

SUMMARIES OF SUBSTANTIVE RATIFIED LEGISLATION - 2006

SUMMARIES OF SUBSTANTIVE RATIFIED LEGISLATION



**2005 GENERAL ASSEMBLY
2006 REGULAR SESSION**

**RESEARCH DIVISION
N.C. GENERAL ASSEMBLY
NOVEMBER 2006**

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To the Members of the 2006 Session of the 2005 General Assembly:

This publication contains summaries of all substantive legislation of general applicability and certain local legislation having general import from the 2006 Regular Session. Most local acts 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 2006 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: Dee Atkinson, Cindy Avrette, 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, Denise Huntley, Shirley Iorio, Sara Kamprath, Jeff Hudson, Brad Krehely, Theresa Matula, Jennifer McGinnis, Joe Moore, Jennifer Mundt, Shawn Parker, Howard Alan Pell, Giles S. Perry, Ben Popkin, Wendy Graf Ray, Walker Reagan, Barbara Riley, Steve Rose, and Susan Sitze. Canaan Huie, Dan Ettefagh, and Emily Johnson of the Bill Drafting Division and Martha Walston, of the Fiscal Research Division also contributed to this document. Jennifer McGinnis is chief editor of this year's publication, and Hal Pell is co-editor. Lucy Anders, Brad Krehely, and Jennifer Mundt 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,



Terrence D. Sullivan
Director of Research

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Chapter 1
Agriculture and Wildlife

Erika Churchill (EC), Tim Dodge (TD), Barbara Riley (BR)

Enacted Legislation

Agriculture

Amend Taxation of Logging Machinery

S.L. 2006-19 ([HB 1938](#)). See **Finance**.

Department of Commerce Report on Agribusiness Funds

S.L. 2006-66, Sec. 12.7 ([SB 1741](#), Sec. 12.7) requires the Department of Commerce (Department) to report by May 1, 2007, to the House Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division, on all funds available for companies and organizations designed to promote agribusiness in the State. The report must include:

- Information on all Department economic incentive funds, including Commerce State Aid funds.
- Information on the number of agribusinesses and organizations that applied for State funds through the Department or other organizations.
- An evaluation, to be conducted with the Department of Agriculture and Consumer Services, of the use of economic incentive programs designed specifically for agribusiness.
- A plan to implement economic incentive programs designed specifically for agribusinesses and the estimated cost of the programs, including sources of funding such as federal, State, and grant funds.

The Department of Agriculture and Consumer Services, the Rural Economic Development Center, the University system, and State agencies are to provide the Department of Commerce with information as requested for the report.

This section became effective July 1, 2006. (BR)

Agrarian Growth Zones – Bill Lee

S.L. 2006-66, Sec. 24.16 ([SB 1741](#), Sec. 24.16). See **Finance**.

Community Conservation Assistance Program

S.L. 2006-78 ([HB 2129](#)). See **Environment and Natural Resources**.

Enhance Embargo Authority/Protect Food Supply

S.L. 2006-80 ([HB 2200](#)) authorizes the Secretary of Environment and Natural Resources or a local health director to exercise embargo authority concerning food or drink in an establishment (restaurants and hotels) subject to regulation by the Department of Environment and

Natural Resources (DENR), or subject to an investigation by the local health director in the case of communicable diseases. When such action

is taken, the Department of Agriculture and Consumer Services (Department) must be notified. It is unlawful to dispose of the embargoed food or drink without proper authority.

G.S. 130A-25 provides that a violation of Chapter 130A of the General Statutes is a misdemeanor. G.S. 14-3 provides that an unclassified misdemeanor is a Class 1 misdemeanor. If no specific punishment is prescribed and the offense is infamous, done in secrecy and malice, or with deceit and intent to defraud, it is a Class H felony.

The act also requires the Department, DENR, and the Department of Health and Human Services to jointly develop a plan to protect the food supply from intentional contamination.

The study required in Section 2 of the act became effective July 10, 2006. The remainder of this act becomes effective December 1, 2006 and applies to offenses committed on or after that date. (BR)

Various Transportation/Motor Vehicle Law Changes

S.L. 2006-135 ([HB 1399](#)). See **Transportation**.

Dairy Stabilization and Growth Program

S.L. 2006-139 ([SB 1156](#)) adds the North Carolina Dairy Stabilization and Growth Act to Chapter 106 of the General Statutes. The purpose of the act is to establish a price floor for milk that would enable dairy farmers to cover their production costs, and in doing so, reverse the decline in the dairy industry in the State.

The program provides for payments from the Dairy Stabilization and Growth Fund to North Carolina dairy farmers when the price of milk per hundredweight falls below the average United States Department of Agriculture federal milk market order Class I price mover for the past 10 years less 50 cents. To be eligible to receive payments, a Grade A milk producer must be in compliance with the federal Grade A milk regulations. Non-Grade A producers must be in compliance with Article 26 of Chapter 106 of the General Statutes and the rules implementing that article.

The act also directs the Commissioner of Agriculture to file an annual report with the Chairs of the House Appropriations Subcommittee on Natural and Economic Resources and the Senate Appropriations Subcommittee on Natural and Economic Resources, the Chair of the House Agriculture Committee and the Chair of the Senate Committee on Agriculture, Environment and Natural Resources. The report is to cover the short-term and long-term problems of maintaining a viable dairy industry in North Carolina, ways to sustain the dairy industry in the State, the effectiveness of the dairy stabilization and growth program in achieving its goals, including maintaining a local supply of fresh milk for processing and attracting new farmers into dairying and preserving green space.

This act became effective July 19, 2006. (BR)

State Energy Use Planning/Energy Assistance

S.L. 2006-206, Part III ([SB 2051](#), Part III). See **Environment and Natural Resources**.

Exempt Agri-Tourism from Privilege Tax

S.L. 2006-216 ([HB 143](#)). See **Finance**.

Revise 2006 Budget Act/Tobacco Escrow Assignments

S.L. 2006-221, Sec. 3A ([SB 198](#), Sec. 3A) adds Section 6.19(d) to the Budget Act, S.L. 2006-66. This section amends S.L. 2006-203, which, in part, recodified the Executive Budget Act as Chapter 143C of the General Statutes. One section of Article 1 of Chapter 143 that should have been transferred in the recodification, was inadvertently omitted. Section 6.19(d) adds that section to Chapter 143C as G.S. 143C-9.3A. The statute allows tobacco product manufacturers to make an irrevocable assignment of funds placed in escrow pursuant to the provisions of G.S. 66-281, which require tobacco product manufacturers that did not participate in the Master Settlement Agreement to place funds in escrow based upon cigarette sales in the State.

This section became effective July 1, 2006. (BR)

Animals and Wildlife

Protection of Animals

S.L. 2006-113 ([HB 2098](#)) amends Article 1 of Chapter 19A of the General Statutes, which provides a civil remedy for animal cruelty. The act clarifies that when a preliminary injunction is issued giving the plaintiff possession of an animal, the plaintiff takes possession as custodian. As custodian, the plaintiff may obtain veterinary care for the animal. The plaintiff must attempt to consult with the defendant regarding such care; however, the plaintiff does not need the defendant's consent to act. Plaintiff, however, may not have an animal euthanized without the written consent of the defendant, or a court order upon findings that the animal is terminally ill or injured. If the plaintiff prevails in the civil action, the court may include the costs of care for the animal as part of the costs allowed to the plaintiff.

The act also amends Article 6 of Chapter 19A of the General Statutes, which provides for the care of animals that have been used illegally. The law requires the owner of an animal that has been taken into custody in connection with an arrest for cruelty, violation of the dangerous dog statutes, or the commencement of a civil action by a county or municipality for cruelty, to deposit funds for the animal's care if an animal shelter takes custody of the animal pending disposition of the case. The amendment also provides for a hearing to determine the need to take the animal into custody during the pendency of the litigation. A person who is acquitted of charges, or found not to have committed animal cruelty in a civil action, is entitled to a refund of the deposit remaining after any withdrawals from the deposit.

Finally, the act amends the dog fighting criminal statute to provide that it applies to fights between dogs and other animals, as well as fights between two or more dogs. The law, however, does not prohibit the use of dogs in the lawful taking of animals under the jurisdiction of the Wildlife Resources Commission.

This act becomes effective December 1, 2006 and applies to actions commenced on or after that date. (BR)

Amend Boating Safety/Vessel Titling Law

S.L. 2006-185 ([SB 948](#)) makes the following changes to the laws related to boating safety and vessel titling:

Fee Increases. -

- Increases the fee for a transfer of certificate of title from \$10 to \$20.
- Increases the fee for issuance of a duplicate certificate of number from \$2 to \$5.

Boating Safety. -

- Formalizes the framework for the Wildlife Resources Commission (WRC) to implement and coordinate boating safety education courses, to designate boating

safety instructors, and to issue boating safety certification cards to persons who complete an approved course.

- Clarifies boating safety requirements by authorizing the WRC to adopt rules to conform to the Federal Boat Safety Act of 1971 and federal regulations adopted pursuant to the Act.
- Amends the incident reporting requirements for operators of a vessel that is involved in a collision, accident, casualty or other occurrence involving a vessel to require reporting of disappearance indicating death or injury, in addition to other reporting requirements, and to raise the physical damage threshold for reporting accidents from \$500 to \$2,000.
- Provides that law enforcement vessels may use a blue flashing light and sirens whenever they are engaged in law enforcement or public safety activities. Establishes penalties for operating a siren or blue light on a vessel that is not a law enforcement vessel or other official emergency vessel.
- Requires a vessel to slow to a no-wake speed when passing near a law enforcement vessel that is displaying a flashing blue light.

Vessel Titling. -

- Requires the titling of all motorized vessels or sailboats 14 feet or longer and any personal watercraft at the time an application for a new certificate of number in this State is submitted and at the time ownership of a vessel is being transferred. The act also allows (but does not require) the titling of other vessels.
- Replaces the term "vessel registration" with "certificate of number" as used to provide identification numbers for vessels registered in the State. A certificate of number is issued on an annual basis and serves as a registration number for vessels.
- Establishes a mechanism for canceling the certificate of title or certificate of number for destroyed or junked vessels and directs WRC to adopt rules to establish a mechanism by which a person may acquire ownership of an abandoned vessel.
- Clarifies the responsibilities and requirements for vessel agents, removes the requirement that vessel agents provide a security bond, and adds penalty provisions for actions taken by vessel agents that constitute criminal activity.
- Makes numerous additional clarifying, conforming, and technical changes.

This act becomes effective January 1, 2007, and applies to offenses committed on and after that date. (TD)

Amend Environment and Natural Resources Laws

S.L. 2006-255, Secs. 6, 8, and 9 ([SB 1587](#), Secs. 6, 8, and 9). See **Environment and Natural Resources**.

Studies

Legislative Research Commission

Membership of the Wildlife Resources Commission

S.L. 2006-248, Sec. 2.1(9)q. ([HB 1723](#), Sec. 2.1(9)q.) provides that the Legislative Research Commission may study the membership of the Wildlife Resources Commission.

This section became effective August 16, 2006. (BR)

Referrals to Departments, Agencies, Etc.

Sunday Hunting

S.L. 2006-248 Part XIII ([HB 1723](#), Part XIII) directs the Wildlife Resources Commission (Commission) to study the issue of allowing hunting on Sundays at a limited number of State game lands. In conducting its study, the Commission must consider, but is not limited to, the following issues:

- Individual game land suitability for Sunday hunting.
- Allowable hunting activities, including methods of taking and the use of dogs.
- Limiting hunting privileges to avoid conflict with religious services.
- The needs of persons pursuing non-hunting outdoor recreational activities.

The Commission is to seek the input of representatives of interested parties, including landowners, conservation organizations, agricultural organizations, religious organizations, hunting clubs and organizations, and controlled hunting preserve operators. The Commission is to report its findings to the Joint Legislative Commission on Governmental Operations by March 15, 2007.

This part became effective August 16, 2006. (BR)

Study Inherently Dangerous Animals

S.L. 2006-248, Part XXXII ([HB 1723](#), Part XXXII) directs the Department of Environment and Natural Resources, in consultation with the North Carolina Zoological Park and the Wildlife Resources Commission, to study the need to protect the public against the health and safety risks posed by inherently dangerous animals, and to propose a means of best providing that protection to the public, while also protecting the welfare of inherently dangerous animals. The Department is to report its findings to the General Assembly no later than the convening of the 2007 General Assembly.

This part became effective August 16, 2006. (BR)

For a complete list of the studies and reports authorized by the 2006 Session of the 2005 General Assembly, please refer to the Appendix contained in this publication.

Chapter 2

Alcoholic Beverage Control

Brenda Carter (BC), Denise Huntley (DH), Howard Alan Pell (HAP), Susan Sitze (SS)

Enacted Legislation

Repeal Sunset of Open Container Law

S.L. 2006-66, Sec. 21.7 ([SB 1741](#), Sec. 21.7) repeals the expiration date of the State's open container law. The act makes it unlawful for a person to possess an alcoholic beverage other than in the unopened manufacturer's original container, or to consume an alcoholic beverage in the passenger area of a motor vehicle while the motor vehicle is on a highway or the right-of-way of a highway. An exception applies to motor homes and certain vehicles for hire. The provision became effective September 1, 2000 and was scheduled to expire on September 30, 2006.

This section became effective July 1, 2006. (BC)

Aircraft Mechanics' Lien/Winemaking

S.L. 2006-222, Part II ([SB 2010](#), Part II) provides for the licensing of commercial establishments in which customers may purchase ingredients and rent equipment, time, and space to make unfortified wine on the premises for the customer's personal and family use, similar to the existing brew-on-premises permit for making malt beverages. The permit holder is not permitted to engage in the actual production or manufacture of wine, except for testing equipment or recipes and samples. All wine produced must be removed from the premises by the customer. The fee for the permit is \$400.

This part became effective August 10, 2006. (BC)

Various Alcoholic Beverage Control Law Changes

S.L. 2006-227 ([HB 1025](#)) makes various changes to the laws concerning alcoholic beverages.

See summary for S.L. 2006-222, Part II (above).

Wine Shipper Packager Permits. - The act authorizes the issuance of a wine shipper packager permit to a USDA-approved company specializing in warehousing and contract packaging. The holder of the permit may provide services for the warehousing, packaging, and shipment of wine on behalf of a winery. The fee for the permit is \$100.

University-Owned Golf Courses. - The act amends the law that restricts the sale of malt beverages and wine on the campus or property of public schools and colleges. The act provides an exception for any golf courses owned or leased by constituent institutions of The University of North Carolina and open to the public for use.

ABC Sales to Rail Lines. - The act provides that any ABC-licensed wholesaler or retailer may sell or deliver malt beverages or wine to a rail line that carries at least 60,000 passengers annually.

Wine Shop Permit Changes. - The act removes a provision that limited the sale of wine for on-premises consumption to those amounts remaining in opened bottles upon the conclusion of an authorized wine tasting, and that limited individual servings to 4 ounces per glass. The act exempts wine shops that do not prepare or sell food from certain sanitation regulations.

Primary Source. - The act gives the ABC Commission authority to recognize the holder of a wine importer permit or nonresident wine vendor as a primary American source of supply for the wine of a winery. This requires that the wine importer or nonresident wine vendor establish that it has lawfully purchased the wine from the winery or its agent, and has been authorized by the winery to distribute the wine to wholesalers in the U.S. A wine importer may import and sell to wholesalers only wine for which it is a primary American source of supply, and a nonresident wine vendor may sell, deliver, and ship into this State only wine for which it is a primary American source of supply. A wine wholesaler must receive its wine from a primary American source of supply for the wine, or from another wholesaler when specified conditions are met.

Distribution of Wine Taxes. - The act provides that, effective July 1, 2007, the Secretary of Revenue will credit \$200,000 to the Department of Commerce on a quarterly basis from the net proceeds of the excise tax collected on unfortified wine. These funds are allocated to the North Carolina Wine and Grape Growers Council for promotion of the State's wine and grape industry and to contract for research and development services to improve viticulture and enology practices in the State.

This act became effective August 10, 2006. (BC)

Governor's Driving While Impaired Task Force Recommendations

S.L. 2006-253, Sec. 3 ([HB 1048](#), Sec. 3). See **Criminal Law and Procedure**.

For a complete list of the studies and reports authorized by the 2006 Session of the 2005 General Assembly, please refer to the Appendix contained in this publication.

Chapter 3
Children and Families

Drupti Chauhan (DC), Erika Churchill (EC), Ben Popkin (BP), Wendy Graf Ray (WGR)

Enacted Legislation

Partnership for Children/Board Appointment

S.L. 2006-20 ([SB 329](#)). See **State Government**.

Clarify School Admissions Procedures

S.L. 2006-65 ([HB 1074](#)). See **Education**.

Rewrite Special Education Laws

S.L. 2006-69 ([HB 1908](#)). See **Education**.

Schoolchildren's Health Act

S.L. 2006-143 ([HB 1502](#)). See **Education**.

**Departments of Social Services Disclosure of Information/
Abuse/Neglect**

S.L. 2006-205 ([SB 1216](#)). See **Health and Human Services**.

Public Housing Authority/Target Incomes

S.L. 2006-219 ([HB 767](#)). See **Health and Human Services**.

Vision Care Program Changes

S.L. 2006-240 ([HB 2699](#)). See **Health and Human Services**.

Protect Children/Sex Offender Law Changes

S.L. 2006-247, Sec. 11 ([HB 1896](#), Sec. 11). See **Criminal Law and Procedure**.

Studies

Legislative Research Commission

Post-Adoption Contact

S.L. 2006-248, Sec. 2.1.(m) ([HB 1723](#), Sec. 2.1.(m)) states that the Legislative Research Commission may study the topic of post-adoption contacts and communications.

This section became effective August 16, 2006. (DC)

New/Independent Studies/Commissions

Smart Start and Child Care Funding Study

S.L. 2006-248, Part XXVI ([HB 1723](#), Part XXVI) creates the Smart Start and Child Care Funding Study Commission. The Commission must examine the funding of the North Carolina Partnership for Children and consider the current funding system, strategies for achieving full funding, funding equity among counties and local partnerships, and any other relevant information in providing services to young children and families.

This part became effective August 16, 2006. (DC)

Study Commission on Day Care and Related Programs

S.L. 2006-248, Part LVI ([HB 1723](#), Part LVI) creates the Legislative Study Commission on Day Care and Related Programs. The purpose of the Commission is to (i) assess the shortfalls and benefits of various day care and related programs, (ii) consider needed adjustments and program consolidations to realize the maximum benefit to the State's children and families, (iii) consider how day care and related programs affect economic development, and (iv) review any other relevant issues.

This part became effective August 16, 2006. (DC)

For a complete list of the studies and reports authorized by the 2006 Session of the 2005 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), Denise Huntley (DH), Howard Alan Pell (HAP), Wendy Graf Ray (WGR), Walker Reagan (WR), Steve Rose (SR), Susan Sitze (SS)

Enacted Legislation

Amend the Forfeiture of Property Rights Law

S.L. 2006-107 ([SB 1378](#)) amends the "Slayer" statute found in Article 3 of Chapter 31A of the General Statutes to include a person who is found in a civil action brought within two years after the death of the decedent, to have willfully and unlawfully killed the decedent or procured the killing. This definition supplanted language in the statute that provided a "slayer" included a person (i) found to have willfully and unlawfully killed the decedent in a civil action brought within one year of the death of the decedent, and (ii) that died before being tried for the offense and settlement of the estate. The two-year period is tolled during any criminal action.

The act clarifies that the burden of proof is on the party seeking to establish that the killing was willful and unlawful. The act also amends the definition of "slayer" to include a juvenile who is adjudicated delinquent by reason of committing an act that, if committed by an adult, would make the adult a principal or accessory before the fact of the willful and unlawful killing of another person. The act clarifies that the term "slayer" does not include a person who is found not guilty by reason of insanity of being a principal or accessory before the fact of the willful and unlawful killing of another person.

The act changes the law to allow a person whose culpable negligence causes the death of a decedent to succeed to any property passing by reason of the death of the decedent. Accordingly, a conviction for involuntary manslaughter would not result in a forfeiture of property rights.

This act became effective July 13, 2006 and applies to property passing from decedents dying on or after that date. (DH)

Protection of Animals

S.L. 2006-113, Sec. 1 and 2 ([HB 2098](#), Sec. 1 and 2). See **Agriculture and Wildlife**.

Motor Vehicle Self-Insurers

S.L. 2006-145 ([SB 277](#)). See **Insurance**.

Lapse in Liability Insurance

S.L. 2006-213 ([SB 881](#)). See **Insurance**.

Eminent Domain Restrictions

S.L. 2006-224 ([HB 1965](#)). See **Property, Trusts, and Estates**.

Unincorporated Nonprofit Association Act/General Statutes Commission Technical Corrections

S.L. 2006-226 ([SB 1479](#)). See **Commercial Law and Consumer Protection**.

Increase Penalties for CAMA Violations

S.L. 2006-229 ([HB 1523](#)). See **Environment and Natural Resources**.

Trusts and Estates Technical Changes

S.L. 2006-259, Sec. 13 ([SB 1523](#), Sec. 13). See **Property, Trusts, and Estates**.

Appellate Counsel in Civil Commitment Actions

S.L. 2006-264, Sec. 61 ([SB 602](#), Sec. 61). See **Health and Human Services**.

