 2.1(i)	174, 181	SB 1225 , Sec. 31	172
SB 1152 , Sec. 2.1(j)	144	SB 1225 , Sec. 32	111
SB 1152 , Sec. 2.1(k)	25, 148	SB 1225 , Sec. 33	103
SB 1152 , Sec. 2.1(l)	144	SB 1225 , Sec. 35	127
SB 1152 , Sec. 2.1(m)	135, 174	SB 1225 , Sec. 37	172
SB 1152 , Sec. 2.1(n)	135, 175	SB 1225 , Sec. 38	63, 171
SB 1152 , Sec. 2.1(o)	130, 154, 175	SB 1225 , Sec. 39	2
SB 1152 , Sec. 2.1(p)	67	SB 1225 , Sec. 40	135
SB 1152 , Sec. 20.1.....	191	SB 1225 , Sec. 47	54
SB 1152 , Sec. 23.2.....	159	SB 1225 , Sec. 48	45
SB 1152 , Sec. 23.3.....	159, 160	SB 1225 , Sec. 5.....	20
SB 1152 , Sec. 43.1.....	71	SB 1225 , Sec. 50	20
SB 1152 , Sec. 43.2.....	71	SB 1225 , Sec. 51	71
SB 1152 , Sec. 6.1.....	26	SB 1225 , Sec. 53	59, 60, 69
SB 1152 , Sec. 6.2.....	27	SB 1225 , Sec. 55	64
SB 1152 , Sec. 7.1.....	26	SB 1225 , Sec. 56	186
SB 1152 , Sec. XLVII	176	SB 1225 , Sec. 57	153
SB 1152 , Secs. 16.1(2) and 16.2	70, 131	SB 1225 , Sec. 58	19
SB 1152 , Secs. 16.1(5) and 16.2	56	SB 1225 , Sec. 59	187
SB 1152 , Secs. 16.1(7) and 16.2	155	SB 1225 , Sec. 60	99
SB 1152 , Secs. 2.1(1)c and 2.1(9)c.....	87	SB 1225 , Sec. 61	183
SB 1152 , Secs. 2.1(5) and 2.1(9).....	55	SB 1225 , Sec. 8.....	4
SB 1152 , Secs. 2.1(8)c-d and 2.1(9)g	112	SB 1225 , Sec. 9.....	4
SB 1152 , Secs. 6.1 and 6.2	148	SB 1244 , Sec. 10	100
SB 1152 , Section 54.1	159, 160	SB 1244 , Secs. 1-9	166
SB 1159	137, 165	SB 1254	104, 140
SB 1161	133, 137	SB 1312	65, 127, 153, 172
SB 1167 , Secs. 1-6.....	146	SB 1384	141

Session Laws

S.L. 2003-434, 2003 Extra Session.....	28	S.L. 2004-8	1, 92
S.L. 2003-435, 2003 Second Extra Session	92	S.L. 2004-21	93
S.L. 2004-1.....	73	S.L. 2004-22	22, 93
S.L. 2004-2.....	133, 156	S.L. 2004-23	34, 103

S.L. 2004-24.....	78, 170	S.L. 2004-124, Sec. 10.2C.....	162, 179
S.L. 2004-24, Sec. 2.....	90	S.L. 2004-124, Sec. 10.2D.....	125
S.L. 2004-25.....	78, 170	S.L. 2004-124, Sec. 10.2E.....	104, 140
S.L. 2004-26.....	49, 133, 188	S.L. 2004-124, Sec. 10.2F.....	104
S.L. 2004-48.....	81	S.L. 2004-124, Sec. 10.3.....	105
S.L. 2004-49.....	137, 165	S.L. 2004-124, Sec. 10.32.....	109, 134
S.L. 2004-72.....	49, 193	S.L. 2004-124, Sec. 10.34.....	110
S.L. 2004-73.....	57, 69	S.L. 2004-124, Sec. 10.35.....	6
S.L. 2004-74.....	93	S.L. 2004-124, Sec. 10.36.....	7
S.L. 2004-75.....	133, 137	S.L. 2004-124, Sec. 10.37.....	7, 165
S.L. 2004-76.....	57, 69	S.L. 2004-124, Sec. 10.38.....	7
S.L. 2004-77.....	185	S.L. 2004-124, Sec. 10.39.....	7
S.L. 2004-77, Sec. 3.....	190	S.L. 2004-124, Sec. 10.4.....	105
S.L. 2004-78.....	125, 151	S.L. 2004-124, Sec. 10.9.....	156
S.L. 2004-79.....	49, 185	S.L. 2004-124, Sec. 11.1.....	1
S.L. 2004-80.....	103, 133	S.L. 2004-124, Sec. 11.2.....	3
S.L. 2004-81.....	57, 151	S.L. 2004-124, Sec. 12.11.....	79
S.L. 2004-82.....	133, 188	S.L. 2004-124, Sec. 12.12.....	85
S.L. 2004-83.....	84, 170	S.L. 2004-124, Sec. 12.14.....	85
S.L. 2004-84.....	93	S.L. 2004-124, Sec. 12.3.....	79, 170
S.L. 2004-88.....	22, 94, 133	S.L. 2004-124, Sec. 12.4.....	1, 162
S.L. 2004-89.....	104, 140	S.L. 2004-124, Sec. 12.5.....	2, 165
S.L. 2004-109, Secs. 1-6.....	146	S.L. 2004-124, Sec. 12.6.....	2
S.L. 2004-109, Secs. 7 and 8.....	49	S.L. 2004-124, Sec. 12.7B.....	75
S.L. 2004-110.....	94	S.L. 2004-124, Sec. 12.7C.....	84
S.L. 2004-111.....	117	S.L. 2004-124, Sec. 12.9.....	85
S.L. 2004-112.....	104	S.L. 2004-124, Sec. 13.3.....	177
S.L. 2004-113.....	16	S.L. 2004-124, Sec. 13.6.....	22, 27, 171
S.L. 2004-114.....	171, 188	S.L. 2004-124, Sec. 13.7A.....	121, 162
S.L. 2004-115.....	170	S.L. 2004-124, Sec. 13.7B(a)-(d) and (g).....	122
S.L. 2004-116.....	69	S.L. 2004-124, Sec. 13.8.....	179
S.L. 2004-117.....	73, 87, 133	S.L. 2004-124, Sec. 13.9A.....	23, 162
S.L. 2004-118.....	57	S.L. 2004-124, Sec. 14.1(b).....	47
S.L. 2004-118,.....	104	S.L. 2004-124, Sec. 14.2.....	34
S.L. 2004-124.....	94	S.L. 2004-124, Sec. 14.2A.....	46
S.L. 2004-124, Sec. 10.1.....	104, 156, 162	S.L. 2004-124, Sec. 14.2B.....	35
S.L. 2004-124, Sec. 10.11.....	106	S.L. 2004-124, Sec. 14.3.....	35
S.L. 2004-124, Sec. 10.12.....	157	S.L. 2004-124, Sec. 14.4.....	35
S.L. 2004-124, Sec. 10.13.....	107, 160	S.L. 2004-124, Sec. 14.5.....	35, 47, 180
S.L. 2004-124, Sec. 10.19A.....	6	S.L. 2004-124, Sec. 14.6.....	36
S.L. 2004-124, Sec. 10.19B.....	6	S.L. 2004-124, Sec. 14.7.....	36
S.L. 2004-124, Sec. 10.19D.....	107, 157	S.L. 2004-124, Sec. 15.1.....	47
S.L. 2004-124, Sec. 10.2.....	159	S.L. 2004-124, Sec. 15.2.....	36
S.L. 2004-124, Sec. 10.21.....	160	S.L. 2004-124, Sec. 16.1.....	37
S.L. 2004-124, Sec. 10.21A.....	158	S.L. 2004-124, Sec. 16.3.....	38