*For a complete list of the studies and reports authorized by the 2006 Session of the
2005 General Assembly, please refer to the Appendix contained in this publication.*

Chapter 5

Commercial Law and Consumer Protection

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

Enacted Legislation

Amend Transition Provisions Article 9/Uniform Commercial Code

S.L. 2006-11 ([SB 1377](#)) amends G.S. 25-9-705 to resolve a problem caused by possible different interpretations of this section as applied to a particular group of "affected" UCC-1 financing statements. The statute is part of the transition provisions from former Article 9 to the Revised Article 9 of the Uniform Commercial Code (Chapter 25 of the General Statutes) which became effective July 1, 2001. Both articles cover security interests in personal property.

The act adds a new subsection (g), to provide that the lapse date of June 30, 2006, in subdivision (c)(2), does not apply to affected financing statements, and that a continuation statement with respect to an affected financing statement is effective if it is filed before the normal lapse date but no earlier than December 30, 2005, or six months before the normal lapse date, whichever is earlier. This change preserves the existing six-month window within which to file a continuation statement and also makes valid all continuations of affected financing statements filed during the time period beginning December 30, 2005, through June 30, 2006. The act clarifies that the changes made by the act do not make ineffective a continuation statement that was already filed and effective on the effective date of the act.

This act became effective June 14, 2006. (WR)

S Corporation Income Tax Adjustments

S.L. 2006-17 ([HB 1898](#)). See **Finance**.

Enhance Embargo Authority/Protect Food Supply

S.L. 2006-80 ([HB 2200](#)). See **Agriculture and Wildlife**.

Insurance Technical Corrections/Manufacturers Licensing Law

S.L. 2006-105, Sec. 2.3 ([SB 615](#), Sec. 2.3) amends Article 12 of Chapter 20 of the General Statutes, Manufacturers Licensing Law. Existing law requires a new motor vehicle dealer, motor vehicle sales representative, manufacturer, factory branch, factory representative, distributor, distributor branch, distributor representative, or wholesaler to obtain a license by filing an application with the Division of Motor Vehicles. As a condition of obtaining a license, a motor vehicle dealer, manufacturer, factory branch, distributor, distributor branch, or wholesaler must furnish a corporate surety bond of \$50,000 for one established salesroom and \$25,000 for each additional salesroom for motor vehicle dealers. For all others required to post a corporate surety bond, the amount of the bond is \$50,000 for one place of business and \$25,000 for each additional place of business. The bond may be cancelled only if the bonded person stops engaging in business or the license is denied, suspended, or revoked.

This section allows cancellation of the corporate surety bond either for nonpayment of premium, or because of a "substantial and material misrepresentation or nondisclosure of a material fact" in obtaining or renewing the bond. Notice must be delivered or mailed to the license holder and the Commissioner of Motor of Vehicles not less than 30 days prior to cancellation. Notice must be given or mailed to the license holder by certified mail.

The section also allows a corporate surety to refuse renewal of the bond 30 days prior to the premium anniversary date by giving 30-days written notice of nonrenewal to the license holder and the Commissioner of Motor Vehicles. Notice must be given or mailed to the license holder by certified mail.

This section became effective October 1, 2006. (TH)

Revise Articles 1 and 7 of the Uniform Commercial Code

S.L. 2006-112 ([SB 1555](#)) replaces current Article 1 of Chapter 25 of the General Statutes (Uniform Commercial Code (UCC)) with Revised Article 1 of the UCC. Article 1 contains provisions, including definitions, which apply throughout the UCC. The revised article reflects the substantial revisions made to other UCC articles over the last 20 years; updates the style; eliminates obsolete provisions; reorganizes in part; and makes clarifying and substantive changes, some of which are necessary to accommodate electronic commerce.

The act replaces current Article 7 of Chapter 25 with Revised Article 7 of the UCC. Article 7 covers bills of lading and warehouse receipts. The revision also primarily reflects changes necessary to accommodate electronic documents. The act makes conforming amendments to other articles in Chapter 25 and to other sections in the General Statutes. The act also repeals Article 5 of Chapter 27 of the General Statutes, the former Uniform Warehouse Receipts Act, which contained the obsolete criminal provisions of the chapter.

This act became effective October 1, 2006. (WR)

Debt Collection Licensing Changes

S.L. 2006-134 ([HB 1388](#)) authorizes the Commissioner of Insurance (Commissioner) to issue a collection agency permit to an alien, or non-US, corporation if the corporation is owned or majority-controlled by a parent entity that is incorporated or organized in the United States, and the alien corporation can service accounts held only by an affiliate or subsidiary of the parent entity. The act also requires that:

- The Department of Insurance be given notice if the alien corporation is sold.
- The alien corporation must file a bond of double the amount of a US corporation.
- The alien corporation must make records available to the Commissioner in North Carolina.
- The parent entity must agree to cure any violation committed by the alien corporation.
- Service of process on the parent entity is sufficient service of process on the alien corporation.
- The alien corporation must maintain a trust account with a bank located in the US or in a bank approved by the Commissioner.

This act became effective October 1, 2006. (KCB)

Video Service Competition Act

S.L. 2006-151 ([HB 2047](#)). See **Finance**.

Service Members and Veterans/Identity Theft

S.L. 2006-158 ([HB 2883](#)). See **Military, Veterans, and Indian Affairs**.

Amend Identity Theft Protection Act of 2005

S.L. 2006-173 ([HB 1248](#)) amends the identity theft protection laws enacted in 2005 in the following ways:

- Requires governmental entities that possess identifying information to notify affected parties and follow the same notification requirements applicable to non-governmental entities in the event that security is breached with regard to personal identifying information.
- Clarifies that identifying information held by a governmental entity that is segregated or redacted from a public record is not a public record. The record from which the identifying information is removed remains a public record.
- Prohibits a person from filing a document with the Secretary of State that contains identifying information, except under special circumstances.
- Adds documents filed with the Office of the Secretary of State to the list of public registries that must accept a document for recording, despite containing identifying information.
- Adds the Office of the Secretary of State to the list of public registries that are required to redact identifying information contained in their records when expressly requested to do so by the person whose identifying information is in the public record.
- Delays the effect of the law requiring governmental entities not to make identifying information available to the general public for certain records of the Office of the Secretary of State until July 1, 2007.

The Office of the Secretary of State is directed to study the alternatives and costs for redacting identifying information on the Office's internet website and to report the results of its study to the Office of State Budget and Management and to the Joint Appropriations Subcommittee on General Government by February 1, 2007.

The provision conforming the non-governmental notification requirements of personal identifying information to governmental entities became effective October 1, 2006. The remainder of the act became effective August 1, 2006. The provisions requiring the Secretary of State to redact identifying information contained in their records when expressly requested to do so by the person whose identifying information is in the public record expires July 1, 2007, the same date the Secretary of State is to have redacted all identifying information on its internet website. (WR)

Methamphetamine Lab Prevention Act

S.L. 2006-186 ([SB 686](#)). See **Criminal Law and Procedure**.

Used Motor Vehicle Dealer Courses

S.L. 2006-191 ([SB 729](#)). See **Occupational Boards and Licensing**.

Junk Faxes

S.L. 2006-207 ([SB 1295](#)) prohibits the transmission of unsolicited facsimile advertisements to a person with whom the sender did not already have an "established business

relationship." The act defines what constitutes an established business relationship between a seller and a consumer. The act would not prohibit the transmission of unsolicited facsimile advertisements when the sender and the recipient of the facsimile already have an established business relationship, but the facsimile would be required to include: the clear and conspicuous notice of the advertisement on the first page, directions for the recipient to place a request not to be sent similar advertisements, and a toll-free telephone or facsimile number to receive their "do not send" request.

The act requires that the following identifying information be contained in all facsimile transmissions: the date and time sent, an identification of the sender of the message, and a telephone number of the sending business or person. The act would exempt certain non-profit professional or trade association transmissions from these identifying information requirements.

Any person or entity receiving an unsolicited advertisement in violation of the act may bring any of the following actions in civil court:

- An action to enjoin further violations by the sender.
- An action to recover the following amounts from the sender: \$500 for the first violation; \$1,000 for the second violation; and \$5,000 for the third and subsequent violations, within a two-year period.

Violation of the act also would be an unfair and deceptive trade practice, which would provide additional remedies, including the possibility of treble damages.

This act became effective September 1, 2006, and applies to offenses committed on or after that date. (KCB)

Cosmetic Art Definitions/Exam Facilities

S.L. 2006-212 ([SB 489](#)). See **Occupational Boards and Licensing**.

Film Incentive Changes

S.L. 2006-220 ([HB 1522](#)). See **Finance**.

Aircraft Mechanics' Lien/Winemaking

S.L. 2006-222, Part 1 ([SB 2010](#), Part 1) creates a procedure under which an aircraft mechanic could file a notice of lien for labor, skills, and material on an aircraft or for storage of an aircraft when the charges for these services and materials are not paid. The amount of the lien is the contract price for the work or storage, and if no contract, the reasonable worth of the service. The lien survives even if possession is surrendered. The filing of a notice of lien is with the clerk of court. These liens have priority over other perfected and unperfected security interests in the aircraft.

The act requires notice of the sale to be given to the owner, permits the owner to stay the sale by filing suit contesting the amount of the lien, permits the owner to obtain possession of the aircraft by depositing the amount of the lien with the clerk, and sets out the procedures to be followed for conducting a private or a public sale. Transfer of title to the purchaser of value at a lien sale is by a bill of sale. Because of the provisions of this act, aircraft mechanics can file their notice of liens with the Federal Aviation Administration for aircraft title purposes under federal law and these liens will be treated as secured claims for bankruptcy purposes.

This part became effective October 1, 2006 and applies to labor, skills, or materials furnished on an aircraft or storage provided for an aircraft on or after that date. (WR)

Uniform Unincorporated Nonprofit Association Act (UUNAA)/ General Statutes Commission Technical Corrections

S.L. 2006-226 ([SB 1479](#)) enacts a North Carolina version of the Uniform Unincorporated Nonprofit Associations Act (UUNAA) as a new Chapter 59B of the General Statutes and makes conforming amendments to other parts of the General Statutes. The act incorporates into one chapter the law dealing with unincorporated nonprofit associations, and treats unincorporated nonprofit associations as legal entities with respect to legal obligations, limitations on liability, holding property, and standing to sue and be sued. The act also provides a statutory default procedure for disposing of a defunct nonprofit association's personal property after three years of inactivity by authorizing the person with possession of personal property of the association to donate the property to another nonprofit entity or to a governmental entity. The act also permits a nonprofit association to file an appointment of an agent for service of process with the Secretary of State.

Part I of the act, concerning the UUNAA becomes effective January 1, 2007. The remainder of the act, including Part II, which made technical and conforming changes to the General Statutes, became effective August 10, 2006. (WR)

Increase Mortgage Lending Fees

S.L. 2006-239 ([SB 2043](#)) changes the fees that may be charged under the Mortgage Lending Act by establishing maximum amounts and by giving the Banking Commission authority to adopt rules setting the fees in a lower amount when appropriate. The act also authorizes the Commissioner of Banks to participate in a centralized national licensing system and database funded and administered by State mortgage regulators.

This act became effective October 1, 2006. (KCB)

Prohibit Various Lending Subterfuges

S.L. 2006-243 ([HB 2894](#)) clarifies that certain cash rebate transactions are subterfuges for unlawful loans and are prohibited. The act's language is consistent with a recent Court of Appeals decision which held that the Consumer Finance Act does apply to cash advances offered in the form of rebates.

The act clarifies that a subterfuge includes any transaction in which a cash rebate or other advance of funds is offered and all of the following apply:

- The cash advance is made contemporaneously with the transaction or soon thereafter.
- The amount of the cash advance is required to be repaid at a later date.
- The selling or providing of any item, service, or commodity with the transaction is incidental to, or a pretext for, the advance of funds.

This act became effective October 1, 2006, and applies to transactions that are investigated on or after that date under the North Carolina Consumer Finance Act, Article 15 of Chapter 53 of the General Statutes, as amended by this act, and applies to transactions that are subject to enforcement actions under the North Carolina Consumer Finance Act that are filed on or after that date. (KCB)

Prohibit Extreme Pricing Practices

S.L. 2006-245 ([HB 1231](#)), as amended by Section 41 of S.L. 2006-259 ([SB 1523](#)) amends the statute which prohibits excessive pricing during states of disasters. The amendments expand coverage beyond states of disaster to include states of emergency and abnormal markets. The

addition of abnormal markets as a triggering event allowing applicability of the prohibition of excessive pricing means that events outside the State that affect prices in the State will now be included. In addition, excessive pricing at all levels of the market will now be prohibited. As previously written, the statute applied only to retail sales. The statute will now apply only to areas of the State where the state of disaster or emergency is declared, or where the abnormal market disruption is found to exist. The statute will not apply if price changes are due to actual market fluctuations.

This act became effective August 15, 2006. (SR)

State Unemployment Tax Modifications

S.L. 2006-251 ([SB 2012](#)) makes changes to the law governing unemployment contribution rates of employers.

Unemployment tax contributions paid by employers depend on both the experience rating of the employer and the fiscal condition of the system. G.S. 96-9(c)(4) provides for the transfer of an employer's account for purposes of determining a successor employer's contribution rate when an employer transfers all or part of its assets to another employer. Prior to this act, when an employing unit acquired all of the assets of another employing unit, the law required mandatory transfer of the predecessor's account to the successor, for use in determining the successor's contribution tax rate.

This act relieves a successor employer of the higher unemployment contribution rate of its predecessor when there is no common ownership between the predecessor and the successor, and the successor acquired the assets of the predecessor in a sale in bankruptcy. In this situation, the successor's rate of contribution is determined without regard to the predecessor's rate.

This act became effective August 16, 2006, and applies to acquisitions made on or after August 1, 2003. (TH)

Phase Out Video Poker/Except by Compact

S.L. 2006-6 ([SB 912](#)) Exempt Certain Video Poker Machines from Ban, as amended by 2006-259, Sec. 6 ([SB 1523](#), Sec. 6). See **Criminal Law and Procedure**.

Election Changes

S.L. 2006-262 ([HB 128](#)). See **Constitution and Elections**.

For a complete list of the studies and reports authorized by the 2006 Session of the 2005 General Assembly, please refer to the Appendix contained in this publication.

Chapter 6

Constitution and Elections

Erika Churchill (EC), Bill Gilkeson (BG)

Note: Legislation affecting voting cannot be implemented until it has received approval under Section 5 of the Voting Rights Act of 1965. Approval is most commonly obtained administratively from the United States 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 Voting Rights Act approval has not yet been obtained, and therefore the act cannot be implemented until such approval is given.

Enacted Legislation

Candidate Challenge Procedure

S.L. 2006-155 ([HB 2188](#)) establishes a process to challenge the candidacy of someone filing or petitioning to run for office. The law defines a "challenger" as any qualified voter registered in the same district as the office for which the candidate has filed or petitioned and a "challenged candidate" as the candidate whose candidacy is being challenged.

The basic filing provisions include:

When a challenge is to be made. - No later than 10 business days after the close of the applicable filing period. A provision is included to allow a protest petition to be filed if the ground(s) for the challenge are discovered after the time period for filing a candidate challenge has passed.

How a challenge is to be made. - In a verified affidavit by a challenger based on a reasonable suspicion or belief of the facts stated.

Grounds for challenging the candidate. - The candidate does not meet the constitutional or statutory requirements for office, including residency.

Once a challenge is filed, the challenge is heard by a panel. The panels are comprised as follows:

Single county districts. - If the district for the office subject to the challenge covers all or part of only one county, then the panel is the county board of elections of that county.

Multicounty, but less than entire State. - If the district for the office subject to the challenge covers more than one county but less than the entire State, then the panel is appointed by the State Board of Elections (Board), with all of the following applying:

- The Board must appoint the panel within two business days after the challenge is filed. Meetings of the Board to make appointments are treated as emergency meetings for the purpose of notice for an open meeting.
- The panel must consist of at least one member of the county board of elections in each county in the district of the challenged office. The panel must have an odd number of members, no fewer than three and no more than five.
- In appointing members to the panel, the Board must appoint members from each county in proportion to the relative total number of registered voters of the counties in the district for the office.
- The Board must, to the extent possible, appoint members affiliated with different political parties in proportion to the representation of those parties on the county boards of elections in the district for the office.
- The Board must designate a chair for the panel.

Entire State. - If the district for the office subject to the challenge covers the entire State, the panel is the Board of Elections.

Each panel must do all of the following:

- Announce the time and location of the hearing within five business days after the challenge is filed. The preference of location is the county in which the candidate filed his or her notice or petition of candidacy.
- Allow for depositions prior to the hearing upon the request of either the challenger or candidate.
- Issue subpoenas upon its own motion or upon the request of the parties.
- Give notice of the hearing and a copy of the challenge or summary of the allegations to the challenger, the candidate, certain county political party chairs, and other persons likely to have a significant interest in the challenge. Failure to comply with the notice requirements does not delay the holding of the hearing or invalidate the results if it appears reasonably likely that all interested persons were aware of the hearing and had an opportunity to be heard.
- Render a written decision within 20 business days after the challenge is filed and serve that notice on the parties.

Panels may subpoena witnesses and receive evidence from any person with information concerning the subject of the challenge. The challenger is not required to testify unless subpoenaed by a party. The Board must adopt rules addressing notice to parties, scheduling of hearings, timing of deliberations, and issuance of decisions.

The burden of proof is on the candidate, who must show by a preponderance of the evidence based on the whole record, that he or she is a qualified candidate. If the challenge is based on residency, the candidate must show all of the following:

- Actual abandonment of the first domicile and intent not to return to the first domicile.
- Acquisition of a new domicile by actual residence at another place.
- Intent of making the newer domicile a permanent domicile.

There are two distinct procedures for appealing the decision of a panel:

Appeals from single or multicounty panel. - The challenger, a candidate adversely affected by the panel's decision, or any other person who participated in the hearing and has a significant interest adversely affected by the panel's decision, may appeal to the Board. The appeal:

- Must be taken within two business days after the panel files its written decision to the county board of elections where the candidate filed a notice of candidacy or petitioned.
- Must be delivered or deposited in the mail by the end of the second business day after the panel filed its written decision.
- Must be based on the whole record of the hearing with the board making a decision on an expedited basis.

The board's decision may be appealed directly to the North Carolina Court of Appeals no later than two business days after the Board files its final order.

Appeals from a statewide panel. - The challenger, a candidate adversely affected by the panel's decision, or any other person who participated in the hearing and has a significant interest adversely affected by the panel's decision, may appeal. The appeal:

- Must be taken within two business days after the panel files the written decision.
- Must be delivered or deposited in the mail to the Court of Appeals by the end of the second business day after the panel filed its written decision.
- Must be based on the whole record of the hearing.

This act becomes effective January 1, 2007, and applies to actions filed on or after that date. (EC)

Permitted Use of Campaign Funds

S.L. 2006-161 ([HB 1845](#)) establishes permitted and prohibited uses of contributions accepted by a candidate or a candidate's campaign committee. Contributions may be used only for permitted uses. The candidate or candidate's campaign committee may use contributions only for the following purposes:

- Expenditures resulting from the campaign for public office.
- Expenditures resulting from holding public office.
- Contributions to a charitable organization provided that the candidate or the candidate's spouse, children, parents, brothers, or sisters are not employed by the organization or on any board governing the organization.
- Contributions to a national, State, or district or county committee of a political party or a caucus of the political party.
- Contributions to another candidate or candidate's campaign committee.
- To return all or a portion of a contribution to the contributor.
- Payment of any penalties against the candidate or candidate's campaign committee imposed by a board of elections or a court of competent jurisdiction.

A candidate or candidate's campaign committee is expressly prohibited from using contributions to fulfill any commitment, obligation, or expense of a candidate, individual, or other entity that would exist regardless of the campaign for public office or holding public office when making expenditures resulting from running for office or holding public office. Violation of these provisions would be punishable as a Class 2 misdemeanor. These provisions became effective October 1, 2006, and apply to all candidates and candidate campaign committees with active accounts on that date.

The act also amends the existing reporting requirements to require political committee and referendum committee treasurers to report expenditures with a specific description to provide a reasonable understanding of the expenditure. It further requires that the treasurer report the ultimate payee of the expenditure, meaning the individual or person to whom the political committee is obligated to make the expenditure. If the obligation is for more than one good or service, an itemization of the goods and services must be included. These provisions become effective January 1, 2007, and apply to all political committee and referendum committees with active accounts on that date. (EC)

Electioneering Communications

S.L. 2006-182 ([HB 1847](#)) makes several changes to North Carolina's law regulating "electioneering communications." Electioneering communications are communications with the following general characteristics:

- They are made on radio or television or through mass mailings or telephone banks.
- They refer to a candidate for statewide office or the General Assembly.
- They are made during the period 30 days before a primary or 60 days before a general election for the candidate involved.
- They are "targeted to the relevant electorate."
- They do not fall into several excluded categories, including news stories.
- They are not communications expenditures which would be covered by Article 22A of Chapter 163 of the General Statutes. Communications that expressly advocate the election or defeat of a clearly identified candidate would fall into that category.

Before this act, the law already prohibited the use of corporate or labor union money to produce electioneering communications. It also required reporting of spending for electioneering communications within 24 hours after the spending reached \$10,000.