S.L. 2004-124, Sec. 10.22A.....	107	S.L. 2004-124, Sec. 16.4.....	38, 125
S.L. 2004-124, Sec. 10.26.....	108	S.L. 2004-124, Sec. 16.5.....	39
S.L. 2004-124, Sec. 10.26A.....	169	S.L. 2004-124, Sec. 16.6.....	47
S.L. 2004-124, Sec. 10.27.....	34	S.L. 2004-124, Sec. 16.8.....	39, 60, 65
S.L. 2004-124, Sec. 10.28A.....	108	S.L. 2004-124, Sec. 17.1.....	39, 125
S.L. 2004-124, Sec. 10.28B.....	109, 134	S.L. 2004-124, Sec. 17.10.....	41
S.L. 2004-124, Sec. 10.29.....	6	S.L. 2004-124, Sec. 17.11.....	42
S.L. 2004-124, Sec. 10.2B.....	156	S.L. 2004-124, Sec. 17.12.....	42

S.L. 2004-124, Sec. 17.2.....	39, 126	S.L. 2004-124, Sec. 31.26	117, 128
S.L. 2004-124, Sec. 17.4.....	39	S.L. 2004-124, Sec. 31.27	129
S.L. 2004-124, Sec. 17.5.....	40	S.L. 2004-124, Sec. 31.27(a)-(b).....	118
S.L. 2004-124, Sec. 17.6.....	40	S.L. 2004-124, Sec. 31.28	118, 129
S.L. 2004-124, Sec. 17.6A.....	40, 49, 126	S.L. 2004-124, Sec. 32F	118
S.L. 2004-124, Sec. 17.6B.....	40, 169	S.L. 2004-124, Sec. 6.1	170
S.L. 2004-124, Sec. 17.7.....	41	S.L. 2004-124, Sec. 6.12	166
S.L. 2004-124, Sec. 17.8.....	41	S.L. 2004-124, Sec. 6.24	166
S.L. 2004-124, Sec. 17.9.....	41	S.L. 2004-124, Sec. 6.26(a)-(d)	167
S.L. 2004-124, Sec. 18.1.....	42	S.L. 2004-124, Sec. 6.28	65
S.L. 2004-124, Sec. 18.2.....	165	S.L. 2004-124, Sec. 6.29	22, 81
S.L. 2004-124, Sec. 18.3.....	189	S.L. 2004-124, Sec. 6.3	133
S.L. 2004-124, Sec. 18.4.....	43	S.L. 2004-124, Sec. 6.31	1
S.L. 2004-124, Sec. 19.10.....	171	S.L. 2004-124, Sec. 6.4	168
S.L. 2004-124, Sec. 19.2.....	137	S.L. 2004-124, Sec. 6.5	49, 185
S.L. 2004-124, Sec. 19.3.....	177	S.L. 2004-124, Sec. 7.11	57
S.L. 2004-124, Sec. 19.6.....	137, 177	S.L. 2004-124, Sec. 7.12	58
S.L. 2004-124, Sec. 19.8.....	169	S.L. 2004-124, Sec. 7.15	58
S.L. 2004-124, Sec. 20A.1.....	23, 26, 163	S.L. 2004-124, Sec. 7.17	58
S.L. 2004-124, Sec. 21.2.....	117, 171	S.L. 2004-124, Sec. 7.19	58
S.L. 2004-124, Sec. 21.3.....	43, 140	S.L. 2004-124, Sec. 7.20	59
S.L. 2004-124, Sec. 22.1.....	180	S.L. 2004-124, Sec. 7.20A	59, 69
S.L. 2004-124, Sec. 22A.1.....	163	S.L. 2004-124, Sec. 7.21	59
S.L. 2004-124, Sec. 23.2.....	97	S.L. 2004-124, Sec. 7.22	59, 60, 69
S.L. 2004-124, Sec. 23.3.....	97	S.L. 2004-124, Sec. 7.27	60
S.L. 2004-124, Sec. 23.4.....	97	S.L. 2004-124, Sec. 7.29	60, 69