Frequently, the entities that engage in electioneering communications are not registered or regulated as "political committees" under the North Carolina campaign finance laws, but they

are tax exempt because of their political focus under Section 527 of the Internal Revenue Code. Hence, they are often called "527 organizations."

The changes made by this act include the following:

- Changes the way the regulation applies to mass mailings and telephone banks so that items are regulated if they refer to candidates in the same race during a 30-day period that falls within the window of electioneering communications. The items would no longer have to be "identical or substantially similar" as in current law.
- Drops the mail-phone bank "targeted to the relevant electorate" threshold for legislative races from 5,000 to 2,500.
- Changes the definition of "mass mailing" so that it no longer requires that it be made by a commercial vendor.
- Provides that the disclosure date is triggered by the expense being incurred, rather than the payment for the costs being made by the entity producing the electioneering communication.
- Clarifies that in-kind as well as monetary contributions are subject to reporting as well as the prohibition on corporate, union, etc. sources.
- Requires reporting not only the name but also the "principal occupation" of the donor.
- Clarifies that any individual, committee, association, or other organization or group of individuals can produce an electioneering communication even if they have taken a payment from a prohibited source by segregating the funds to prove that the electioneering communication was produced with only allowable source's contributions.
- Prohibits the proliferation of 527 organizations to avoid or evade prohibited source or disclosure requirements.

This act became effective on August 1, 2006, except that any criminal penalties resulting from the act became effective October 1, 2006. (BG)

Runoff Changes

S.L. 2006-192 ([HB 1024](#)) makes a number of changes to election laws, mostly concerned with runoffs and with judicial elections.

The act, in a limited way, introduces into North Carolina election law the device of Instant Runoff Voting. It introduces it in two ways: (i) As a pilot program in local elections during 2007 and 2008, and (ii) as a way of conducting elections to fill vacancies in appellate and Superior Court judgeships that occur during an election year when it is too late to hold a nonpartisan primary.

Instant Runoff Voting is a system designed to accomplish in one election the effect of having a runoff or screening election where more than two candidates are running for the same seat and no candidate gets a majority (or substantial plurality) of the votes. If only two candidates are running, no runoff or Instant Runoff is needed. As used in this section, "instant runoff voting" means a system in which voters rank up to three of the candidates by order of preference, first, second, or third. If the candidate with the most first-choice votes receives the threshold of victory of the first-choice votes, that candidate wins. If no candidate receives the threshold of victory of first-choice votes, the two candidates with the greatest number of first-choice votes advance to a second round of counting. In this round, each ballot counts as a vote for whichever of the two final candidates is ranked highest by the voter. The candidate with the most votes in the second round wins the election. The threshold of victory of first-choice votes differs depending on what kind of election is involved. In a partisan primary, the threshold is 40 percent plus one vote. In nonpartisan election and runoff and nonpartisan primary and election, the threshold is a majority of the votes. Instant Runoff Voting can also be used in races where more than one candidate is to be elected. In the case of a multi-seat race, the voters vote the same way as with a single-seat race. The counting is done separately for each winner. After the

first winner is determined, that candidate's name is removed and the ballots are counted again in the same way to determine the second winner.

In the pilot program, the State Board of Elections is to select up to 10 cities in the 2007 elections and up to 10 counties in the 2008 elections to participate in a pilot for Instant Runoff Voting in local elections. It would be used only in partisan primaries and nonpartisan elections. No county would be selected if the county board of elections did not agree. If Instant Runoff Voting were used in an election that normally was a nonpartisan plurality election, the governing board of the city or county would also have to agree.

In judicial elections, Instant Runoff Voting will be used if a vacancy in a seat on the Supreme Court, the Court of Appeals, or the Superior Court occurred at a time when, according to the State Constitution, an election would have to occur in November for the seat, but there is no time to complete the normal method of screening candidates, the nonpartisan primary. Instant Runoff Voting would also be used where a judicial candidate dies or becomes disqualified and it is too late to complete a nonpartisan primary.

The act makes several other changes:

- Moves the standard date for the runoff in partisan primaries in even years from the current four weeks after the first primary to seven weeks after it.
- Changes the municipal election schedule so that the candidate filing period is shortened from four weeks to two weeks (first Friday in July to the third Friday in July), and changes the partisan municipal primary schedule so that the first primary is always the second Tuesday after Labor Day and the second primary is the fourth Tuesday before the election. In most years, that will add an extra week between the first and second primaries and, in all years, it will add an extra week between the second primary and Election Day.
- Conforms State law to federal law on treatment of overseas voters. Previous State law allowed certain military-connected and other voters to register and vote absentee and to vote by email and fax, but it did not provide that service to all overseas civilian United States citizens who were covered by the federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). State law did, however, extend those privileges to certain people, including hospitalized veterans, who were not covered by UOCAVA. This act extends State coverage to all citizens covered by UOCAVA. It does so without removing coverage from anyone who now has State coverage.
- Provides that the precincts or other voting units that will be selected for hand counting of votes will not be selected until 24 hours after the initial count of the election returns is released to the public, or 24 hours after the polls close, whichever occurs first. The selection would have to be done in public.
- Makes several changes to the laws governing the Public Campaign Fund, which provides public funding to candidates for appellate judgeships who agree to certain conditions. Among the changes are the ability of candidates to make up any lack of public funds to which they are entitled by raising that amount privately, a simplified trigger for reporting of independent expenditures, and a narrowing qualification on the 21-day blackout for non-publicly funded opponents to raise private contributions. One significant change is to apply to candidates for Superior Court and District Court, or the trial courts, the \$1,000 contribution limit that now applies to candidates for appellate court judges. The contribution limit for non-judicial candidates is \$4,000 per donor per donee per election.

This act became effective on August 3, 2006, except that the change in the dates for runoff primaries and the change in the contribution limit for trial court judge candidates becomes effective January 1, 2007. (BG)

2006 Campaign Finance Changes

S.L. 2006-195 ([HB 1846](#)) makes several changes to the campaign finance laws, mostly concerned with the training of campaign treasurers and their activities in accepting and reporting contributions.

The act does the following:

- Reduces from \$100 to \$50 the amount of a contribution that may be made or accepted in cash.
- Prohibits the making or accepting of a non-cash contribution unless it contains on the instrument of contribution the name of the intended contributee chosen by the contributor.
- Makes clear that treasurers must keep accounts of all contributions, including all information required by the State Board of Elections on its forms. The act removes language that might lead some to believe that small contributions accepted at an event do not have to be specifically accounted for.
- Changes the threshold for the identification of individual contributors on public campaign reports. Current law sets the threshold at \$100. For any contribution by an individual resident of the State of \$100 or less, the contributor does not have to be identified on the report. While current law indicates that aggregate contributions by the same individual are counted toward the \$100 threshold, it does not state what time period must be used to measure the aggregate contributions toward the threshold. In the absence of statutory guidance, the State Board of Elections has used the "election cycle" as the measuring period for the \$100 threshold. "Election cycle" is defined as the term of the office sought or, if multiple offices of different term lengths are involved, the two-year term of legislative offices. This act changes the threshold for reporting a contributor's identity from \$100 to \$50. But it sets a statutory measuring period for aggregate contributions that is different from what the State Board of Elections has been using. It sets the "election" as the new measuring period. This is the same period used for measuring the \$4,000 contribution limit. A primary is one election, and a general election in the same year is another. So, as a result of the act, an individual resident of the State can contribute up to \$50 to a candidate in a primary, and another \$50 to the same candidate in the general election in the same year, and avoid having his or her name reported publicly.
- Prohibits acceptance of a contribution by a non-corporate business entity, labor union, professional association or insurance company. The law already prohibits all those entities from making contributions, but does not prohibit anyone from accepting them. When it comes to acceptance, current law addresses only contributions by corporations. This act changes the law on prohibited sources so that the law on accepting contributions mirrors the law on making contributions. The act also adds language providing a safe harbor against criminal or civil prosecution if a treasurer has shown best efforts to obtain required information.
- Requires that treasurers of campaign committees participate in training as to the duties of the office within three months of appointment and at least once every four years thereafter. The State Board of Elections is required to provide the training through regional seminars and through interactive electronic means. The treasurer may choose to participate in training prior to each election in which the committee is involved. An assistant treasurer may be designated to attend the training. The training must be provided for free. All required reports must be filed by a treasurer or assistant treasurer who has completed the training.

This act becomes effective January 1, 2007, except that the requirements for treasurer training became effective October 1, 2006. (BG)

State Government Ethics Act - 1

S.L. 2006-201 ([HB 1843](#)). See **State Government**.

Candidate-Specific Communications

S.L. 2006-233 ([HB 966](#)) requires disclosure of spending for "candidate-specific communications." "Candidate-specific communications" are the same as "electioneering communications" (see the explanation in the summary of S.L. 2006-182, HB 1847, provided earlier in this Chapter), except for the time period when they occur. To be an electioneering communication, a message must be made 60 days before an election or 30 days before a primary. To be a candidate-specific communication, the communication must be made in an even-numbered year after the last day candidates may file for a partisan primary or a judicial office, set as the last business day in February. The period would run through Election Day, excluding the electioneering communication period.

The sole aspect of candidate-specific communication regulation is disclosure. The differences between how the two kinds of communication are regulated are as follows:

- There is no prohibition on any source making candidate-specific communications. Organizations spending for candidate-specific communications do not have to do so out of a segregated fund that excludes certain expenditures.
- There is no criminal penalty in the candidate-specific communications articles, except that lying on the disclosure statement is subject to perjury. The electioneering articles impose a Class 2 misdemeanor for violations. The candidate-specific articles rely on civil remedies.

Consequently, existing Articles 22E and 22F, and Articles 22G and 22H (created by this act) of the General Statutes would all regulate the same communication: one that refers to a candidate for statewide office or the General Assembly, that is "targeted to the relevant electorate," and that does not meet the express advocacy test of an "expenditure" so that it can be fully regulated under the campaign finance act.

- A communication with the above characteristics is an "electioneering communication" if it is made during the 60 days before a general election or the 30 days before a primary, which are held in April, September, and October. If made during those times the communication is subject to disclosure if made by an entity that spends more than \$10,000 on such communications. It cannot be funded with corporate or union money.
- A communication with the above characteristics is a "candidate-specific communication" if it is made outside the 60-day or 30-day windows but within the wider window beginning at the close of candidate filing in an even-numbered year (last business day of February) and before the general election, which occur in March, May, June, July, and August. If made during that time, the communication is subject to disclosure if made by an entity that spends more than \$10,000 on such communications. However, there is no prohibition on the use of corporate and union money.
- A communication with the above characteristics is not regulated by either of those acts if it is made during an odd-numbered year, or outside the electioneering communications window, or the candidate-specific communications window, of an even-numbered year. During an even-numbered year, the unregulated months are basically January, February, November, and December.

This act becomes effective January 1, 2007. No communication becomes a "candidate-specific communication" until February 2008. (BG)

Electoral Fairness Act

S.L. 2006-234 ([HB 88](#)) equalizes the requirements that must be met for individuals to have their names on the general election ballot by new parties and by unaffiliated candidates for statewide office. The current law requires that new parties collect on petitions the signatures of registered voters equal to 2 percent of the votes cast in the latest general election for Governor, which is 69,734 signatures. Current law requires that statewide unaffiliated candidates collect signatures equal to 2 percent of all the registered voters in the State – more than 100,000 signatures. In 2004, a federal court ruled, in the case of *Delaney v. Bartlett*, 370 F.Supp.2d 373, that the disparity between the 2 requirements was constitutionally indefensible. This act makes the 2 thresholds the same by reducing the unaffiliated candidate threshold to the 69,734 signatures requirement applicable to the new parties.

The act also reduces the requirement that a party must meet to stay on the ballot. Currently, the party will retain ballot status if either its nominee for Governor, or its nominee for President, gets 10 percent of the vote. If neither nominee meets the requirement, the party loses its ballot status. The act reduces the percentage to two percent of the vote.

The act also:

- Applies to new party candidates the same filing fee requirements that apply to candidates for nomination by existing parties.
- Prohibits a party from replacing a candidate on its ticket with a person who has been defeated for the same office in the primary of another party.

This act becomes effective January 1, 2007, and applies to all primaries and elections held on or after that date. (BG)

Election Changes

S.L. 2006-262 ([HB 128](#)) makes the following changes to election law:

- Allows county boards of elections to begin, but not complete, the process of counting mailed absentee ballots before Election Day if the county board uses an optical scan voting system.
- Amends the voter registration statutes to:
 - Clarify that a voter reporting a move need not provide the date of the move, just to attest that the move occurred at least 30 days before the next election.
 - Clarify that a person's residence is the usual sleeping area for voters who live in places other than traditional residences such as houses or apartments.
- Provides that, effective January 1, 2007, the envelope for a voter's provisional ballot identifies the voter, not the provisional ballot itself.
- Establishes a process for how a candidate or political committee may accept loans from financial institutions in the ordinary course of business without violating the prohibition on accepting corporate contributions. Such a loan must meet all the following tests:
 - The full amount of the loan must be secured by collateral placed by someone or something that is not prohibited from making a contribution. The value of the collateral put up by each of those individuals or other entities cannot exceed that entity's contribution limits, generally \$4,000 per election. The value of the collateral posted may exceed the contribution limit where the value of the loan itself does not exceed the limit applicable to the entity.
 - While the loan is unpaid, the value of any collateral posted, or the amount of each guaranty for the loan, is considered a contribution by whoever secured the loan. If the loan or a portion of it is repaid to the bank during the contribution-limit period (an "election"), then whoever secured the loan is freed up to further contribute to the candidate up to the amount of the repayment. If multiple

entities secured the loan that the candidate repays to the bank, then the amount repaid is prorated among them.

- If the loan is to a candidate or political committee, only the candidate, the candidate's spouse, or the political committee may repay the loan to the bank.
- Repeals a provision in the 2005 Budget Bill that allowed the Governor to appoint members of the State Board of Elections without regard to whether they had been nominated by the State Chair of one of the two major political parties, thereby restoring the law that the Governor must make appointments from the lists of five nominees made by each State Party Chair.
- Corporations and other entities prohibited from making political contributions and expenditures may nonetheless be the parent entity for a political committee consisting of individuals connected with it, and the prohibited source may provide "reasonable administrative support" to that political committee. The current statute lists the following as examples of reasonable administrative support: record keeping, computer services, billings, and mailings to members of the committee, office supplies, and office space. This section adds membership development and fund-raising activities to the list of examples.

Except as stated above, this act becomes effective January 1, 2007. (EC)

Clarify 2010 Census Redistricting Data Program

S.L. 2006-264, Sec. 75.5 ([SB 602](#), Sec. 75.5). See **State Government**.

For a complete list of the studies and reports authorized by the 2006 Session of the 2005 General Assembly, please refer to the Appendix contained in this publication.

Chapter 7
Courts, Justice, and Corrections

Brenda Carter (BC), Tim Hovis (TH), Brad Krehely (BK), Howard Alan Pell (HAP)

Enacted Legislation

Provide Additional Assistant District Attorneys

S.L. 2006-66, Sec. 14.3 ([SB 1741](#), Sec. 14.3) increases the number of full-time assistant district attorneys in each prosecutorial district. 13 additional positions are authorized for Mecklenburg County, and 7 are authorized for Wake County. From one to three additional positions are authorized for each of the other prosecutorial districts.

This section becomes effective January 1, 2007. (BC)

Additional District Court Judgeships

S.L. 2006-66, Sec. 14.4 ([SB 1741](#), Sec. 14.4) provides for 17 additional district court judgeships in designated districts. The Governor will appoint the additional judges, and those judges' successors will be elected in the 2008 election for 4-year terms commencing on January 1, 2009.

This section becomes effective January 15, 2007. In the case of districts subject to section 5 of the Voting Rights Act of 1965, it becomes effective January 15, 2007 or the date upon which the additional judge for that district is approved under section 5 of the Voting Rights Act of 1965. (BC)

Additional Magistrates/Eliminate Maximum Allocation of Magistrates

S.L. 2006-66, Sec. 14.5 ([SB 1741](#), Sec. 14.5) increases the number of magistrates in certain counties and eliminates the maximum number of magistrates of each county as provided in the statute.

This section became effective July 1, 2006. (TH)

Increase the Uniform Fees Paid to Jurors

S.L. 2006-66, Sec. 14.17 ([SB 1741](#), Sec. 14.17) increases the fees paid to jurors for days served after the first day from \$12 dollars to \$20. Under prior law, jurors were paid \$12 per day. Fees paid to jurors for service in excess of 5 days in any 24-month period are increased from \$30 dollars to \$40 dollars for each day of service in excess of 5 days. Fees paid to grand jurors are increased from \$12 to \$20 dollars per day.

This section became effective July 1, 2006. (TH)

Divide Prosecutorial District 19B

S.L. 2006-66, Sec. 14.19 ([SB 1741](#), Sec. 14.19) creates a new Prosecutorial District 19D, consisting of Moore County. Prosecutorial District 19B, which had consisted of Montgomery, Moore, and Randolph counties, loses 4 of its 12 Assistant District Attorneys to the new District 19D. The District Attorney for Prosecutorial District 19D will be filled by appointment of the

Governor, with the term expiring on January 1, 2009. A District Attorney decided by election in 2008 will commence a 4-year term beginning on January 1, 2009.

This section becomes effective January 15, 2007. (HAP)

District 13 County Resident Judgeships

S.L. 2006-96 ([SB 1991](#)) provides residency requirements for district court judges in District Court District 13. The voters of District Court District 13, which consists of Bladen, Brunswick, and Columbus counties, elect 6 District Court judges. The act provides that of the 6 district court judges elected in District 13, 1 judge must be a resident of Bladen County, 1 must be a resident of Columbus County, and 2 must be residents of Brunswick County. The remaining 2 judges may be residents of any of the 3 counties in the district.

The act divides Superior Court District 13, consisting of Bladen, Brunswick and Columbus Counties, into 2 districts; District 13A will consist of Bladen and Columbus Counties, and District 13B will consist of Brunswick County. The act designates which current sitting judges are designated for each district.

This act became effective October 1, 2006, or the dates the changes affecting the election of judges are approved under section 5 of the Voting Rights Act of 1965, whichever is later. (BC)

Protection of Animals

S.L. 2006-113 ([HB 2098](#)). See **Agriculture and Wildlife**.

No Prayer for Judgment/Bus Stop Arm Violation

S.L. 2006-160 ([HB 2880](#)) prohibits a judge from entering a prayer for judgment continued when sentencing a person who is guilty of passing a stopped school bus. A "prayer for judgment continued" (PJC) is not defined in the North Carolina statutes. With a PJC, the court accepts the defendant's guilty plea or finds the defendant guilty after trial but does not impose a sentence or enter judgment. Instead, the court indefinitely postpones – or continues – judgment. If the court continues prayer for judgment for a specified period of time and, if within that time, the defendant commits another offense, the State may seek the imposition of a sentence for the original offense.

This act became effective September 1, 2006, and applies to offenses committed on or after that date. (TH)

Criminal Record Checks/Psychology Practice Act

S.L. 2006-175 ([HB 1327](#)). See **Occupational Boards and Licensing**.

Victims' Compensation Changes

S.L. 2006-183 ([HB 2060](#)) makes the following changes to the laws governing the State's Victims' Compensation program, as recommended by the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee:

- Increases from \$3,500 to \$5,000 the total allowable expenses related to funerals.
- Amends the definition of "collateral source" to include a contract or insurance that will pay for funeral expenses, including transportation of the body.

- Adds language clarifying that compensation under the victims' compensation program will not be paid for "noneconomic detriment," which includes pain, suffering, inconvenience, physical impairment, and other non-pecuniary damage.
- Adds language giving the victims' compensation program the discretion to deny, reduce, or reconsider an award where the victim, without good cause, fails to cooperate with the prosecution of a criminal case arising out of the criminally injurious conduct that is the basis of the award.
- Makes adjustments to awards to claimants. Under current law, the Director of the Crime Victims Compensation Commission must reduce or deny an award to the extent the loss is recouped from a collateral source. However, this requirement does not apply to a collateral source that would pay expenses directly related to a funeral, cremation, and burial, including transportation of the body. The act deletes this language and allows awards to be reduced or denied to the extent the claimant is able to recoup the costs of a funeral from insurance or a contract.

This act became effective July 1, 2006, and applies to claims filed on or after that date.

(TH)

Establish North Carolina Innocence Inquiry Commission

S.L. 2006-184 ([HB 1323](#)) establishes the North Carolina Innocence Inquiry Commission, an eight-member body appointed by the Chief Justice of the North Carolina Supreme Court and the Chief Judge of the North Carolina Court of Appeals. The Commission is charged with the responsibility of hearing claims of factual innocence by persons convicted of felonies. If the person pled not guilty to the felony charge, at least five members of the Commission must conclude that there is sufficient evidence to merit judicial review. Upon a majority of five Commission members concluding that review is warranted, the Chief Justice would then appoint a panel of three Superior Court judges to hold an evidentiary hearing. If the person pled guilty to the felony charge, then the Commission must be unanimous in finding that the claim merits judicial review in order for the panel of judges to be appointed. The judicial panel must unanimously rule that the innocence of the defendant has been proven by clear and convincing evidence for the charges to be dismissed. Decisions of the Commission and the judicial panel cannot be appealed.