S.L. 2004-124, Sec. 23.5.....	101	S.L. 2004-124, Sec. 7.32	68
S.L. 2004-124, Sec. 27.3.....	137, 170	S.L. 2004-124, Sec. 7.33	60
S.L. 2004-124, Sec. 29.1.....	163	S.L. 2004-124, Sec. 8.13	70
S.L. 2004-124, Sec. 30.10.....	79	S.L. 2004-124, Sec. 8.17	64, 137
S.L. 2004-124, Sec. 30.10(f)	88	S.L. 2004-124, Sec. 8.4	63
S.L. 2004-124, Sec. 30.10(f)-(g).....	190	S.L. 2004-124, Sec. 8.6	64, 165
S.L. 2004-124, Sec. 30.12.....	191	S.L. 2004-124, Sec. 8.6A	69
S.L. 2004-124, Sec. 30.13.....	191	S.L. 2004-124, Sec. 8.9	64, 70
S.L. 2004-124, Sec. 30.14.....	182	S.L. 2004-124, Sec. 9.13	66
S.L. 2004-124, Sec. 30.19.....	182	S.L. 2004-124, Sec. 9.4	168
S.L. 2004-124, Sec. 30.20.....	81, 182	S.L. 2004-124, Sec. 9.5	65
S.L. 2004-124, Sec. 30.21.....	182	S.L. 2004-124, Sec. 9.6A	70
S.L. 2004-124, Sec. 30.3E.....	188	S.L. 2004-124, Sec. 9.7	66
S.L. 2004-124, Sec. 30.5.....	138, 182	S.L. 2004-124, Secs. 10.8(a) and (b).....	106
S.L. 2004-124, Sec. 30.6.....	50, 186	S.L. 2004-124, Secs. 12.3(b) and 12.3(c). 90	
S.L. 2004-124, Sec. 30.9.....	97, 182	S.L. 2004-125.....	29
S.L. 2004-124, Sec. 31.16.....	126	S.L. 2004-126.....	43, 98
S.L. 2004-124, Sec. 31.16C.....	66, 127	S.L. 2004-127.....	30
S.L. 2004-124, Sec. 31.17.....	151	S.L. 2004-128.....	7
S.L. 2004-124, Sec. 31.18.....	151	S.L. 2004-128, Secs. 1, 2, and 19	43
S.L. 2004-124, Sec. 31.18A.....	61, 151, 154	S.L. 2004-128, Secs. 16-18.....	32
S.L. 2004-124, Sec. 31.18B.....	155	S.L. 2004-128, Secs. 3, 7-14, and 15.....	50
S.L. 2004-124, Sec. 31.18C.....	152	S.L. 2004-128, Secs. 4-6	16
S.L. 2004-124, Sec. 31.20.....	128, 152	S.L. 2004-129.....	163, 180
S.L. 2004-124, Sec. 31.21.....	117, 128	S.L. 2004-130.....	63, 138
S.L. 2004-124, Sec. 31.24.....	117, 128, 152	S.L. 2004-131.....	138, 184
S.L. 2004-124, Sec. 31.25.....	117, 128	S.L. 2004-132.....	98

S.L. 2004-133.....	51	S.L. 2004-161, Part XV.....	113
S.L. 2004-134.....	79, 98, 101	S.L. 2004-161, Part XVII.....	191
S.L. 2004-135.....	4	S.L. 2004-161, Part XVIII.....	115
S.L. 2004-136.....	152	S.L. 2004-161, Part XXI.....	178
S.L. 2004-137.....	65, 127, 153, 172	S.L. 2004-161, Part XXII.....	68
S.L. 2004-138.....	134	S.L. 2004-161, Part XXIV.....	114
S.L. 2004-139.....	17, 44, 146	S.L. 2004-161, Part XXIX.....	46