This act became effective August 3, 2006, and applies to claims of factual innocence filed on or before December 31, 2010. (HAP)

Omnibus Courts Act

S.L. 2006-187 ([HB 1848](#)) makes various changes to the laws concerning the administration of the courts system including:

- Permitting the Judicial Department to accept the payments of fines, fees, and costs by credit, charge, or debit card.
- Allowing the filing of pleadings and papers in the courts by electronic means pursuant to uniform rules adopted by the North Carolina Supreme Court.
- Permitting the Judicial Department to require its employees, contractors, and volunteers to consent to criminal history background checks as a condition for their relationship with the Judicial Department.
- Authorizing the Administrative Office of the Courts (AOC) to provide foreign language interpreters for indigent defendants and to hire permanent staff to serve this purpose.
- Clarifying the authority of the Chief Justice to cancel court sessions and close court offices in the event of adverse weather or other emergency situations.

- Setting the minimum number of magistrates for each county at the current allotment.
- Eliminating the requirement that the Joint Legislative Corrections, Crime Control and Juvenile Justice Oversight Committee study drug treatment courts in North Carolina as enacted earlier this session.
- Amending the budget bill by changing the effective date for the provision that increases juror fees.
- Directing the AOC and other groups to study the most effective way to address the increasing number of persons who either cannot afford representation or choose to represent themselves in family law matters and in some civil litigation, and to report the results of the study to the Joint Appropriations Subcommittee on Justice and Public Safety no later than December 31, 2007.

The act also amends the statutes governing the Judicial Standards Commission (Commission) by:

- Expanding the Commission from 7 to 13 members, providing for staggering of terms, and requiring members to be residents of the State.
- Directing that two of the new members of the Commission must be appointed by the General Assembly, one upon the recommendation of the Speaker of the House of Representatives and one upon the recommendation of the President Pro Tempore of the Senate.
- Providing that the Court of Appeals Judge on the Commission serves at the pleasure of the Chief Justice.
- Providing that the members of the Commission and its employees are immune from civil suit for conduct undertaken in the course of their official duties.
- Expanding possible disciplinary actions to include suspension, private letters of caution, and public reprimands.
- Providing that judges suspended for misconduct will not receive compensation during a period of suspension, and, if removed, will be disqualified from holding another judicial office and will not be eligible for retirement compensation.
- Clarifying that judges suspended for temporary physical or mental incapacity will continue to receive compensation.
- Specifying that no person may disclose information obtained from Commission proceedings or papers and that Commission papers are not subject to disclosure under the State public records laws.
- Authorizing the Commission to issue confidential letters of caution, public reprimands, and advisory opinions to judges.

The provision allowing filing by electronic means became effective August 3, 2006, and applies to all matters filed with the courts on or after the date that the Supreme Court adopts rules for electronic filing. The provision permitting the Judicial Department to require its employees, contractors, and volunteers to consent to criminal history background checks became effective October 1, 2006. The provisions allowing mediation for abused and neglected juveniles, setting the minimum number of magistrates for each county at the current allotment, and changing the effective date for the increase in juror fees became effective July 1, 2006. The changes to the statutes governing the Judicial Standards Commission become effective January 1, 2007. The remainder of this act became effective August 3, 2006. (BK)

Modernize Bail Bondsman Registration

S.L. 2006-188 ([SB 846](#)). See **Occupational Boards and Licensing**.

Legislative Research Commission/Red Light Camera Study

S.L. 2006-189 ([SB 1442](#)). See **Transportation**.

Office of Administrative Hearings/Rules Review Commission Provisions

S.L. 2006-221, Sec. 20 ([SB 198](#), Sec. 20). See **State Government**.

Protect Children/Sex Offender Law Changes

S.L. 2006-247 ([HB 1896](#)). See **Criminal Law and Procedure**.

Governor's Driving While Impaired Task Force Recommendations

S.L. 2006-253 ([HB 1048](#)). See **Criminal Law and Procedure**.

Studies

Legislative Research Commission

The Studies Act of 2006

S.L. 2006-248, Secs. 2.1(a) and 2.1(j) ([HB 1723](#), Secs. 2.1(a) and 2.1(j)) authorize the Legislative Research Commission to study:

- State disclosure requirements in superior court discovery, including the identity of informants, the victim's personal information, work product, open discovery in noncapital postconviction cases, and any other related issues.
- The impact of North Carolina court decisions on the definition of clear proceeds as it relates to the funding and operation of traffic control photographic systems (red light cameras) by cities and towns.

These sections became effective August 16, 2006. (TH)

New/Independent Studies/Commissions

House Task Force to Review and Resolve Conflict in North Carolina Law over the Recovery of Costs in Civil Cases

S.L. 2006-248, Sec. 12.1 ([HB 1723](#), Sec. 12.1) creates the House of Representatives Task Force on the Recovery of Costs in Civil Cases to review and recommend a resolution to the conflict in North Carolina law regarding the recovery of costs in a civil case. Specifically, the Task Force must study the conflict between G.S. 6-20 and G.S. 7A-305. The Speaker of the House of Representatives is to appoint six members of the House of Representatives, and three public members: one member of the North Carolina Academy of Trial Lawyers, one member of the North Carolina Association of Defense Attorneys, and one member of the North Carolina Bar

Association. The Task Force must report and make recommendations to the Speaker by December 31, 2006.

This section became effective August 16, 2006. (TH)

Referrals to Existing Commissions/Committees

Parole Eligibility Report

S.L. 2006-66, Sec. 16.5 ([SB 1741](#), Sec. 16.5) clarifies that the study on parole eligibility must compare the amount of time served by each inmate who is eligible for parole on or before July 1, 2007, to the time served by offenders under Structured Sentencing for comparable crimes. It requires the Post-Release Supervision and Parole Commission to 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 (in addition to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee). Finally, all elements of the report must be submitted by April 1, 2007 (previously, the submission dates were October 1, 2005, and February 1, 2006).

This section became effective July 1, 2006. (BK)

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

S.L. 2006-248, Sec. 54.2 ([HB 1723](#), Sec. 54.2) directs the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee to study the expungement of criminal records for non-violent felons and report its findings to the 2007 General Assembly.

This section became effective August 16, 2006. (TH)

Referrals to Departments, Agencies, Etc.

Reports on Youth Development Centers

S.L. 2006-66, Sec. 15.6 ([SB 1741](#), Sec. 15.6) provides that the Department of Juvenile Justice and Delinquency Prevention (Department) report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety, and the Joint Corrections, Crime Control, and Juvenile Justice Oversight Committee, on the final recommended staffing plan for youth development centers for the 2007-2008 fiscal year. The stated intent of the General Assembly is to consider funding new treatment positions only after receipt of the report. The report is due by November 10, 2006, and must include:

- The latest evaluation results for the Samarkand and Stonewall Jackson Youth Development Centers.
- The total recommended staffing by position classification, with staffing by shift for each housing unit.
- The total cost and cost per bed.
- The primary basis for the number of staff by classification.
- An identification of other states' treatment-based staffing models, how they compare to the Department proposal, and any research on benefits and outcomes in those jurisdictions.

The act also amends the provision that requires the Department to report on the implementation of the treatment staffing model at Dobbs, Dillon, and Juvenile Evaluation Center Youth Development Centers. The Department currently reports quarterly to the Chairs of the

Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety; the act adds the Joint Corrections, Crime Control, and Juvenile Justice Oversight Committee as a report recipient.

This section became effective July 1, 2006. (HAP)

Proposal for Joint Use of Swannanoa Property/Adult Female Correctional Facility and Juvenile Youth Development Center

S.L. 2006-66, Sec. 16.8 ([SB 1741](#), Sec. 16.8) requires the Department of Correction and the Department of Juvenile Justice and Delinquency Prevention to prepare a joint report regarding the proposed joint use of the Swannanoa property. The report must evaluate whether it is feasible to use the facility to establish an adult female correctional center and to continue to operate a juvenile youth development center.

The report must be submitted to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by November 10, 2006. The report must include all of the following:

- The total costs for the project over a five-year period, including operating costs, repair and renovation costs, and the anticipated source of funding for those costs.
- The number and type of positions to be transferred from the Department of Juvenile Justice and Delinquency Prevention to the Department of Correction for the project.
- The plan to employ existing Swannanoa Valley Youth Development Center employees by the Department of Correction.

There will be no transfer of any property or positions between agencies prior to consultation with the Joint Legislative Commission on Governmental Operations and the receipt of the report.

This section became effective July 1, 2006. (BK)

For a complete list of the studies and reports authorized by the 2006 Session of the 2005 General Assembly, please refer to the Appendix contained in this publication.

Chapter 8

Criminal Law and Procedure

Brenda Carter (BC), Trina Griffin (TG), Jeff Hudson (JH), Howard Alan Pell (HAP),
Wendy Graf Ray (WGR), Walker Reagan (WR), Susan Sitze (SS)

Enacted Legislation

Phase Out Video Poker/Except by Compact

S.L. 2006-6 ([SB 912](#)), as amended by S.L. 2006-259, Sec. 6 ([SB 1523](#), Sec. 6), provides for the phasing out of video gaming machines in North Carolina. Currently, legal games are limited to three at any one location. On October 1, 2006, the number dropped to two, and on March 1, 2007, only a single video gaming machine may be operated at one location. Possession of a video gaming machine is illegal on or after July 1, 2007. Effective June 6, 2006, it became illegal to move a machine from its registered location. Video gaming machines operated on Indian lands under a valid Tribal-State Compact are exempted from the ban.

Businesses that assemble, repair, or provide other services for machines that will be operated out of State or on Indian lands may lawfully possess video gaming machines. The following video gaming machines are also exempt: games that do not emit, issue, display, print out, or otherwise record any receipt, paper, coupon, token, or other form of record which is capable of being redeemed, exchanged, or repurchased for cash, cash equivalent, or prizes, or award free replays.

The provisions of this act are effective as noted above. The remainder of the act became effective June 6, 2006. (HAP)

Insurance Technical Corrections

S.L. 2006-105, Sec. 2.1 ([SB 615](#), Sec. 2.1), amends G.S. 20-45(c) to delete license and registration plates from the list of items a law enforcement officer is required to retain pending the entry of final judgment in a related criminal proceeding.

This section became effective July 13, 2006. (SS)

Amend the Forfeiture of Property Rights Law

S.L. 2006-107 ([SB 1378](#)). See **Civil Law and Procedure**.

Protection of Animals

S.L. 2006-113 ([HB 2098](#)). See **Agriculture and Wildlife**.

Seat Belt Use Enhancements

S.L. 2006-140 ([SB 774](#)). See **Transportation**.

No Prayer for Judgment/Bus Stop Arm Violation

S.L. 2006-160 ([HB 2880](#)). See **Courts, Justice, and Corrections**.

Disorderly Conduct/Funeral/Military Services

S.L. 2006-169 ([SB 1833](#)) amends the disorderly conduct statute to prohibit disorderly conduct within 300 feet of a funeral, memorial service, or the family's processional route to the funeral or memorial service. The act also makes it unlawful for a person to engage in certain types of conduct within 300 feet of the building or location where a military funeral or memorial service is being held. The conduct is prohibited one hour before, during, and one hour following the service, procession or burial.

The type of conduct prohibited includes:

- Displaying any visual image that conveys fighting words or actual or imminent threats of harm directed to any person or property associated with the funeral, memorial service, or processional route.
- Uttering loud, threatening, or abusive language or singing, chanting, whistling, or yelling with or without noise amplification in a manner that would tend to impede, disrupt, disturb, or interfere with a funeral, memorial service, or processional route.
- Attempting to block or blocking pedestrian or vehicular access to the ceremonial site or location being used for a funeral or memorial.

A first violation of this act is a Class 2 misdemeanor. A second violation is a Class 1 misdemeanor. A third or subsequent violation is a Class I felony.

This act becomes effective December 1, 2006, and applies to offenses committed on or after that date. (SS)

Cell Phone Use by Drivers under 18 Prohibited

S.L. 2006-177 ([SB 1289](#)). See **Transportation**.

Assault Handicapped/Increase Penalty

S.L. 2006-179 ([SB 488](#)) increases the penalty for committing assault or battery upon a handicapped person from a Class 1 to a Class A1 misdemeanor. The range of punishment for a Class 1 misdemeanor is a minimum of 1 to 45 days of community service with a maximum of up to 120 days active, depending on the person's prior record. The range of punishment for a Class A1 misdemeanor is 1 to 150 days, with the possibility of an active sentence even if the person has no prior convictions.

This act becomes effective December 1, 2006, and applies to offenses committed on or after that date. (TG)

Strengthen Neighborhood Watch Programs

S.L. 2006-181 ([HB 1120](#)) authorizes cities and counties to establish neighborhood crime watch programs. The act also creates a Class 1 misdemeanor for harassing someone for participating in a neighborhood crime watch program or activity, or actively participating in an ongoing criminal investigation.

The criminal offense created in this act becomes effective December 1, 2006. The remainder of this act became effective August 1, 2006. (SS)

Establish North Carolina Innocence Inquiry Commission

S.L. 2006-184 ([HB 1323](#)). See **Courts, Justice, and Corrections**.

Methamphetamine Lab Prevention Act

S.L. 2006-186 ([SB 686](#)) amends the restrictions on the purchase and sale of pseudoephedrine products in order to comply with federal law, and to make other conforming changes. The act makes the following changes:

- Requires that pseudoephedrine products in the form of a tablet, caplet, or gel cap be offered for sale only in blister packages.
- With regard to the statutorily required language to be included in a form attesting to a customer's knowledge of and adherence to the restrictions on pseudoephedrine sales, the act allows a retailer who opts to obtain a customer's signature electronically to put the statutory language on a sign next to the device on which the electronic signature will be obtained (rather than include the full statement electronically). If the retailer chooses to display the statement on a sign, the retailer must: (i) instruct the purchaser to read the statement prior to signing, and (ii) include on the electronic form for signature language that indicates the purchaser has read and understood the full statement.
- Changes the limit on the amount of pseudoephedrine that may be purchased per calendar day from 6 grams to 3.6 grams, in conformance with federal law.
- With regard to pseudoephedrine products that are in the form of liquids, liquid capsules, gel capsules, or certain pediatric products, the act deletes a requirement that a retailer post signage containing statutorily mandated language in the area of a store where these products are offered for sale (except as to those products for which the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services ("Commission") issues an order otherwise).
- Creates a new statute that explicitly states that although pseudoephedrine products that are in the form of liquids, liquid capsules, gel capsules, and certain pediatric products are not subject to the requirements of Article 5D of Chapter 90 of the General Statutes (unless the Commission issues an order otherwise), they are still subject to the requirements of the federal Combat Methamphetamine Act of 2005.

The provision clarifying the applicability of federal law to products otherwise exempt from the provisions of the Article became effective September 30, 2006. The remainder of this act became effective August 3, 2006. (SS)

Protect Children/Sex Offender Law Changes

S.L. 2006-247 ([HB 1896](#)) makes several changes to the sex offender registration statutes, creates several new criminal offenses, imposes global positioning systems (GPS) monitoring requirements on certain offenders, and requires the Division of Motor Vehicles to check the National Sex Offender Public Registry prior to issuing a drivers license to certain applicants.

Sex Offender Registration Changes. - There are two established sex offender registration programs in North Carolina: the Sex Offender and Public Protection Registration Program, with a registration period of 10 years, and the Sexually Violent Predator Registration Program, with a lifetime registration requirement. A person who is required to register must provide certain information, as well as a current photograph and fingerprints, to the sheriff in the person's county of residence. Every year, the offender is required to verify that information by mail. In addition, the offender must provide to the sheriff, within 10 days and in writing, any changes in the offender's residence, academic status, or employment status at an institution of higher education. An offender's failure to perform any of the registration, verification, or notification requirements as required by law is a Class F felony. The Department of Justice maintains the registry and the information contained on the registry is public.

This act makes several changes related to the registration requirements. Unless otherwise noted, these changes become effective December 1, 2006, and apply to offenses committed on or after that date.

- It adds two criminal offenses to the list of offenses requiring registration on the sex offender registry: statutory rape of a person who is 13, 14, or 15 years old by a person who is at least 6 years older, and subjecting or maintaining a person in sexual servitude. Under current law, there are two statutory rape offenses: (i) the statutory rape of a person who is 13, 14, or 15 years old by a person who is at least six years older than the victim is a Class B1 felony, (ii) the statutory rape of a person who is 13, 14, or 15 years old by a person who is more than four years older but less than six years older than the victim is a Class C felony. This act adds only the Class B1 offense of statutory rape to the list of offenses requiring registration. A person convicted of the Class C statutory rape is not required to register. Prior to this change neither statutory rape offense required registration.
- It requires a person who moves to North Carolina to register in North Carolina if the person had to register as a sex offender in another state and without regard to whether the offense would have required registration if it had been committed in North Carolina.
- It clarifies that an offender's initial registration must be done in person at the sheriff's office.
- It also requires that verification, notice of address change, notice of change in academic status, and notice of change in employment status at an institution of higher education all be done in person at the sheriff's office. Prior to this change, these requirements could be performed by mail.
- It requires an offender to verify his or her registration information on a semiannual basis. It also requires juvenile court counselors to provide verification information on behalf of juvenile registrants, by mail, semiannually. Under prior law, verification was required only on an annual basis.
- It requires an offender to notify the sheriff in the offender's county of registration when the offender will be working for a specified period of time in another county and will maintain a temporary residence in that county, which may include a hotel or other transient lodging. The sheriff is then required to notify the Department of Justice, which will, in turn, notify the sheriff of the county in which the offender will be working. This provision becomes effective June 1, 2007.
- It requires an offender to notify the sheriff in person of the intent to move out of state at least 10 days before the departure date. The person is required to provide, in writing, the address, municipality, county, and state of intended residence.
- It requires the sheriff to provide an offender with written proof of registration.
- It authorizes the sheriff to require an offender to verify his information more frequently than otherwise required and to take a photograph of an offender if the current photograph on file no longer provides a true and accurate likeness. If the sheriff requests that an offender appear in person at the sheriff's office to be photographed, he must appear within 72 hours. Willful failure to do so is a Class 1 misdemeanor.
- It requires a registered offender to petition the court in order to terminate registration. Under current law, registration on the 10-year registry terminates automatically at the end of 10 years. Under this act, the court may terminate registration if (i) the petitioner has not been arrested for any crime that would require registration since completing his sentence, (ii) the relief complies with any federal standards applicable to termination or are required to be met as a condition for the receipt of federal funds, and (iii) the court is otherwise satisfied the petitioner is not a threat to public safety. If the offender's petition is denied, the offender must wait one year before petitioning the court again.

- This act created several new criminal offenses and amended several existing offenses related to sex offenders. Except as otherwise noted, all new offenses and changes to existing offenses become effective December 1, 2006, and apply to offenses committed on or after that date.
 - It adds a "willful" requirement to the criminal penalties for failure to comply with registration requirements. Given this change, it will be a Class F felony for an offender to willfully fail to report in person to the sheriff's office for registration, verification, or notification of address change, academic status change, or employment status at an institution of higher education change.
 - It creates a new Class H felony for harboring a sex offender. A person is guilty of this offense if the person: (i) has reason to believe an offender is in violation of the registration requirements; (ii) has the intent to assist the offender in eluding arrest; and (iii) withholds information from law enforcement, harbors or conceals, or attempts to harbor or conceal, the offender, or provides false information to law enforcement.
 - It creates a new Class G felony for a person who is registered or required to register to knowingly reside within 1,000 feet of a public or nonpublic school or child care center. Persons who have established a residence prior to August 16, 2006, when the act became law, are exempt from the provision.
 - It creates a new Class F felony for a person who is required to register to work for any person or as a sole proprietor, with or without compensation, at any place where a minor is present and the person's responsibilities would include the instruction, supervision, or care of a minor or minors.
 - It creates a new Class F felony for a person to conduct any activity at the person's residence where the person cares for minors of another, knowing that a person who resides at the same location is required to register.
 - It amends sexual battery by expanding the definition of "sexual contact," which is the term defining the physical act in the offense of sexual battery, to include "ejaculating, emitting, or placing semen, urine, or feces upon any part of another person." Currently, sexual battery is the only misdemeanor (Class A1) requiring sex offender registration.
 - It creates the offense of "human trafficking." This offense makes it illegal for a person to recruit, entice, harbor, transport, provide, or obtain by any means another person with the intent that the other person be held in involuntary servitude or sexual servitude. This offense is a Class F felony if the victim is an adult, and it is a Class C felony if the victim is a minor.
 - It creates a new criminal offense for subjecting or maintaining a person in sexual servitude. "Sexual servitude" is defined as any sexual activity performed or provided, or for which anything of value is given or promised, which is induced or obtained by coercion or deception, or which is obtained from a person under the age of 18. This offense is a Class F felony if the victim is an adult, and it is a Class C felony if the victim is a minor.
 - It amends "involuntary servitude." Under current law, subjecting a person to involuntary servitude is a Class F felony. This act amends the offense by making it a Class C felony if the victim is a minor. Otherwise, the offense is the same.
 - It amends the offense of kidnapping to include human trafficking and subjecting or maintaining a person in sexual servitude.
 - It creates a new Class F felony for failure to enroll in a GPS program as required by law.
 - It creates a new Class E felony for intentionally tampering with, removing, or vandalizing a GPS device.