S.L. 2004-140.....	74	S.L. 2004-161, Part XXV.....	89
S.L. 2004-141.....	134, 186	S.L. 2004-161, Part XXVI.....	48
S.L. 2004-142.....	140	S.L. 2004-161, Part XXVII.....	70
S.L. 2004-143.....	74, 147	S.L. 2004-161, Part XXVIII.....	71
S.L. 2004-144.....	161	S.L. 2004-161, Part XXX.....	3
S.L. 2004-145.....	189	S.L. 2004-161, Part XXXI.....	131
S.L. 2004-146.....	141	S.L. 2004-161, Part XXXII.....	190
S.L. 2004-147.....	153	S.L. 2004-161, Part XXXIII.....	91
S.L. 2004-148.....	51, 189	S.L. 2004-161, Part XXXIV.....	113, 131
S.L. 2004-149.....	110	S.L. 2004-161, Part XXXV.....	14
S.L. 2004-150.....	76	S.L. 2004-161, Sec. 16.1(1), (4), (6), and	
S.L. 2004-150, Secs. 6 and 7.....	90	16. 2 (.....)	177
S.L. 2004-151.....	134, 188	S.L. 2004-161, Sec. 16.1(3).....	192
S.L. 2004-151, Sec. 2.1(c).....	113	S.L. 2004-161, Sec. 2.1(1)a.....	46
S.L. 2004-152.....	24	S.L. 2004-161, Sec. 2.1(1)b.....	25
S.L. 2004-153.....	98	S.L. 2004-161, Sec. 2.1(1)e.....	173
S.L. 2004-154.....	127	S.L. 2004-161, Sec. 2.1(1)f.....	5
S.L. 2004-154, Secs. 1 and 2.....	17, 66	S.L. 2004-161, Sec. 2.1(1)g.....	173
S.L. 2004-154, Secs. 3-12.....	51	S.L. 2004-161, Sec. 2.1(1)h.....	144
S.L. 2004-155.....	17, 44	S.L. 2004-161, Sec. 2.1(1)i.....	144
S.L. 2004-156.....	164	S.L. 2004-161, Sec. 2.1(2).....	190
S.L. 2004-157.....	24, 110	S.L. 2004-161, Sec. 2.1(2)a.....	67
S.L. 2004-158.....	165	S.L. 2004-161, Sec. 2.1(3).....	25
S.L. 2004-159.....	17, 52	S.L. 2004-161, Sec. 2.1(4).....	113, 119, 129
S.L. 2004-160.....	75	S.L. 2004-161, Sec. 2.1(6)a.....	129
S.L. 2004-161, Part III.....	89, 136	S.L. 2004-161, Sec. 2.1(6)b.....	130
S.L. 2004-161, Part IV.....	136, 138	S.L. 2004-161, Sec. 2.1(6)c.....	130
S.L. 2004-161, Part IX.....	193	S.L. 2004-161, Sec. 2.1(6)d.....	154
S.L. 2004-161, Part L.....	176	S.L. 2004-161, Sec. 2.1(6)e.....	130
S.L. 2004-161, Part LI.....	131	S.L. 2004-161, Sec. 2.1(6)f.....	154
S.L. 2004-161, Part LII.....	115	S.L. 2004-161, Sec. 2.1(7)a.....	100
S.L. 2004-161, Part V.....	130	S.L. 2004-161, Sec. 2.1(7)b.....	100
S.L. 2004-161, Part VI.....	148	S.L. 2004-161, Sec. 2.1(7)c.....	101
S.L. 2004-161, Part VIII.....	88	S.L. 2004-161, Sec. 2.1(7)d.....	101
S.L. 2004-161, Part X.....	177	S.L. 2004-161, Sec. 2.1(7)e.....	130
S.L. 2004-161, Part XII.....	33	S.L. 2004-161, Sec. 2.1(8).....	173
S.L. 2004-161, Part XIV.....	101	S.L. 2004-161, Sec. 2.1(8)b.....	158
S.L. 2004-161, Part XIX.....	88, 183	S.L. 2004-161, Sec. 2.1(9)e.....	147
S.L. 2004-161, Part XXI.....	176	S.L. 2004-161, Sec. 2.1(9)f.....	144
S.L. 2004-161, Part XLII.....	91, 132	S.L. 2004-161, Sec. 2.1(9)h.....	148
S.L. 2004-161, Part XLIV.....	47	S.L. 2004-161, Sec. 2.1(9)j.....	3
S.L. 2004-161, Part XLIX.....	102, 175	S.L. 2004-161, Sec. 2.1(9)k.....	154
S.L. 2004-161, Part XLV.....	113, 158	S.L. 2004-161, Sec. 2.1(a).....	173
S.L. 2004-161, Part XLVI.....	102	S.L. 2004-161, Sec. 2.1(b).....	113, 119
S.L. 2004-161, Part XLVII.....	176	S.L. 2004-161, Sec. 2.1(c).....	120
S.L. 2004-161, Part XLVIII.....	48, 71	S.L. 2004-161, Sec. 2.1(d).....	25, 135

S.L. 2004-161, Sec. 2.1(e)	112	S.L. 2004-184.....	189
S.L. 2004-161, Sec. 2.1(f).....	67	S.L. 2004-185.....	184
S.L. 2004-161, Sec. 2.1(g).....	174	S.L. 2004-186.....	8
S.L. 2004-161, Sec. 2.1(h).....	174, 193	S.L. 2004-186, Part III	72
S.L. 2004-161, Sec. 2.1(i)	174, 181	S.L. 2004-186, Part VI.....	116
S.L. 2004-161, Sec. 2.1(j).....	113, 144	S.L. 2004-186, Part VII	145
S.L. 2004-161, Sec. 2.1(k)	25, 148	S.L. 2004-186, Part XVIII	124
S.L. 2004-161, Sec. 2.1(l)	144	S.L. 2004-186, Parts II, IV, XII, and XX ...	44
S.L. 2004-161, Sec. 2.1(m)	135, 174	S.L. 2004-186, Parts VIII-XI and XIII-XV .	54
S.L. 2004-161, Sec. 2.1(n).....	135, 175	S.L. 2004-186, Parts XVI, XVII, and XIX ..	19
S.L. 2004-161, Sec. 2.1(o).....	130, 154, 175	S.L. 2004-187, Sec. 5.....	172
S.L. 2004-161, Sec. 2.1(p).....	67	S.L. 2004-187, Secs. 12(c) and 12(d)	87
S.L. 2004-161, Sec. 20.1.....	191	S.L. 2004-187, Secs. 1-4 and 6-13	76
S.L. 2004-161, Sec. 23.2.....	159	S.L. 2004-188.....	86, 100, 164
S.L. 2004-161, Sec. 23.3.....	159	S.L. 2004-189.....	110, 187
S.L. 2004-161, Sec. 6.1	26	S.L. 2004-190.....	24
S.L. 2004-161, Sec. 6.2	27	S.L. 2004-191.....	14, 187
S.L. 2004-161, Sec. 7.1	26	S.L. 2004-192.....	143
S.L. 2004-161, Secs. 16.1 (2) and 16.2 ..	131	S.L. 2004-193.....	55, 119, 186
S.L. 2004-161, Secs. 16.1(2) and 16.2	70	S.L. 2004-194.....	20
S.L. 2004-161, Secs. 16.1(5) and 16.2	56	S.L. 2004-195.....	2, 86
S.L. 2004-161, Secs. 16.1(7) and 16.2 ...	155	S.L. 2004-195, Sec. 1.9.....	84, 91