- It creates a Class 1 misdemeanor for the willful failure of an offender to appear within 72 hours at the sheriff's office to be photographed, upon the sheriff's request.
- It creates a Class F felony for the willful failure of a registered offender to report his or her intent to reside in another state while remaining in the State without reporting in person to the sheriff.
- It creates a Class F felony for willful failure to notify a person's registering sheriff of out-of-county employment if temporary residence is established. This new offense becomes effective June 1, 2007, and applies to offenses committed on or after that date.

Probation, Parole, and Post-Release Supervision Changes. - This act requires probation officers to conduct a search of a probationer's name who has been assigned to them against the registration information compiled under the sex offender registration act.

Global Positioning System Monitoring. - Under current law, a sex offender, as a condition of probation, parole, or post-release supervision, may be placed under house arrest with electronic monitoring. With this system, an offender is required to wear an ankle bracelet, and the Department of Correction's Division of Community Corrections can track when the offender leaves or arrives at his residence. The Division is not able to track where an offender goes, but only whether the offender has left or returned. A person placed under electronic monitoring pays a \$90 fee for the device.

This act directs the Department of Correction (DOC) to develop and implement, by January 1, 2007, a sex offender monitoring program using Global Positioning Systems (GPS). GPS is a collection of satellites owned by the United States Government that provides highly accurate worldwide positioning and navigation information 24 hours a day. GPS receivers on the earth's surface communicate with satellites to determine the precise location, speed, and direction of assigned transmitting devices. There are two types of GPS monitoring: active and passive.

- Active GPS monitoring means that an offender's movement is tracked and recorded frequently throughout the day. This information is uploaded to the monitoring company through the use of cell phone technology on a scheduled basis, usually every 5 to 10 minutes. Supervising agents are alerted almost immediately if an offender is non-compliant.
- Passive GPS operates in a similar manner, but the location and movement is uploaded when the offender returns home and places the device in a cradle that connects to the monitoring company. Violation information is forwarded from the monitoring company to the corrections agency via phone or email.

In order to establish this program, the act allows DOC to issue a Request for Proposal, or to contract directly through a contract alliance or consortium, for passive and active GPS.

This act requires monitoring for two types of sex offenders.

- A sex offender who is classified as a sexually violent predator, is a recidivist, or was convicted of an aggravated offense is required to be enrolled in an active, continuous satellite-based monitoring program for life and, after completing any period of supervised probation, will be placed on unsupervised probation for life. A person required to submit to lifetime GPS monitoring may file a request for termination with the Post-Release Supervision and Parole Commission at least one year after having served his or her sentence and having completed any period of probation, parole, or post-release supervision.
- It also requires offenders who have committed an offense involving the physical, mental, or sexual abuse of a minor, and who require the highest level of supervision based on the DOC sex offender risk assessment program to be subject to GPS monitoring for a time period ordered by the court. The sex offender risk assessment program has not yet been established. Therefore, the act requires DOC to develop, no later than January 1, 2007, a graduated risk assessment program that identifies sex offenders that may need extraordinary supervision. The Post-Release Supervision

and Parole Commission has no authority to terminate a monitoring requirement for an offender enrolled in GPS monitoring under this provision. There is a \$90 fee for enrolling in the program. Upon motion and cause, the court may waive the fee.

The GPS provisions became effective on August 16, 2006, when the act became law, and apply to offenses committed on or after that date. However, the requirement to enroll in the program is not mandatory until January 1, 2007, when the program is established.

Study Mental Health Treatment of Sex Offenders. - The act requires DOC to study and develop a plan of mental health treatment programs for incarcerated sex offenders designed to reduce the likelihood of recidivism.

Division of Motor Vehicles. - The act requires DMV to provide notice to all applicants for a drivers license, learner's permit, or identification (ID) card of the obligation for sex offenders to register in this State. It further requires DMV to search the National Sex Offender Public Registry to determine whether an applicant who has resided in North Carolina for less than 12 months is currently registered in another state. If so, then no license or ID card may be issued until the person is registered in this State. If the person does not appear on the registry, then the applicant must sign an acknowledgement of the State's registration law. It also provides a procedure if DMV is unable to search the registry at the time of application. Finally, it provides a procedure for applicants to petition the court for relief if the person contends a license has been improperly denied or revoked based on the person's unregistered status.

This act became effective August 16, 2006. However, many of the provisions have specific effective dates. Most of the provisions become effective December 1, 2006. (TG)

Governor's Driving While Impaired Task Force Recommendations

S.L. 2006-253 ([HB 1048](#)) is based upon the findings of the Governor's Task Force on Driving While Impaired (DWI). The bill is entitled the Motor Vehicle Driver Protection Act of 2006, and provides measures relating to DWI arrest, enforcement, education, and training.

Regulation of Malt Beverage Kegs. - Requires retailers to issue transportation permits that identify purchasers of kegs that contain 7.75 gallons or more of a malt beverage. Records must be kept for 90 days, or longer if requested.

Checking Stations. - Creates a single "checking station" for drivers license, registration, or insurance information, instead of a separate "impaired driving" checkpoint. The agency must operate under a written policy – its own or another agency's – and must designate in advance the pattern to be used for stopping vehicles. The pattern need not be in writing. If an officer makes a determination that the driver may be in violation of the alcohol laws, then the officer may conduct an alcohol screening test.

Implied Consent Pretrial and Court Proceedings. - Provides a new article in the Motor Vehicle chapter of the North Carolina Statutes. The article sets out the procedures for the investigation and processing of alcohol-related traffic offenses, including:

- **Investigation.** - Investigating officers may investigate and seek evidence outside of their normal jurisdictional limits, i.e., anywhere in-state or out of State. An officer may make an arrest anywhere in the State.
- **Processing.** - Officers are required to inform an arrested person of the charge or reason for arrest; may take the person anywhere in the State for a chemical analysis, to complete a report, or for identification; and are required to take the person arrested before a judicial official for an initial appearance.
- **Magistrate Hearing.** - Magistrates are authorized to hold an initial hearing anywhere in a county; must inform the person in writing of the procedures to have others appear and observe his condition, or to administer an additional chemical analysis if bond is not made; and also have the person who is unable to make bond provide a

list of contact persons and telephone numbers on a form and provide the procedure for making those contacts.

- **Facilities.** - The Chief District Court Judge, the Sheriff, and other officials are required to establish procedures for access to the chemical analysis room by attorneys and witnesses; post procedures explaining to the public the right to obtain an additional chemical analysis; and post appropriate signs to assist in accessing the facilities.
- **Motions and Court Procedure.** - When a case will be heard in District Court:
 - Motions to suppress evidence or dismiss charges must be made prior to trial, and the State given reasonable time to procure witnesses or otherwise prepare its response.
 - If a motion is not summarily denied, the judge must hold a hearing and make findings of fact. Witnesses must testify under oath. The findings and conclusions of law must be in writing.
 - If a preliminary decision is made to suppress evidence, then a final judgment must be withheld until the State has an opportunity to appeal to the Superior Court.
 - On appeal to Superior Court, the court is not bound by the District Court's findings of fact, and may make its own findings. On appeal, the District Court sentence is vacated. On remand or return to District Court for resentencing, the court conducts a new sentencing hearing and may consider any new convictions. Sentencing may be delayed until disposition of other pending charges.

Opinion Testimony. - Authorizes testimony by drug recognition experts and by experts on the Horizontal Gaze Nystagmus (HGN) test. The testimony by these experts may relate only to impairment, and not as to a specific alcohol concentration level. Accident reconstruction experts may give opinion testimony as to the speed of a vehicle.

Alcohol Screening Devices. - Makes technical changes and changes the current law to allow screening tests as evidence in court and administrative proceedings.

Clarification of Impaired Driving Offense. - Makes the following changes:

- Clarifies that "public vehicular areas" include business property, whether the business is open or closed.
- Defines "State" so as to include convictions of motor vehicle offenses from Cherokee Tribal Court.
- Clarifies the *per se* impaired driving offense for non-commercial and commercial drivers. The stated alcohol concentration level is sufficient for a conviction without evidence of impairment.
- Adds the consumption of any amount of Schedule I controlled substances as the basis for a DWI violation for both commercial and non-commercial drivers.
- Provides the methods of proving the Gross Vehicle Weight for commercial vehicles.
- Amends the Habitual DWI statute to apply to any person who has 3 previous DWI convictions within a 10-year period. Currently, the law applies to anyone who has 3 previous DWIs within a 7-year period.
- Clarifies that required procedures and evidentiary provisions applicable to chemical analyses apply to the immediate license revocation statute.

Creation of New Impaired Driving Offenses. - Amends the motor vehicle laws by adding several new offenses:

- **Felony Serious Injury by Vehicle.** - A person who unintentionally causes serious injury while driving impaired is guilty of a Class F felony.
- **Aggravated Felony Serious Injury by Vehicle.** - A person who unintentionally causes serious injury while driving impaired, and who has an impaired driving conviction within seven years of the offense, is guilty of a Class E felony.
- **Aggravated Felony Death by Vehicle.** - A person who unintentionally causes the death of another while driving impaired, and who has an impaired driving conviction within seven years of the offense, is guilty of a Class D felony.

- **Repeat Felony Death by Vehicle Offender.** - A person who previously has caused the death of a person while driving impaired, and commits a second impaired driving offense that causes another death, will be sentenced as if the person had committed second degree murder (a Class B2 felony).

In addition to creating the new offenses, the penalty for Felony Death by Vehicle was increased from a Class G felony to a Class E felony.

Clarifying and Simplifying the Implied Consent Laws. - Adds clarifying language to the impaired driving laws that:

- Allows any law enforcement officer to perform the chemical analysis - not just the arresting officer.
- Changes the Superior Court's standard of review when a person appeals a license revocation for refusal to submit to chemical analysis. Currently, the review is a *de novo* review, meaning the Superior Court hears all the evidence again. This part would change the review to limit the review to whether there is (i) sufficient evidence in the record to support the Commissioner's findings of fact, (ii) whether the conclusions of law are supported by the findings of fact, and (iii) whether the Commissioner committed an error of law in revoking the license.

Admissibility of Chemical Analysis. - Makes several changes to the laws on chemical analysis evidence:

- Provides the requirements for the admissibility of a chemical analysis of a person's breath.
- Amends the statute governing admissibility of chemical analyses to allow the court to take notice of the Department of Health and Human Services' rules and of the persons authorized to administer the analyses.
- Provides for procedures for establishing the chain of physical custody or control of blood and urine samples.
- Provides for a hearing on the admissibility of evidence if the defendant notifies the State at least five days before trial.

Improved Access to Medical Records. - Allows law enforcement officers to gain access to medical information as part of a criminal investigation. Certified copies of relevant health information are admissible in any hearing or trial without further authorization.

Recordkeeping. - Imposes documentation requirements by the prosecutor when a charge is reduced or dismissed, and also requires the Administrative Office of the Courts (AOC) to electronically record the information. The AOC must make the information available upon request, and provide an annual report to legislative committees.

Superior Court clerks must ensure that all records of dispositions in criminal cases, including those records filed electronically, contain all the essential information about the case, including the name of the presiding judge, prosecuting attorney, and defense attorney. In cases involving impaired driving, driving while license revoked for impaired driving, and other alcohol related offenses, the clerk must also include the following information:

- The reasons for any pretrial dismissal by the court.
- The alcohol concentration of the defendant.
- The reasons for any suppression of evidence.

The information recorded by the clerk must be kept by the AOC in a separate database. The AOC must submit the information as an Impaired Driving Integrated Data System Report on an annual basis to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee. The report also must be available upon request to the public at no charge, and posted on the AOC Internet web site.

Notice Procedure and Driving While License Revoked. - This section of the act:

- Provides that the Division of Motor Vehicles (DMV) may prove notice of personal delivery, or by mail, by making a notation in its records. A certified copy of the DMV's

records would be admissible in any court or administrative agency proceeding as proof of notice.

- Provides a criminal penalty and license revocation for persons who have been sent a notice of revocation of license for driving while impaired, and the person drives on a highway with a revoked license, or where the person fails to appear for two years from the charge date if charged with an implied consent offense.
- Authorizes the DMV to require the installation of ignition interlock on vehicles, and may cancel conditionally restored licenses if any conditions of restoration are violated. The part provides an exemption from the interlock requirement upon a showing of medical incapacity.

Sentencing Procedure and Serving of Sentence. - Provides procedures for a jury to find aggravating factors, instead of the judge. This provision is in response to a United States Supreme Court decision that required a jury to find any facts that would aggravate a sentence beyond the statutory maximum. The procedures allow for a defendant to admit to the aggravating factor only, or plead guilty only to the charge. A judge may find the existence of prior convictions without a jury determination. The State must provide notice of its intent to use one or more aggravating factors if the defendant appeals to Superior Court.

A defendant sentenced to a term of imprisonment that is 48 hours or more must serve the term on an hour-for-hour basis. A defendant arriving at a confinement facility on a Friday evening would not be eligible for release on Sunday morning, although two "days" have passed.

Under 21, Illegal Consumption. - The act makes it illegal for a person less than 21 years of age to consume any alcoholic beverages. The exceptions are:

- During the course of treatment by a licensed physician, druggist, or dental surgeon for medicinal or pharmaceutical purposes, or by medical facilities established and maintained for the treatment of addicts.
- For sacramental purposes by any organized church or ordained minister.
- Under the direct supervision of an instructor during a culinary class that is part of a curriculum at an accredited college or university.

The act authorizes a law enforcement officer to administer a screening test to a person less than 21 years of age if there is probable cause that the person has consumed alcohol. The test result would be admissible in any court or administrative proceeding.

Community Service or House Arrest. - Requires that any impaired driving offender who has completed recommended treatment or a training program, and is not being paroled to a residential treatment program, must as a condition of parole, be placed on (i) community service parole, or (ii) house arrest with electronic monitoring.

Prevent Permit Switching. - Provides that a permittee may not employ someone who has been a permit holder at that location and who has had their permit revoked within the past 18 months. This is designed to prevent a current permit holder who becomes ineligible from using a surrogate to be the designated permit holder, while remaining in charge of the business.

DWI Training for Judges. - Requests that the Chief Justice of the North Carolina Supreme Court (i) encourage judges to receive continuing legal education on driving while impaired offenses and relevant statutes, and (ii) promulgate rules necessary to ensure that the judiciary receive training.

Require District Attorney Signature. - Provides that a motion for appropriate relief (MAR) may not be granted without the signature of the District Attorney (DA). A MAR is a pleading by the defendant seeking relief from a judgment of the court. If the defendant gives notice of the motion orally in court, or in writing to the DA, then the court may grant the motion if the DA has not responded within 10 days after receipt of notice.

Seizure and Forfeiture of Vehicle. - Allows the seizure and forfeiture of a vehicle when the operator was driving while impaired, was without a valid driver's license, and had no liability insurance.

The requirement that the AOC electronically record certain data becomes effective after the next rewrite of the Superior Court Clerks System. The remainder of the act becomes effective on December 1, 2006, and applies to offenses committed on or after that date. (HAP and SS)

Restore Authority for Antique Firearms

S.L. 2006-259, Sec. 7 ([SB 1523](#), Sec. 7) amends the definition of an antique firearm, to conform the State definition to the definition under federal law to include firearms manufactured on or before 1898, and replicas thereof, provided the firearms are not capable of using fixed ammunition. The act also amends the felony firearms statute to permit a felon to purchase, own, possess, or have custody, care or control of an antique firearm, as is permitted under the federal felony firearms statute. A change in the law in 2004 took away the right of a felon to possess an antique firearm in the person's residence or business.

This section became effective August 23, 2006. (WR)

Validate State Law Enforcement of Immigration Laws

S. L. 2006-259, Secs. 24.(a) and (b) ([SB 1523](#), Secs. 24.(a) and (b)). See **State Government**.

For a complete list of the studies and reports authorized by the 2006 Session of the 2005 General Assembly, please refer to the Appendix contained in this publication.

Dee Atkinson (DA), Drupti Chauhan (DC), Shirley Iorio (SI), Sara Kamprath (SK)

Enacted Legislation

Public Schools

Clarify School Admissions Procedures

S.L. 2006-65 ([HB 1074](#)) clarifies the admissions procedures for children to attend schools free of tuition in the local school administrative unit in which they are residents but not domiciliaries. The act amends the law to include children whose parents or guardians relinquish physical custody and control of them upon the recommendation of the Department of Social Services or the Division of Mental Health. An affidavit is required for these children that assigns the responsibility and authority to the person with whom the child resides to make educational decisions. The parent or guardian would retain legal liability for the child's acts.

The act provides that a child who is placed in or assigned to a licensed group home, family foster home, or therapeutic foster home is eligible for admission to the public schools in the local school administrative unit where the facility is located subject to the following:

- If the child's parent or legal guardian retains legal custody of the child, then an affidavit is required. In this case, the person with whom the child lives, the child's caretaker or foster parent, or other clearly identifiable adult who resides in the county where the licensed group home or foster home is located would have the same legal authority and responsibility as the child's parent or guardian would have even if the parent or guardian does not sign the affidavit. The child's parent or legal guardian would retain legal liability for the child's acts.
- If the person or agency that placed the child has legal custody of the child, then that person or agency must provide in writing to the school the name, address, and phone number of the individual who has authority to make educational decisions concerning the child.
- The Social Services Commission or the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services is required to license the group home or foster home.

The act clarifies that a student who is a resident of a local school administrative unit because the student resides with a parent, guardian, or legal custodian who is a student, employee, or faculty member of a college or university or a visiting scholar at the National Humanities Center is considered domiciled in that administrative unit for the purpose of attending schools in the administrative unit free of tuition. In addition, the definition of "educational decisions" is expanded to mean decisions or actions recommended or required by the school concerning the student's academic course of study, extracurricular activities, and conduct. The decisions and actions would include enrolling the student and responding to disciplinary notices.

The act also amends the provisions related to the education of homeless children to require that the State Board of Education and all local boards of education comply with the federal McKinney-Vento Homeless Education Assistance Improvements Act of 2001 and includes current terminology and definitions from the federal law.

This act became effective July 1, 2006, and applies beginning with the 2006-2007 school year. (DC)

North Carolina Virtual Public School

S.L. 2006-66, Sec. 7.16 ([SB 1741](#), Sec. 7.16) places the North Carolina Virtual Public School's (NCVPS) administrative office at the Department of Public Instruction and requires it to report to the State Board of Education. The Director of the NCVPS must ensure that course quality standards are established and met and that all e-learning opportunities that are State funded and offered to public school students are consolidated under the North Carolina Virtual Public School Program. The consolidation must be completed by June 30, 2007. The priority for e-learning course offerings must be for students residing in rural and low-wealth county school systems. The initial e-learning instructional opportunities must include courses required as a part of the North Carolina standard course of study for high school graduation and Advanced Placement offerings not otherwise available.

The Director must report on the proposed consolidation and operating plan for 2007-2008 to the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, and the Fiscal Research Division of the North Carolina General Assembly by January 15, 2007. The State Board of Education is required to develop an allotment formula for funding e-learning to go into effect for the 2007-2008 fiscal year. In developing the formula, the State Board of Education must consider:

- The number of students based on average daily membership projected to enroll in e-learning.
- The projected cost of fees for e-learning courses.
- The extent to which projected enrollment in e-learning courses affects funding required for other allotments based on average daily membership.

This section became effective July 1, 2006. (DC)

Transfer More at Four Program and Office of School Readiness to the Department of Public Instruction

S.L. 2006-66, Sec. 7.18 ([SB 1741](#), Sec. 7.18) transfers the More at Four program, a voluntary prekindergarten program for at-risk four-year-olds, and the Office of School Readiness from the Governor's Office to the Department of Public Instruction effective July 1, 2006. The State Board of Education will appoint an Executive Director for the Office of School Readiness which will provide oversight to the More at Four program and other related early childhood and prekindergarten education experiences.

The Department of Public Instruction (DPI) must continue the implementation of the More at Four prekindergarten program. The program must be consistent with standards and assessments established jointly by the Department of Health and Human Services (DHHS) and DPI and must include all of the following:

- A process and system for identifying children at risk of academic failure.
- A process and system for identifying children who are not being served in formal early education programs who demonstrate educational needs and are eligible to enter kindergarten in the next school year, as well as children who are underserved.
- A curriculum or several curricula that are research-based and built on sound instructional theory. These curricula must:
 - Focus primarily on oral language and emergent literacy;
 - Engage children through key experiences and provide background knowledge needed for formal learning and successful reading;
 - Involve active learning;
 - Promote measurable kindergarten language-readiness skills with an emphasis on emergent literacy and mathematical skills; and
 - Develop skills that will prepare children emotionally and socially for kindergarten.
- An emphasis on ongoing family involvement.

- Evaluation of child progress through a statewide evaluation, as well as ongoing assessment of the children by teachers.
- Guidelines to reimburse local school boards and systems, private child care providers, and other entities willing to establish and provide prekindergarten programs to serve at-risk children.
- A system built on existing local school boards and systems, private child care providers, and other entities that show the ability to establish or expand pre-kindergarten capacity.
- A quality control system.
- Standards for minimum teacher qualifications. A portion of the classroom sites initially funded must have at least one teacher who is certified or provisionally certified in birth-to-kindergarten education.
- A local contribution.
- A system of accountability.
- Consideration of the reallocation of existing funds.

DPI also must implement a plan to expand More at Four program standards within existing resources to include four- and five-star-rated centers and schools serving four-year-olds and develop guidelines for these programs. The "NC Prekindergarten Program Standards" initiative must recognize four- and five-star-rated centers that choose to apply and meet equivalent More at Four program standards as high quality pre-K classrooms. Classrooms meeting these standards must have access to training and workshops for More at Four programs, and when expansion slots are available, these classrooms must be given first priority to receive them.

The More at Four program must review the number of slots filled by counties on a monthly basis and shift the unfilled slots to counties with waiting lists. The date by which the shifting of slots must occur is changed from December 30, 2005 to "through January 31 of each year," at which time any remaining funds for slots unfilled must be used to meet the needs of the waiting list for subsidized child care.

DPI must submit a report by February 1, 2007 to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Education Oversight Committee, the Senate Appropriations Committee on Education, the House of Representatives Appropriations Subcommittee on Education, and the Fiscal Research Division. The final report must examine all of the following:

- The number of children participating in the program.
- The number of children participating in the program who have never been served in other early education programs.
- The expected expenditures for the programs and the source of the local matches.
- The location of program sites and the corresponding number of children participating in the program at each site.
- A comprehensive cost analysis of the program, including the cost per child served by the program.
- The status of the NC Prekindergarten initiatives as outlined in this provision.

More at Four must establish income eligibility requirements for the program for the 2005-2006 and the 2006-2007 fiscal years. The requirements must not exceed 75 percent of the State median income. Up to 20 percent of children enrolled may have family incomes in excess of 75 percent of median income if they have other designated risk factors. The More at Four program funding cannot supplant any funding for classrooms serving four-year-olds as of the 2005-2006 fiscal year, and support of existing four-year-old classrooms with More at Four program funding must be permitted when current funding is eliminated, reduced, or redirected as required to meet other specific federal or State educational mandates.

Finally, this provision allows children enrolled in any More at Four program to be transported on public school buses. The benefiting More at Four program must pay any additional costs associated with such contractual arrangements.

This section became effective July 1, 2006. (SI)

Rewrite Special Education Laws

S.L. 2006-69 ([HB 1908](#)) makes numerous changes to the laws governing the special education of students with disabilities. Some of these changes are required to comply with federal law; other changes reorganize the law to make it clear, up-to-date, and consistent with the federal Individuals with Disabilities Education Improvement Act (IDEA).

This act repeals all parts of Article 9 of Chapter 115C of the General Statutes (Education of Children with Disabilities) and rewrites that Article to make the following changes:

- Conforms State terminology to federal terminology where there is no dispute.
- Resolves contradictory provisions to clarify that students with disabilities who reside in the State are eligible for special education and related services.
- Clarifies that the maximum statutory age for services is through the age of 21 and for the remainder of the school year if the student has his or her 22nd birthday during the school year. Also clarifies that services do not have to be provided once the student graduates from high school even if the age limit has not yet been reached.
- Deletes the State's broader purpose clause and substitutes the federal purpose.
- Allows the State Board of Education (State Board) to set standards that are higher than those required by IDEA.
- Adds a definitions section.
- Redefines the categories of disabilities to conform to IDEA and authorizes additional disabilities if added subsequently under IDEA.
- Removes pregnancy from the list of disabilities.
- Adds children ages three through seven with developmental delays as a category of children entitled to special education and related services.
- Adds charter schools as a local educational agency.
- Removes temporary disabilities.
- Allows the State Board and the Department of Health and Human Services (DHHS) to enter into an agreement to exempt some preschool children with disabilities from the requirement that the children receive special education.
- Includes language to strengthen the State Board's monitoring and enforcement of the State's provision of special education and related services.
- Retains a two-tiered system with initial due process complaints going to the Office of Administrative Hearings (OAH), but will require copies going to the State Board and the opposing party. Makes the following changes to the due process procedures:
 - Requires the State Board and OAH to create a binding Memorandum of Understanding (MOU) to address statutory and regulatory procedures and timelines applicable under IDEA to due process hearings and to hearing officers' decisions, and to ensure parties' due process rights to a fair and impartial hearing.
 - Removes references to procedural statutes governing mediators for mediated settlement conferences in the mediation statute.
 - Clarifies that mediation may be requested before or after a petition for a hearing is filed.
 - Authorizes the Exceptional Children's Division in the Department of Public Instruction (DPI) to assign an impartial mediator from a list of trained mediators.
 - Provides that the State will bear the cost of the mediation process unless the parties opt to use a mediator that is not on the list or if the parties use an alternative method of dispute resolution.

- Authorizes that when resolutions are reached, the parties must execute legally binding agreements that are enforceable in any State administrative forum provided for in IDEA.
- Establishes one year as the statute of limitations for filing a petition.
- Removes references to G.S. 150B-23 regarding time periods tolled as related to the filing of a petition for a hearing and a request for mediation.
- Adds federal language requiring a resolution session and its timelines.
- Requires that records be made available to parents, upon their request, within 45 days if needed to prepare for Individualized Education Program meetings. This requirement does not apply if it is specifically prohibited by court order.
- Removes conflicting language in the section providing for access to records.
- Deletes language from current law that requires prior written approval of the State Board for contracts between public and private service providers.
- Adds a required member on the Council on Educational Services for Exceptional Children and authorizes the State Board to add members as may be required under IDEA.
- Requires the State Board to file annual reports with the Joint Legislative Education Oversight Committee.

Pregnancy was removed from the list of disabilities. However, a provision regarding the education for pregnant and parenting students was added to another section of Chapter 115C of the General Statutes. Beginning with the 2006-2007 school year, pregnant and parenting students must receive the same educational instruction or its equivalent as other students. Local boards of education are required to adopt policies to ensure that these students are not discriminated against or excluded from school or any program, class, or extracurricular activity because they are pregnant or parenting students. Specifically, these students must be given excused absences for pregnancy and related conditions if medically necessary. Also, homework and make-up work must be made available to them. A homebound teacher must be assigned to the extent necessary.

Timelines and other procedural safeguards required under IDEA and Article 9 must be followed in impartial due process hearings that are initiated by a petition filed with OAH. Administrative law judges are required to possess federally required knowledge of IDEA and are encouraged to participate in training developed and provided by the State Board.

Also, the State Board and OAH must enter into a MOU to address specific procedures and timelines for due process hearings. The MOU must be developed by October 31, 2006, and reported to the House Select Committee on the Education of Students with Disabilities by November 15, 2006. The report must include any recommended statutory changes that may be necessary.

Finally, the State Board is directed to revise its Allotment Policy Manual to require school systems to (i) use their State textbook funds to provide, to the same extent as provided to nondisabled students, textbooks for children with disabilities, and (ii) provide teachers of students with disabilities the same teachers' editions provided to teachers of nondisabled students. This provision became effective July 1, 2006.

Except as otherwise provided, this act became effective July 10, 2006. (SI)

Memorial Day Program in the Schools

S.L. 2006-75 ([HB 836](#)) directs the State Board of Education to develop recommended instructional programs to aid students in gaining a better understanding of the meaning and importance of Memorial Day. All schools, especially those schools in session on Memorial Day, must recognize the significance of Memorial Day.

This act became effective July 10, 2006. (SK)

Flag/Pledge of Allegiance in Schools

S.L. 2006-137 ([SB 700](#)) requires local boards of education and the Board of Trustees of the North Carolina School of Science and Mathematics to adopt policies that require the display of the United States and North Carolina flags, when available, in each classroom and adopt policies that require the daily recitation of the Pledge of Allegiance. The act also requires charter schools and the North Carolina School of the Arts to display the United States and North Carolina flags in each classroom and require the recitation of the Pledge of Allegiance on a daily basis. None of the schools can compel any person to stand, salute the flag, or recite the Pledge of Allegiance.

This act became effective July 19, 2006. (SK)

Schoolchildren's Health Act

S.L. 2006-143 ([HB 1502](#)) directs the State Board of Education to establish guidelines to address public health and environmental issues in the classroom and on school grounds related to the following:

- Sealing or removing existing arsenic-treated wood in playground equipment and testing the soil on school grounds for contamination caused by arsenic-treated wood.
- Reducing students' exposure to diesel emissions from school buses.
- Implementing "Integrated Pest Management" consistent with the policy of the North Carolina School Boards Association, Inc.
- Notifying students' parents, guardians, or custodians and school staff of pesticide use on school grounds.

The State Board also must study methods to prevent and alleviate mold and mildew and to incorporate any recommendations into the public school facilities guidelines.

This act also requires local boards of education to adopt policies to accomplish all of the following:

- Inform parents, guardians, or custodians, as well as school staff of their right to request notification of the use of pesticides in schools and to give advance notice to parents, guardians, custodians, and school staff of the schedule of certain pesticide use on school property.
- Require the use of the "Integrated Pest Management" approach to pest control.
- Prohibit the future use of arsenic-treated wood in the classroom and on school grounds.
- Require existing arsenic-treated wood in playground equipment to be sealed or removed.
- Prohibit the future use of bulk elemental mercury, chemical mercury compounds, and bulk mercury compounds in the classroom.
- Reduce students' exposure to diesel emissions from school buses.

There is nothing in this law that creates a private cause of action against the State Board of Education, a local board of education, or their agents or employees.

The section of this act requiring local boards of education to use "Integrated Pest Management" becomes effective October 1, 2011. The remainder of the act became effective October 1, 2006. (SI)

Planning Time and Duty-Free Lunch for Teachers

S.L. 2006-153 ([HB 1151](#)) requires school improvement plans to include a plan to provide (i) a duty-free lunch period for every teacher on a daily basis or as otherwise approved by the school improvement team and (ii) duty-free instructional planning time for every teacher with the goal of providing an average of at least five hours of planning time per week. The act also removes the State Board of Education's authority to grant waivers of State laws pertaining to

duty-free periods for classroom teachers when the waivers are requested as part of a school improvement plan.

This act became effective July 1, 2006, and applies to school improvement plans beginning with the 2007-2008 school year. (SK)

Department of Social Services Disclosure of Information/ Abuse/Neglect

S.L. 2006-205 ([SB 1216](#)). See **Health and Human Services**.

Safe Transportation for School Students

S.L. 2006-208 ([HB 1155](#)) directs local boards of education to adopt policies for the proper use of activity buses traveling to athletic events during the regular season and playoffs and traveling to other school-sponsored activities. The act requires the Department of Public Instruction, in cooperation with the Department of Transportation, to develop a program for issuing a single permit that can be used statewide by commercial motor coaches when they seek to contract with a local school system to provide transportation for school-sponsored activities. The permit program must include the following:

- Documentation that the motor coach company has complied with Federal Motor Carrier Safety Regulations.
- Documentation that the motor coach company has not had an out-of-service order issued against it during the prior year.
- Collection of a reasonable fee to offset the costs of implementing and running the program.
- Consideration of the needs of schools that serve large populations of students with special needs.

The Department of Public Instruction is required to report to the Joint Legislative Education Oversight Committee on the development of the program by November 15, 2006. The Joint Legislative Education Oversight Committee must report to the 2007 General Assembly with its findings, including any recommended legislation.

This act became effective August 8, 2006. (DC)

Lottery Oversight Committee

S.L. 2006-225 ([HB 2212](#)). See **State Government**.

Public-Private Partnerships for Schools

S.L. 2006-232 ([SB 2009](#)) allows local school administrative units to enter into capital leases for school facilities and allows for those leases to contain an agreement relating to construction, repairs, or renovations. In doing so, the act contains two exceptions to existing law. Under current North Carolina law, no local board of education may contract for the erection of a school facility unless the property on which the building is to be located is owned in fee simple by the local unit. In addition, under current law, all construction and repairs must be under the control and direction of the local board of education. This act clarifies that when the building is the subject of a capital lease, the board is not required to own the property and the lease may provide that the lessor is responsible for repairs and renovations.

This act became effective August 12, 2006, and will be repealed on July 1, 2011. (SK)

Vision Care Program Changes

S.L. 2006-240 ([HB 2699](#)). See **Health and Human Services**.

Protect Children/Sex Offender Law Changes

S.L. 2006-247 ([HB 1896](#)). See **Criminal Law and Procedure**.

Special Diplomas to Korea and Vietnam Veterans

S.L. 2006-260 ([SB 862](#)) authorizes the State Board of Education to issue special high school diplomas to all honorably discharged veterans of the Korean Conflict and the Vietnam era. The veteran must request the special diploma and must have never previously received a high school diploma. The State Board already has the authority to issue a special diploma to World War II veterans.

This act became effective August 24, 2006. (SI)

Higher Education

University of North Carolina-North Carolina Community College System 2+2 Learning Initiative

S.L. 2006-66, Sec. 9.1 ([SB 1741](#), Sec. 9.1) directs The University of North Carolina and the Community Colleges System Office to report to the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, and the General Assembly's Fiscal Research Division by September 1, 2006 on the implementation of the 2+2 Learning Initiative. The report must include the following:

- The courses and programs available.
- The total number of prospective teachers who have taken or are taking courses broken down by academic period since the program's inception.
- The total number of teachers, by local school administrative unit, who have taken courses.
- The change in the number of teachers available to the State's schools since the beginning of the initiative.
- Qualitative data from students, teachers, local school administrative unit personnel, university personnel, and community college personnel as to the initiative's impact on the State's teaching pool.
- An explanation of the expenditures and collaborative programs between the two higher education systems, including recommendations for improvements.

This section became effective July 1, 2006. (SK)

Graduate Nurse Scholarship Program for Faculty Production

S.L. 2006-66, Sec. 9.6 ([SB 1741](#), Sec. 9.6) creates a Graduate Nurse Scholarship Program for Faculty Production (Program). The North Carolina Nursing Scholars Commission (Commission) will determine selection criteria and methods of selection and will select recipients of the scholarship loans under the Program. The Commission must adopt stringent standards including minimum grade point averages, scholastic aptitude test scores, and other appropriate standards to ensure that the best potential students receive the scholarship loans. Scholarship loans may be awarded only to applicants who meet the Commission's standards and who agree

to teach in a North Carolina public or private nursing program upon completion of the nursing education program supported by the scholarship loan. The Commission is directed to develop and administer the Program in cooperation with nursing schools at institutions approved by the Commission and the North Carolina Board of Nursing and must make an effort to identify and encourage minority students and other students who may not have otherwise considered a career in nursing to apply for the Program.

The State Education Assistance Authority will adopt the rules and regulations for the scholarship loans.

The Program will be used to provide the following types of aid:

- A scholarship loan for up to 2 years in the amount of \$15,000 per year to recipients enrolled in a masters degree program in nursing education or any other area of the nursing field that would permit the recipients to become nursing instructors at a North Carolina community college or university.
- A scholarship loan for up to 3 years in the amount of \$15,000 per year to recipients enrolled in a doctoral degree program in nursing education or any other area of the nursing field that would permit the recipients to become nursing instructors at a North Carolina community college or university.

If a recipient of the scholarship loan is unable to pursue the course of study in nursing for a semester due to limited faculty resources at the institution, then the recipient can continue to receive the scholarship loan for that semester and will not be required to forfeit or repay the scholarship loan for that semester. This waiver is valid only for one semester of study.

The State Education Assistance Authority will forgive the scholarship loan if the recipient teaches in a public or private nursing education program in the State for every year a scholarship loan was provided. Recipients have seven years from graduation to complete this requirement. If the recipient repays the scholarship loan by cash payments, the loan must be repaid within 10 years. The State Education Assistance Authority may allow for accelerated repayment and less than full-time employment options to encourage nursing education in geographic and nursing specialty shortage areas that it designates with input from the North Carolina Center for Nursing.

This section became effective July 1, 2006. (DC)

Use of College Facilities by High School Students

S.L. 2006-221, Sec. 5 ([SB 198](#), Sec. 5) allows community colleges and public and private universities to offer classes to high school students without modifying their buildings to comply with fire codes required for high schools. Colleges and universities will still have to comply with fire codes for higher education buildings.

This section became effective July 1, 2006. (SK)

Lottery Oversight Committee

S.L. 2006-225 ([HB 2212](#)). See **State Government**.

Community Colleges

Treasurer's Designee on Community College Board

S.L. 2006-31 ([HB 677](#)) allows the State Treasurer to designate a person to represent the Treasurer on the State Board of Community Colleges (Board). The Lieutenant Governor currently has this authority.

The Lieutenant Governor and the Treasurer are ex officio voting members of the Board. Their designees are permitted to vote.

This act became effective June 29, 2006. (SI)

North Carolina Community College System Bionetwork

S.L. 2006-66, Sec. 8.6 ([SB 1741](#), Sec. 8.6) directs the North Carolina Community College System to report on the implementation of the North Carolina Community College System Bionetwork to the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, and the Fiscal Research Division of the North Carolina General Assembly by November 1, 2006. The report must include an explanation of the Bionetwork's activities, accomplishments, and expenditures.

This section became effective July 1, 2006. (DC)

Reemployment of Certain Retired Employees

S.L. 2006-77 ([HB 1974](#)). See **Labor and Employment**.

Community Colleges Exempt from Smoking Laws

S.L. 2006-133 ([HB 448](#)) allows community colleges to ban smoking from community college premises. Article 64 of Chapter 143 of the General Statutes provides that specific areas of buildings owned, leased, or occupied by State government may be designated as nonsmoking. The Article also provides that certain areas must be designated as smoking areas as practicable. This act exempts community colleges from these provisions regarding designated smoking and nonsmoking areas.

This act became effective July 19, 2006. (DC)

Training Needs of the Motorsports Industry

S.L. 2006-221, Sec. 5A ([SB 198](#), Sec. 5A) requires the State Board of Community Colleges to create a consortium of community colleges to address the training needs of motorsports industry members and direct training programs to meet those needs. The consortium of community colleges must focus its training efforts to provide specialized motorsports workforce training and to help create new jobs at the Advanced Vehicle Research Center located in Northampton County. The State Board of Community Colleges may consult with the Board of Governors of The University of North Carolina if the motorsports industry finds that additional training at the university level would be beneficial.

This section became effective July 1, 2006. (DC)

Universities

Teacher Education Program Enrollment Plans

S.L. 2006-66, Sec. 9.2 ([SB 1741](#), Sec. 9.2) requires The University of North Carolina General Administration (UNC) to obtain plans from each constituent institution as to how that institution will maintain its current enrollment in its teacher education program and achieve growth targets to ensure increases in the program. The plans can include (i) using enrollment growth funds for targeted admissions; (ii) enhancing student support, advising, and recruiting; (iii) increasing faculty in instructional areas that lead to certification; and (iv) employing other methods that UNC believes will work.

UNC must report to the Joint Legislative Education Oversight Committee and the Office of State Budget and Management by December 30, 2006, on each constituent institution's plans. By March 31, 2007, UNC must report on the progress toward meeting this priority for the 2007-2008 academic year based on each constituent institution's current students in education programs, and the students who have been accepted for the 2007-2008 fiscal year who are enrolled in the education programs as well as a distribution of enrollment growth funds by specific initiative.

This section became effective July 1, 2006. (DC)

North Carolina in the World Project

S.L. 2006-66, Sec. 9.3 ([SB 1741](#), Sec. 9.3) requires the North Carolina Center for International Understanding to do the following:

- Collaborate with the State Board of Education and the Department of Commerce to develop a plan to ensure that public Kindergarten through 12th grade international education efforts such as teacher and student exchanges, curriculum development, and other initiatives for students, teachers, and administrators are focused on key countries and regions of strategic economic interest to North Carolina.
- Report to the Office of State Budget and Management and the Joint Legislative Education Oversight Committee on the activities and accomplishments of the \$200,000 nonrecurring appropriation for North Carolina in the World Project no later than March 31, 2007.

This section became effective July 1, 2006. (SI)

Nursing Scholars Program Modification

S.L. 2006-66, Sec. 9.9 ([SB 1741](#), Sec. 9.9) makes the following changes to the law that established the Nursing Scholars Program:

- Increases scholarship loans to up to \$6,500 per year, for each scholarship of no more than 4 years per recipient, to North Carolina residents interested in becoming registered nurses through associate or baccalaureate degree programs or through diploma programs.
- Increases scholarship loans to \$6,500 per year, per recipient, for 2 years of study leading to a master of science in nursing degree for residents already holding a baccalaureate degree in nursing.
- Allows the Nursing Scholars Commission to award pro rata scholarship loans to recipients enrolled at least half-time in study to become registered nurses or to attain a master of science in nursing degree.
- Requires the State Education Assistance Authority to adopt specific rules to regulate scholarship loans to part-time nursing students.

This section became effective July 1, 2006, and applies to all scholarship loans awarded or renewed on or after July 1, 2006. (SI)

North Carolina School of Science and Mathematics/High School Constituent Institution

S.L. 2006-66, Sec. 9.11 ([SB 1741](#), Sec. 9.11) makes the North Carolina School of Science and Mathematics a constituent high school of The University of North Carolina. All property, rights, and privileges held by the Board of Trustees of the North Carolina School of Science and Mathematics immediately prior to July 1, 2007 are transferred to and vested in the Board of Governors of The University of North Carolina effective July 1, 2007. All obligations of the Board of Trustees existing immediately prior to July 1, 2007 must be transferred and assumed by the

Board of Governors effective July 1, 2007. Faculty members, administrative officers, and employees of the North Carolina School of Science and Mathematics may purchase annuity or retirement income contracts that are available to other administrative officers, faculty, and employees of the other constituent institutions. Neither the Board of Governors nor the Board of Trustees may increase tuition or impose a mandatory fee without the approval of the General Assembly. The section also makes other technical and conforming changes to implement the conversion of the North Carolina School of Science and Mathematics from an affiliated school to a constituent high school of The University of North Carolina.