S.L. 2004-161, Secs. 2.1(1)c and 2.1(9)c .	87	S.L. 2004-196.....	167
S.L. 2004-161, Secs. 2.1(5) and 2.1(9) ...	55	S.L. 2004-197.....	111, 115
S.L. 2004-161, Secs. 2.1(8)c-d and 2.1(9)g		S.L. 2004-198.....	54, 62
.....	112	S.L. 2004-199, Sec. 11	4
S.L. 2004-161, Secs. 6.1 and 6.2	148	S.L. 2004-199, Sec. 12	2
S.L. 2004-162	118, 123, 142	S.L. 2004-199, Sec. 13(b).....	45, 119
S.L. 2004-163	81	S.L. 2004-199, Sec. 17	147
S.L. 2004-164	61, 153	S.L. 2004-199, Sec. 18	147
S.L. 2004-165	8, 124	S.L. 2004-199, Sec. 21	119
S.L. 2004-166	19, 53, 118	S.L. 2004-199, Sec. 22	153
S.L. 2004-167	187	S.L. 2004-199, Sec. 25.....	110
S.L. 2004-168	135, 183	S.L. 2004-199, Sec. 26.....	143
S.L. 2004-169	169	S.L. 2004-199, Sec. 27	2
S.L. 2004-170	99	S.L. 2004-199, Sec. 31	172
S.L. 2004-171	24, 26, 142	S.L. 2004-199, Sec. 32	111
S.L. 2004-172	53, 186	S.L. 2004-199, Sec. 35.....	127
S.L. 2004-173	99	S.L. 2004-199, Sec. 37	172
S.L. 2004-174, Sec. 3	164, 180	S.L. 2004-199, Sec. 38.....	63, 171
S.L. 2004-174, Secs. 1 and 2.....	142, 180	S.L. 2004-199, Sec. 39.....	2
S.L. 2004-175	110, 120	S.L. 2004-199, Sec. 40.....	135
S.L. 2004-176	2, 83	S.L. 2004-199, Sec. 47	54
S.L. 2004-176, Sec. 7	90	S.L. 2004-199, Sec. 5.....	20
S.L. 2004-177	44, 142	S.L. 2004-199, Sec. 57	153
S.L. 2004-178	44, 53	S.L. 2004-199, Sec. 61	183
S.L. 2004-179, Part 6	71	S.L. 2004-199, Sec. 8.....	4
S.L. 2004-179, Parts 2, 3, 4, and 8	86	S.L. 2004-199, Sec. 9.....	4
S.L. 2004-179, Parts 5 and 7.....	99	S.L. 2004-200.....	184
S.L. 2004-180	61, 72	S.L. 2004-201.....	143
S.L. 2004-181	67, 100	S.L. 2004-202, Sec. 10	100
S.L. 2004-182	184	S.L. 2004-202, Secs. 1-9	166
S.L. 2004-183	53	S.L. 2004-203, Sec. 14	20

S.L. 2004-203, Sec. 19	62	S.L. 2004-203, Sec. 49	164
S.L. 2004-203, Sec. 21	54	S.L. 2004-203, Sec. 52	111, 112, 158
S.L. 2004-203, Sec. 24	4	S.L. 2004-203, Sec. 54	45
S.L. 2004-203, Sec. 25	5	S.L. 2004-203, Sec. 58	32
S.L. 2004-203, Sec. 29	5	S.L. 2004-203, Sec. 59	32
S.L. 2004-203, Sec. 31	147	S.L. 2004-203, Sec. 60	32
S.L. 2004-203, Sec. 39	124	S.L. 2004-203, Sec. 66	176
S.L. 2004-203, Sec. 41	111	S.L. 2004-203, Sec. 70	188
S.L. 2004-203, Sec. 42	14, 21	S.L. 2004-203, Sec. 74(b)	171
S.L. 2004-203, Sec. 45	62	S.L. 2004-203, Sec. 80	138, 143
S.L. 2004-203, Sec. 46	66	S.L. 2004-919, Sec. 13(a)	45
S.L. 2004-203, Sec. 47	67		