This section became effective July 1, 2006. (SK)

Expand Tuition Waiver Program for University of North Carolina Faculty

S.L. 2006-66, Sec. 9.12 ([SB 1741](#), Sec. 9.12) authorizes the Board of Governors of The University of North Carolina to expand the number of courses that a full-time faculty member of the rank of full-time instructor or above and any full-time staff member of The University of North Carolina can take free of tuition. This section now allows faculty and staff to take three courses per year.

This section became effective July 1, 2006. (DC)

Tuition and Contractual Grants for Teaching/Nursing

S.L. 2006-66, Sec. 9.13 ([SB 1741](#), Sec. 9.13) amends the laws governing the North Carolina Legislative Tuition Grant program and the State Contractual Scholarship Fund by making eligible for this State-funded financial aid both part-time and full-time "licensure students" who are pursuing a license in teaching or nursing. A "licensure student" is a person who:

- Has a bachelors degree.
- Is enrolled either full-time or less than full-time in a program intended to result in a teaching or a nursing license.
- Attends an institution located in the State.
- Qualifies as a resident of North Carolina in accordance with definitions of residency adopted by the Board of Governors of The University of North Carolina and published in the residency manual of the Board.

This provision allows a legislative tuition grant to be awarded to each full-time licensure student, or on a pro rata basis to a part-time licensure student, who is enrolled at an approved institution in a program intended to result in a license in teaching or nursing. The legislative tuition grant and the prorated legislative tuition grant for licensure students must be paid for undergraduate courses only.

This section became effective July 1, 2006. (SI)

North Carolina Center for the Advancement of Teaching

S.L. 2006-66, Sec. 9.15 ([SB 1741](#), Sec. 9.15) provides that the North Carolina Center for the Advancement of Teaching will be a center of The University of North Carolina Board of Governors instead of operating under the general auspices of the Board of Governors. The Board of Governors will appoint the executive director and set the director's salary based on the recommendation of the President of The University of North Carolina. The President must recommend the executive director from a list of no fewer than two nominees offered by the North Carolina Center for the Advancement of Teaching's Board of Trustees. The executive director serves at the pleasure of the President, but the President must not terminate the executive director without prior consultation with the Center's Board of Trustees.

This section became effective July 1, 2006. (SK)

Principal Fellows Program

S.L. 2006-66, Sec. 9.16 ([SB 1741](#), Sec. 9.16) makes changes to the scholarship loans provided to participants of the Principal Fellows Program. The scholarship loans are for \$30,000 per participant for the first year of participation. For the second year, the scholarship loans are 60 percent of the beginning salary for an assistant principal plus \$4,100 for tuition, fees, and books. The amount of the scholarship loans may be adjusted by the North Carolina Principal Fellows Commission to account for increases in tuition, fees, the costs of books, increases in the State principal assistant salary schedule, and changes in the stipend paid to participants in the second year internship.

This section became effective July 1, 2006, and applies to recipients of scholarship loans for the 2006-2007 academic year and each subsequent academic year. (DC)

Parental Savings Trust Fund Tax Deduction

S.L. 2006-66, Sec. 24.12 ([SB 1741](#), Sec. 24.12) as amended by S.L. 2006-221, Sec. 27 ([SB 198](#), Sec. 27). See **Finance**.

University Efficiency Measures

S.L. 2006-95 ([SB 1283](#)), Part II, exempts The University of North Carolina from laws governing contracts to obtain consultant services, and instead requires the Board of Governors of The University of North Carolina to adopt policies and procedures to govern contracts to obtain the services of a consultant by the constituent institutions of The University of North Carolina.

Part II of the act also allows the Board of Governors to delegate more authority to the President of The University of North Carolina in any case where the delegation appears necessary to enable the University to function effectively and efficiently. The Board may rescind any delegation of authority at any time in whole or in part.

Finally, the act changes from March 1 to December 1 of each year the date by which the Board must report to the Joint Legislative Education Oversight Committee regarding three different scholarship funds.

This act became effective July 10, 2006. Part I of this act clarifies the treatment of deferred tax assets in the computation of the franchise tax capital base. For additional information on this Part, see **Finance**. (SI)

University Indebtedness Projects

S.L. 2006-146 ([SB 1809](#)). See **Finance**.

Optional Retirement Program Changes

S.L. 2006-172 ([HB 853](#)). See **Retirement**.

Studies

New/Independent Studies/Commissions

University of North Carolina Board of Governors Study Commission

S.L. 2006-248, Part XIX ([HB 1723](#), Part XIX) establishes the UNC Board of Governors Study Commission to continue the work of prior UNC Board of Governors Study Commissions and 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 may examine the governing boards of other states' institutions of higher education. The Commission must report its findings and any recommendations to the 2007 General Assembly. The Commission will terminate upon the filing of its final report.

This part became effective August 16, 2006. (DA)

Joint Legislative Oversight Commission on Information Technology Studies

S.L. 2006-248, Part XXIV ([HB 1723](#), Part XXIV) establishes the Legislative Study Commission on Information Technology to review the newly revised North Carolina Education Technology Plan developed by the State Board of Education. The Commission's review must also include best practices for using technology to enhance teaching and learning in North Carolina schools. The Commission is required to submit a final report of its findings and recommendations to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Legislative Librarian by February 1, 2007. Upon filing its final report, the Commission will terminate.

This part became effective August 16, 2006. (DA)

Legislative Study Commission on the Budget of the Department of Public Instruction

S.L. 2006-248, Part L ([HB 1723](#), Part L) establishes the Legislative Study Commission on the Budget of the Department of Public Instruction. The purpose of the Commission is to perform a zero-based budget review of the Department of Public Instruction to include evaluating the mission and goals of the Department and the efficiency and effectiveness of the Department in furthering these missions and goals, evaluating each program within the Department and assessing the activities performed in the programs, and determining the level of funding and staff necessary to accomplish the goals and missions of the Department. The Commission must report the results of its study and its recommendations to the 2007 General Assembly. The Commission will terminate upon filing its final report or upon the convening of the 2007 General Assembly, whichever is earlier.

This part became effective August 16, 2006. (DA)

Referrals to Existing Commissions/Committees

Joint Legislative Education Oversight Committee Studies

S.L. 2006-248 ([HB 1723](#)) provides that the Joint Legislative Education Oversight Committee (JLEOC) may study the following issues and report its findings, together with any recommended legislation, to the 2007 General Assembly:

- Changes in Education Districts. (Sec. 5.2);
- Raising the Compulsory School Attendance Age. (Sec. 5.3);
- Child Nutrition Services. (Sec. 5.4);
- Class Size Funding Formula for Children with Special Needs. (Sec. 5.5);
- Track Students throughout Education. (Sec. 5.6);
- Impact of Student Mobility on Academic Performance. (Sec. 5.7);
- Appropriate Education for Suspended Students. (Sec. 5.8);
- Corporal Punishment Policies. (Sec. 5.9);
- Strategies for Targeting Educational Programs and Resources. (Sec. 5.10);
- Workforce Preparation in the Public Schools. (Sec. 5.11);
- Community College Tuition Reciprocity. (Sec. 5.12);
- Information Requirements for School Admission/Assignment. (Sec. 5.13);
- Joint Education Leadership Team for Disadvantaged Students. (Sec. 5.14);
- Education Facility Financing. (Sec. 5.15);
- School Psychologists. (Sec. 5.16);
- Civics Education. (Sec. 5.17);
- Local School Construction Financing. (Sec. 5.18);
- Teacher Assistant Salary Schedule. (Sec. 5.19);
- Tax on Lottery Winnings/Community College Equipment. (Sec. 5.20);
- Sales Tax Exemption for Local School Units. (Sec. 5.21);
- High School Graduation/Dropout Rate. (Sec. 5.22); and
- Sound Basic Education. (Sec. 5.23).

These sections became effective August 16, 2006. (DA)

Referrals to Departments, Agencies, Etc.

Study the Compensation of School Psychologists with National Certification

S.L. 2006-66, Sec. 7.22 ([SB 1741](#), Sec. 7.22) directs the State Board of Education to study the compensation of school psychologists who are nationally certified by the National School Psychology Certification Board. The study must examine (i) whether school psychologists who have been designated as Nationally Certified School Psychologists should be compensated at the same rate as teachers who are certified by the National Board for Professional Teaching Standards (NBPTS) and (ii) the cost of compensating nationally certified school psychologists at the same rate as nationally certified teachers. The State Board of Education must report the results of its study to the Joint Legislative Education Oversight Committee before January 15, 2007.

This section became effective July 1, 2006. (SK)

Study of New and Expanding Industry Training

S.L. 2006-66, Sec. 8.7 ([SB 1741](#), Sec. 8.7) requires the Office of State Budget and Management to conduct a study to analyze and evaluate the North Carolina Community College System's New and Expanding Industry Training program and to report its findings to the Joint Legislative Education Oversight Committee no later than April 1, 2007. The study must include all of the following elements:

- The companies served.
- The number of times each company has been served.
- The number of jobs created.
- The length of time the company has remained in North Carolina after receiving New and Expanding Industry Training funds.
- Whether the company has maintained employment at the same level promised when training was received.

This section became effective July 1, 2006. (SI)

Study the Feasibility of Adding North Carolina Wesleyan College to The University of North Carolina System

S.L. 2006-66, Sec. 9.4 ([SB 1741](#), Sec. 9.4) directs the Board of Governors of The University of North Carolina to study the feasibility of adding North Carolina Wesleyan College as a constituent institution of the system. The study must examine the following issues:

- Potential missions of the campus.
- Potential operating costs.
- Facility needs.
- Asset transfer to the State.
- Liability analysis.
- Transition of current students/programs.
- Personnel.
- Legislative actions needed to authorize and implement the conversion.

This section became effective July 1, 2006. (SK)

School Counselors and Dropout Prevention/Study

S.L. 2006-176 ([SB 571](#)) requires the State Board of Education to report on the roles school counselors play in providing effective dropout prevention and intervention services to students in middle schools and high schools. The information to be included in the report to the Joint Legislative Education Oversight Committee includes the following:

- The counselor-to-student ratio in schools with a sixth grade or higher grade.
- The source of funds used for each of these counselors.
- A review and analysis of the counselors' primary duties by school.
- A summary and description of school-based dropout prevention and intervention services provided directly to students in grade six and up, including the role of the counselors in providing the services.
- The number of counselors and other individuals per local school administrative unit whose primary responsibility is to provide school-based dropout prevention and intervention services and the percentage of their time used in providing the services.

The act also requires the State Board of Education to report to the Joint Legislative Education Oversight Committee on the implementation of State Board Policy QP-C-012, Policy Delineating the Job Description and Performance Criteria for School Counselors.

This act became effective August 1, 2006. (DC)

Study Public School Personnel Communication Concerning Disabilities

S.L. 2006-248, Part LI ([HB 1723](#), Part LI) directs the State Board of Education, in cooperation with Division Treatment and Education of Autistic and Communication Handicapped Children (Division TEACCH) and the North Carolina Justice Academy, to study training for public school personnel designed to facilitate, when needed, effective communication and transfer of information about students with autism and other disabilities between school personnel and school resource officers. The State Board must report its findings and recommendations to the 2007 General Assembly on or before March 31, 2007.

This part became effective August 16, 2006. (DA)

For a complete list of the studies and reports authorized by the 2006 Session of the 2005 General Assembly, please refer to the Appendix contained in this publication.

Chapter 10

Environment and Natural Resources

Tim Dodge (TD), George Givens (GG), Jeff Hudson (JH),
Jennifer McGinnis (JLM), Jennifer Mundt (JM)

Enacted Legislation

Animal Waste Management

Clarify Animal Waste Management System Technical Specialist Certification Requirements

S.L. 2006-38 ([SB 1598](#)) extends from July 1, 2006, to September 1, 2007 the period of time that an animal waste management system technical specialist may provide the current level of services related to an animal waste management system and holds constant the requirements for approval as a technical specialist. The act directs the Department of Environment and Natural Resources to evaluate the training and qualification requirements for technical specialists to determine whether the current approval process ensures an appropriate level of knowledge and expertise. In conducting the evaluation, the Department must consult with representatives from interested parties and organizations. The Department must submit a report of its findings, including any legislative recommendations, to the Environmental Review Commission on or before November 15, 2006.

This act became effective July 1, 2006. (TD)

Climate Change

Extend Climate Change Commission

S.L. 2006-73 ([SB 1591](#)) extends the period of time during which the Legislative Commission on Global Climate Change may meet and prepare its final report, including any legislative recommendations, from November 1, 2006, to April 15, 2008. The act directs the Commission to submit an interim report to the General Assembly and the Environmental Review Commission no later than January 15, 2007, and authorizes the Commission to submit additional reports at its discretion.

This act became effective July 10, 2006. (TD)

Coastal Development

Increase Penalties for Coastal Area Management Act Violations

S.L. 2006-229 ([HB 1523](#)) increases the maximum civil penalty that may be assessed for a minor development violation under the Coastal Area Management Act of 1974 (CAMA) from \$250 to \$1,000, and increases the maximum civil penalty that may be assessed for a major development violation under the Act from \$2,500 to \$10,000. In addition, the act authorizes the Coastal Resources Commission to assess reasonable costs of any investigation, inspection, or

monitoring that results in the assessment of a civil penalty for minor and major development violations under CAMA.

This act becomes effective December 1, 2006, and applies to violations and offenses committed on or after that date. (TD)

Environmental Health

Certify On-Site Wastewater Contractors

S.L. 2006-82 ([HB 688](#)) requires the construction, installation, repair, and inspection of on-site wastewater systems in the State to be conducted by a certified on-site wastewater contractor or inspector. To be certified, an individual must be at least 18 years old, submit a completed application and fee, and meet certain training and experience requirements. The act exempts certain individuals from the certification requirements including: an employee or contractor working under the direct and personal supervision of a certified contractor or inspector; a landowner who constructs, installs, or repairs a single septic system so long as it is intended for use by that person and members of that person's immediate family; a licensed general contractor who constructs or installs an on-site wastewater system ancillary to the building being constructed; and certain other individuals who hold specific licenses or permits.

The act establishes the On-Site Wastewater Contractors and Inspectors Certification Board (Board). The Board consists of nine members, three appointed by the Governor, three by the General Assembly upon recommendation of the President Pro Tempore of the Senate, and three by the General Assembly upon recommendation of the Speaker of the House of Representatives. The members of the Board serve staggered four-year terms. The Board has administrative and disciplinary powers and may determine eligibility requirements, establish grades of certification, develop and administer exams, and establish fees, not to exceed the following statutory maximums:

Purpose of Fee	Fee Amount
Application for basic certification	\$150
Application for each step grade	\$50
Certification renewal	\$100
Reinstatement of revoked or suspended certification	\$500
Application for on-site wastewater system inspector certification	\$200
Replacement of a certificate	\$25
Late renewal	\$25

The certification requirements, continuing education requirements, and disciplinary powers of the Board become effective January 1, 2008. The remaining provisions of the act became effective July 10, 2006. (TD)

Wastewater System Approvals/Small Counties

S.L. 2006-136 ([HB 1094](#)) establishes a pilot program to modify the approval process for an on-site wastewater system in certain counties. To be eligible to participate in the pilot program, a county must meet all of the following criteria:

- The population of the county must not exceed 25,000 people according to the most recent federal decennial census.
- The county must have more than 900 applications for improvement permits or authorizations to construct that are pending before the local health department as of July 19, 2006.

- Both the board of county commissioners and the local board of health for the county must approve a resolution requesting to participate in the pilot program.

The pilot program expands the authority to conduct soil and site evaluations as part of the process for issuance of an improvement permit to include licensed soil scientists. These functions are performed annually only by agents of the local health department or the Department of Environment and Natural Resources (DENR). A licensed soil scientist who submits an application for an improvement permit or an authorization to construct must carry errors and omissions insurance or other appropriate liability insurance with a policy limit of not less than \$1 million and must include certain identifying information on each improvement permit or an authorization to construct that is prepared by or based on work provided by the licensed soil scientist. A local board of health may impose an additional fee not to exceed \$200 for the costs of review and consideration of applications for an improvement permit or an authorization to construct that has been prepared by a licensed soil scientist. DENR must evaluate the effectiveness of the program and report its findings annually to the Environmental Review Commission. The pilot program began August 1, 2006 and expires July 1, 2011.

This act became effective July 19, 2006. (TD)

Fisheries

Oyster Shell Tax Credit

S.L. 2006-66, Sec. 24.18 ([SB 1741](#), Sec. 24.18). See **Finance**.

Striped Bass Permit

S.L. 2006-254 ([SB 1242](#)) authorizes the Marine Fisheries Commission to adopt rules to establish gear specific permits to take striped bass from the Atlantic Ocean; limit the number and type of these permits that may be issued to a person; and establish a fee to compensate the Division of Marine Fisheries for the administrative costs associated with the permits not to exceed \$10.00.

This act became effective August 22, 2006. (JH)

Miscellaneous

Mill Rehabilitation Tax Credit

S.L. 2006-40 ([HB 474](#)). See **Finance**.

State Energy Office Needs Assessment

S.L. 2006-66, Sec. 17.2 ([SB 1741](#), Sec. 17.2) directs the State Energy Office and the Office of State Budget and Management to conduct jointly a needs assessment to determine what functions being performed currently by the State Energy Office need to be performed in the 2007-2008 fiscal year. The section directs that the needs assessment be completed and presented to the Chairs of the House and Senate Appropriations Subcommittees on General Government no later than February 1, 2007. The State Energy Office will deplete all its funding sources on June 30, 2007. The Office has received federal funds which will no longer be available, and it has no other funding source.

This section became effective July 1, 2006. (JLM)

Real Property Tax Donation Credit

S.L. 2006-66, Sec. 24.15 ([SB 1741](#), Sec. 24.15). See **Finance**.

Community Conservation Assistance Program

S.L. 2006-78 ([HB 2129](#)) establishes the Community Conservation Assistance Program (Program) in the Department of Environment and Natural Resources. Similar to the Agriculture Cost-Share Program for Nonpoint Source Pollution Control, the Program's primary focus is to reduce nonpoint source pollution into the waters of the State. The Program applies statewide, however, and is not limited to reducing agricultural nonpoint source pollution.

The Soil and Water Conservation Commission must establish priority designations for inclusion in the Program for State funding and is also responsible for the allocation of cost share and technical assistance funds under the Program. To be eligible for priority designation, a project must be evaluated before and after the project is completed to determine the impact of the project on water quality. The Soil and Water Conservation Commission must report annually to the Environmental Review Commission on the implementation and effectiveness of the Program.

This act became effective July 10, 2006. (TD)

Environmental Technical Corrections/Reporting Requirements

S.L. 2006-79 ([HB 2165](#)) makes technical amendments to various environmental laws and amends or repeals various environmental reporting requirements.

This act became effective July 10, 2006. (TD)

Enhance Embargo Authority/Protect Food Supply

S.L. 2006-80 ([HB 2200](#)). See **Agriculture and Wildlife**.

Dairy Stabilization and Growth Program

S.L. 2006-139 ([SB 1156](#)). See **Agriculture and Wildlife**.

Water/Utilities Savings in Government Facilities

S.L. 2006-190 ([SB 402](#)). See **Utilities**.

Special Indebtedness Projects

S.L. 2006-231 ([SB 1621](#)). See **Finance**.

Schoolchildren's Health Act

S.L. 2006-143 ([HB 1502](#)). See **Education**.

Amend Boating Safety/Vessel Titling Law

S.L. 2006-185 ([SB 948](#)). See **Agriculture and Wildlife**.

Underground Storage Tank Program Administer Funds

S.L. 2006-200 ([SB 1584](#)) appropriates up to \$137,106 from the Commercial Fund and up to \$137,106 from the Noncommercial Fund to the Department of Environment and Natural Resources to cover increased program operating costs and the costs of any legislative salary increase for Program personnel. The appropriations are in addition to similar appropriations made in the 2003 Appropriations Act (S.L. 2003-284) and in the 2004 Appropriations Act (S.L. 2004-124). This act states that it is the General Assembly's intent that the funds appropriated are recurring funds.

This act became effective July 1, 2006. (TD) (JM)

Amend Sanitary District Authority

S.L. 2006-214 ([HB 2164](#)) authorizes a sanitary district to require an owner of improved real property located within the district with existing residential units or commercial establishments to connect to water or sewer service if the property is located within a reasonable distance of a waterline or sewer collection line that is owned, operated, or leased by the sanitary district without a determination by the local health director that the health of the people residing in the district would be endangered by a failure to connect. Previously, a determination by the local health director was required to mandate a connection.

The act also authorizes a sanitary district to fix charges for connection to water and sewer service. In the case of improved property that would qualify for the issuance of a building permit for the construction of residential units or commercial establishments and where the district has installed water or sewer lines that are directly available to the property, a sanitary district may require payment of a periodic availability charge, provided that the availability charge does not exceed the minimum service charge for properties that are connected.

These provisions are similar to the authority currently available for cities, counties, water and sewer authorities, and other local government entities. The power granted by the act may be exercised by a sanitary district only to the extent that the service to be provided by the district is not currently being provided to the property by any other political subdivision or by a regulated public utility.

This act became effective September 1, 2006. (TD)

Enhance Local Government Administration of Environmental Programs

S.L. 2006-250 ([HB 1413](#)) makes the following changes to the administration of environmental programs by local governments:

Self-Inspection. - The act requires the inspection of the area covered by an erosion and sedimentation control plan (plan) after each phase of the plan has been completed and after establishment of temporary groundcover. The landowner, financially responsible party, or that person's agent must perform each inspection and maintain and make available a record of the inspection at the site. The record must indicate whether the erosion control measures required by the plan were installed and are being maintained in accordance with the plan. The report also must indicate if there was any deviation from the approved plan, measures required to correct the deviation, and document the completion of those measures.

Jurisdiction of the Sedimentation Control Commission. - The act clarifies that the Sedimentation Control Commission has concurrent jurisdiction with local governments that administer a delegated program. The act authorizes the Commission to: (i) review plan approvals made by a delegated program and to require a revised plan if the Commission determines that the plan does not comply with the Sedimentation Pollution Control Act of 1974 and rules adopted pursuant to the Act, and (ii) review the compliance activities of a delegated program and take appropriate action upon determination that the delegated program has failed to take appropriate compliance action.

Authorization of Limited Local Programs. - The act authorizes a local government to request that the Commission approve and delegate a limited program that allows the local government only to inspect land-disturbing activities and assess and collect appropriate fees. Local governments may adopt ordinances and regulations necessary to establish a limited program, which must at least meet and may exceed the minimum requirements regarding the inspection of land-disturbing activities under the act and the associated rules. If the Commission approves a limited local program, the Commission will retain responsibility for administering all components of the program, other than the inspection of land-disturbing activities. Local governments that adopt a limited program must establish a fee for the review of a plan and related compliance activities, not to exceed \$100, and submit a portion of the fee to the Commission to compensate the Commission for the costs associated with the administration and enforcement of other parts of the program.

Local Government Fee Authority Not Impaired. - The act clarifies that G.S. 143-215.3D, which provides the fee schedule for water quality permits, does not limit the authority of a local government to collect a fee for the review of a permit application or mitigation plan, or inspection of a site.

Local Permit Programs for Reclaimed Water Utilization Systems. - The act authorizes local governments to establish and administer their own permit programs in lieu of required State permits for construction, operation, alteration, extension, or change of a reclaimed water utilization system. The statute already authorizes local governments to establish and administer permit programs for these activities with regard to sewer systems.

Civil Penalties for Violations. - The act allows local governments certified and approved by the Emergency Management Commission to enforce stormwater or riparian buffer protection programs to assess civil penalties for violations of the respective programs.

The act also authorizes local governments to regulate solicitation of charitable contributions within the local government's municipal corporate limits. For additional information on this authorization, see **Local Government**.

The provisions of this act related to local government administration of environmental programs became effective September 1, 2006. (TD)

Amend Environment and Natural Resources Laws

S.L. 2006-255 ([SB 1587](#)) makes the following changes to environment and natural resource laws:

- Clarifies the requirement that motor vehicles operated on a federal installation in an emissions county are subject to emissions inspection requirements.
- Clarifies the requirement that land-disturbing activity be conducted in accordance with an approved erosion and sedimentation control plan.
- Authorizes the Environmental Review Commission and the Joint Legislative Commission on Seafood and Aquaculture to contract for consultants with the approval of the Legislative Services Commission.
- Authorizes a person who manufactures, installs, repairs, or pumps septic systems also to purchase and install approved effluent filters.

- Delays by one year the effective date of certain provisions of S.L. 2005-384, an act to require the removal, collection, and recovery of mercury switches from certain motor vehicles. This provision became effective July 1, 2006.
- Authorizes septage management firms to land apply septage generated from small wastewater systems, so long as the land application complies with existing State and federal requirements for septage management.
- Establishes the Emergency Drinking Water Fund in the Department of Environment and Natural Resources (DENR). The Fund may be used to pay for notification of persons supplied water from a private drinking water well that is located within 1,500 feet of, and at risk from, known groundwater contamination. The Fund also may be used for the costs of testing private drinking water wells for contamination and for the provision of alternative water supplies to persons whose drinking water well is contaminated.
- Amends S.L. 2006-215 to provide that donations of real property under the Riparian Buffer Protection Program are required to be located within the same basin as the riparian buffer that is lost, but are not required to be located on the same stream as the riparian buffer that is lost. This provision became effective August 1, 2006, and expires September 1, 2007.
- Exempts certain air quality permits that are submitted and determined to be administratively complete by August 1, 2006, from recent changes in air quality rules that were adopted by the Environmental Management Commission. To be eligible for this exemption, the permitted facility must meet specific performance criteria established in the act.
- Removes deer and elk from consideration as livestock in the definition of agriculture that is used for agricultural development and farmland preservation purposes.
- Clarifies that the For Hire Blanket Coastal Recreational Fishing License is issued for the for hire boat rather than the boat captain.
- Clarifies that the Special Landholder and Guest Fishing License only applies when the guests are invited to fish at no charge.
- Increases the types of licenses that the Wildlife Resources Commission may establish as personalized licenses.
- Clarifies that the Lifetime Unified Inland/Coastal Recreational Fishing License is a resident only license.
- Provides that personal identifying information obtained by the Wildlife Resources Commission, the Marine Fisheries Commission, or the Division of Marine Fisheries of DENR must be treated as provided in the statute that governs the treatment of such information by State agencies generally. The act provides for an expanded definition of protected identifying information.
- Authorizes the Marine Fisheries Commission to exempt certain organized fishing events from license requirements.
- Clarifies the authority of DENR and the Secretary of Environment and Natural Resources to carry out certain responsibilities related to the prevention and control of lead poisoning in children.

Except as otherwise provided, this act became effective August 23, 2006. (GG) (TD)

Redevelopment of Certain Manufacturing Districts

S.L. 2006-264, Sec. 99.5 ([SB 602](#), Sec. 99.5) amends S.L. 2005-462 in various ways and provides that S.L. 2005-462 will expire on September 1, 2008, if the Secretary of State has not approved at least one certification by a new operator of a manufacturing facility that is required to establish a manufacturing redevelopment district prior to September 1, 2008.

This section became effective August 27, 2006. (JM)

Parks and Public Spaces

State Parks System Additions

S.L. 2006-138 ([HB 2127](#)) authorizes the Department of Environment and Natural Resources (DENR) to add Mountain Bog State Natural Area and Sandy Run Savannas State Natural Area to the State Parks System and directs the Division of Parks and Recreation (DPR) of DENR to study the establishment of a new State Park at Cabin Lake.

- **Mountain Bog State Natural Area.** - This unit is proposed to include two nationally significant mountain bogs in Avery County, Sugar Mountain Bog, and Pineola Bog. Rare species found at one or both of the bogs include the bog turtle, bog rose, bog fern, cranberry, gray's lily, large purple-fringed orchid, purple-leaf willow herb, four-toed salamander, and Baltimore checker spot (a butterfly).
- **Sandy Run Savannas State Natural Area.** - This unit is proposed to comprise a cluster of nationally significant savannas along the border of Pender and Onslow counties. Rare species known to occur in the project area include Venus flytrap, golden sedge, red-cockaded woodpecker, Cooley's meadowrue, yellow fringeless orchid, Carolina goldenrod, and rough-leaf loosestrife.
- **Study of new State Park at Cabin Lake.** - The act directs DPR to study the feasibility and the desirability of acquiring land and establishing a State Park at Cabin Lake, and report its findings and recommendations, including any legislative proposals, to the Environmental Review Commission on or before January 15, 2007. Cabin Lake (sometimes referred to as Cottage Lake) is a county park located in Duplin County consisting of approximately 167 acres, 69 acres of which is a lake.

This act became effective July 19, 2006. (JLM)

Solid/Hazardous Waste

Public-Private Solid Waste Collection

S.L. 2006-193 ([SB 951](#)). See **Local Government**.

Landfill Moratorium and Studies

S.L. 2006-244 ([SB 353](#)) does the following:

Moratorium Established. - The act establishes a moratorium on consideration of applications for a permit and on issuance of permits to construct new landfills for a period of one year beginning August 1, 2006 and ending on August 1, 2007. The act provides certain exceptions from the moratorium to allow consideration of applications for or issuance of:

- An amendment, modification, or other change to a permit for a landfill issued on or before June 1, 2006.
- A permit for a horizontal or vertical expansion of the landfill permitted on or before June 1, 2006.
- A permit to construct a new landfill within the facility boundary identified in the facility plan of a landfill permitted on or before June 1, 2006.
- A permit to operate a new landfill if a permit to construct the new landfill was issued on or before June 1, 2006.
- A permit for a sanitary landfill used only to dispose of waste generated by a coal-fired generating unit that is owned or operated by an investor-owned utility subject to the requirements of G.S. 143-215.107D.

- A permit for a sanitary landfill determined to be necessary by the Secretary of Environment and Natural Resources in order to respond to an imminent hazard to public health or a natural disaster.

ERC Study on Solid Waste Issues. - The act directs the Environmental Review Commission (ERC) to study issues related to solid waste and report its findings and any legislative recommendations to the 2007 General Assembly upon its convening.

Establishment of Joint Select Committee on Environmental Justice. - The act establishes a 12-member Committee on Environmental Justice to study the impact of the siting of landfills in low-income and minority communities in the State and directs the Committee to report its findings and any legislative recommendations to the ERC and the General Assembly on or before February 1, 2007.

This act became effective August 14, 2006. (JLM)

Amend Solid Waste Franchise Statutes

S.L. 2006-256 ([SB 1564](#)) makes the following changes to the solid waste franchise statutes: (i) clarifies that local governments may, but are not required to, award a franchise for a sanitary landfill; (ii) authorizes the award of preliminary franchises as well as franchises, and specifies the information to be included therein; (iii) requires additional measures to enhance public notice and public participation prior to the award of a preliminary franchise or franchise; (iv) provides that franchises are to be awarded only after public notice of the proposed landfill location; and (v) increases information required as part of an application for a franchise.

This act became effective August 23, 2006, and applies to any application for a preliminary franchise or franchise that is filed with a local government on or after that date. The act does not affect any franchise that has been awarded as of August 23, 2006, unless the franchise provides for a final vote of the governing board of the local government on the franchise and the final vote occurs on or after November 1, 2006, in which case the provisions of G.S. 130A-294(b1), as amended by the act, apply. (JLM)

Water Quality/Quantity/Groundwater

Private Well-Water Testing Fee

S.L. 2006-66, Sec. 10.20 ([SB 1741](#), Sec. 10.20) authorizes the Secretary of Health and Human Services to charge a fee of up to \$55 for analyzing private well water samples sent to the State Laboratory of Public Health by local health departments.

This section became effective July 1, 2006. (JLM)

Increase Certain Public Water Systems Annual Operating Permit Fees/Impose Fees for Review of Engineering Plans and Specifications for the Construction or Alteration of Public Water Systems

S.L. 2006-66, Sec. 11.7 ([SB 1741](#), Sec. 11.7) expands the types of water systems that must obtain a permit and pay a fee under G.S. 130A-328 to include non-transient non-community water systems. Section 11.7 also:

- Increases annual operating permit fees for certain public water systems.
- Establishes fees for the review of engineering plans and specifications for the construction or alteration of public water systems.
- Establishes an administrative fee for late payment of annual operating permit fees.

- Provides that the Department of Environment and Natural Resources may phase in the increased annual operating permit fees.
This section becomes effective January 1, 2007. (JH)

Funds for Stormwater Projects

S.L. 2006-66, Sec. 21.14 ([SB 1741](#), Sec. 21.14) directs \$15 million of the funds available to the Department of Transportation be transferred to the Department of Environment and Natural Resources during the 2006-2007 fiscal year for a stormwater pilot project to clean up State-maintained ocean outfalls and associated outlets through new and innovative technologies and filtering mechanisms.

This section became effective July 1, 2006. (JM)

Brownfields Property Reuse Act Amendments

S.L. 2006-71 ([SB 1121](#)) makes the following changes to the Brownfields Property Reuse Act of 1997:

- Excludes properties that are on the National Priorities List from the definition of "brownfields properties" and specifically prohibits the Department of Environment and Natural Resources from entering into a brownfields agreement for a property that is on the National Priorities List. Properties that are listed on the National Priorities List are generally those that are the most serious uncontrolled or abandoned hazardous waste sites that have been identified for possible long-term remediation under the federal Superfund program.
- Clarifies that "unrestricted use standards" are contaminant concentrations that are acceptable for all uses of a property.
- Clarifies that "prospective developer" is a person with a "bona fide, demonstrable desire" to buy or sell a brownfields property for the purpose of redevelopment.
- Reduces the period for public comment on a proposed brownfields agreement from 60 to 30 days.
- Reduces the time periods involved in requesting and noticing a public meeting on a proposed brownfields agreement from 30 to 15 days.

This act becomes effective January 1, 2007. (JH)

Safe Drinking Water/Private Wells

S.L. 2006-202 ([HB 2873](#)) establishes permitting, inspection, and water quality testing requirements for new private drinking water wells. The act provides for consistent statewide enforcement of regulations governing the location, construction, operation, repair, maintenance, and abandonment of private drinking water wells. The act excludes repair or replacement of a well pump from the requirement to obtain a permit.

Definition of Private Drinking Water Well. - A well is defined as any excavation that is cored, bored, drilled, jetted, dug, or otherwise constructed to obtain groundwater for human consumption and that serves or is proposed to serve 14 or fewer service connections or that serves or is proposed to serve 24 or fewer individuals. The definition of a well also includes a well that supplies drinking water to a transient noncommunity water system as defined in Code 40 of the Federal Regulations §141.2 (July 1, 2003 Edition).

Clarification of Environmental Management Commission (EMC) Authority. - The EMC is authorized to adopt rules governing the permitting and inspection of private drinking water wells with a designed capacity of 100,000 gallons per day or greater. Private drinking water wells with a designed capacity of 100,000 gallons per day or greater will be subject to

permitting and inspection by the EMC, and not by a local health department. Local health departments will be authorized to permit and inspect all other private drinking water wells.

Permitting, Inspection, and Testing Requirements. - Each county, through its local health department, must implement and administer a private drinking water well permitting, inspection, and testing program:

- Permits are required for the construction or repair of a private drinking water well. A repair permit is not required for private drinking water well maintenance that does not involve breaking or opening the well seal or for the repair or replacement of a pump.
- The local health department is required to conduct a field investigation to evaluate the proposed site of the private drinking water well and issue a construction permit if it determines that the proposed well can be constructed in compliance with applicable requirements. Construction or repair permits are valid for five years and may be revoked by the local health department if the department determines that there has been any material change in fact upon which the permit was issued.
- The local health department will issue a "certificate of completion" when a new or repaired private drinking water well is inspected and determined to have been constructed or repaired in compliance with the applicable permit. Without a certificate of completion, a private drinking water well must not be placed into service.
- The local health department will test the drinking water from a newly-constructed drinking water well for the presence of 19 specified pollutants within 30 days after it issues the certification of completion. (S.L. 2006-66, Sec. 10.20.(a) authorizes the Secretary of Health and Human Services to charge a fee of up to \$55 for analyzing private well water samples sent to the State Laboratory of Public Health by local health departments.)
- The Commission for Health Services will adopt rules governing sampling, testing, and reporting. The rules must allow local health departments to designate third parties to collect and test samples and report results. Test results will be provided to the owner of the newly-constructed private drinking water well, and to the extent practicable, to any leaseholder of a dwelling unit or other facility served by the well at the time the water is sampled.
- The local health department must retain a registry identifying the location of each private drinking water well and a record of the results of all tests until the well is properly closed.

Impose Fees for Services Rendered. - The local health department is authorized to impose fees for services rendered under this act.

Defense of Local Sanitarians. - Local health department sanitarians who enforce the private drinking water well rules of the Environmental Management Commission are to be defended by the Attorney General and be protected from civil and criminal liability for acts done or omissions made in the scope of enforcing the Commission's rules. Existing State law provides this same protection for sanitarians enforcing rules of the Commission for Health Services.

The provisions concerning permitting, inspections, and testing of private drinking water wells by local health departments will become effective July 1, 2008. All other provisions under this act including the authority of the Commission for Health Services to adopt rules became effective August 7, 2006. (GG) (JM)

Clean Water Management Trust Fund Amendments

S.L. 2006-178 ([HB 2208](#)): (i) eliminates the requirement that certain criteria receive priority as applied to grants and loans made for wastewater collection system projects, wastewater treatment works projects, and stormwater collection projects; (ii) eliminates an authorization to the Board of Trustees of the Clean Water Management Trust Fund (CWMTF) to

require up to a 20 percent match of the amount awarded to grant recipients; and (iii) provides that no member of the Board of Trustees of the CWMTF (Board) may serve more than 2 consecutive 4-year terms or a total of 10 years.

The section of the act pertaining to limitation of terms for Board members became effective July 1, 2006. The term limitation does not apply to any person who is a member of the Board on June 30, 2006. The remainder of the act became effective retroactively to January 1, 2006. (JLM)

Nutrient Offset Payments

S.L. 2006-215 ([SB 1862](#)) temporarily sets the per pound factors for nitrogen and phosphorous under the Nutrient Offset Fee Program at \$11 per pound of nitrogen per year and at \$11 per tenth of a pound of phosphorous per year. Under rules adopted by the Environmental Management Commission in March 2006, the fees would have been raised from \$11 per pound of nitrogen per year to \$57 and would have been set at \$45 per tenth of a pound of phosphorous per year. The act directs the Environmental Review Commission (ERC) to study issues related to nutrient offset payments and to report its findings to the General Assembly upon the convening of the 2007 Regular Session.

S.L. 2006-218 ([SB 927](#)) amends S.L. 2006-215 to provide that the Department of Environment and Natural Resources (DENR) is not required to accept a nutrient offset payment for phosphorous as a means of fulfilling any requirement of the nutrient sensitive waters management strategy for the Tar Pamlico River Basin if DENR finds that the payment is not sufficient to cover the full costs of nutrient reduction measures needed to comply with the nutrient sensitive waters management strategy. If DENR declines to accept a nutrient offset payment for phosphorous, DENR must provide an estimate of the full cost of the nutrient reduction measures required for compliance with the nutrient sensitive waters management strategy. The act also authorizes DENR to negotiate and enter into contracts to provide nutrient reduction measures needed to fulfill any requirement of the nutrient sensitive waters management strategy for phosphorous for the Tar Pamlico River Basin based on the full cost of providing the nutrient reduction measures.

S.L. 2006-255, Sec. 5.3 ([SB 1587](#), Sec. 5.3) amends S.L. 2006-215 to provide that donations of real property under the Riparian Buffer Protection Program are required to be located within the same basin as the riparian buffer that is lost, but are not required to be located on the same stream as the riparian buffer that is lost. This provision became effective August 1, 2006, and expires September 1, 2007.

These acts became effective August 1, 2006, and expire September 1, 2007. (GG) (TD)

Professional Engineering Services for Public Water Systems

S.L. 2006-238 ([HB 1099](#)) clarifies that a local government, commission, authority, or board either may employ a licensed engineer *or contract with a licensed engineer* in order to meet the statutory requirement that a local approval program for water system plans has adequate "engineering staff" in order to be certified by the Department of Environment and Natural Resources.

This act became effective August 13, 2006. (JLM)

Stormwater Management 2006

S.L. 2006-246 ([SB 1566](#)) provides for the implementation of the federal Phase II stormwater management requirements.

Phase II Stormwater Management Background

In the early 1990's, the United States Environmental Protection Agency (USEPA) adopted regulations to require large municipalities to obtain a National Pollutant Discharge Elimination System (NPDES) stormwater management permit for stormwater discharges from municipal separate storm sewer systems (MS4s). In 1999, under "Phase II" of these regulations, USEPA extended the NPDES stormwater management permit requirements to small and medium-sized communities.

Based on federal census data, the USEPA identified 123 cities and 33 counties in North Carolina where permits for stormwater management would be required. In order to obtain a NPDES stormwater management permit, the USEPA regulations require the development of a stormwater management program that includes certain minimum stormwater management measures, is sufficient to control stormwater pollution to the maximum extent practicable, and protects water quality standards.

The USEPA has delegated to the State the authority to issue NPDES stormwater management permits. In 1999, the Division of Water Quality (DWQ) of the Department of Environment and Natural Resources (DENR) and the Environmental Management Commission (EMC) initiated a rulemaking process in response to the Phase II regulations adopted by USEPA. On October 10, 2002, the EMC adopted temporary Phase II stormwater management rules that became effective November 1, 2002. On July 10, 2003, the EMC adopted two permanent Phase II stormwater management rules that would have become effective August 1, 2004. One of the permanent rules would have required municipalities to obtain a Phase II NPDES stormwater management permit; the other would have required urbanized counties to obtain a comparable State stormwater management permit.

On January 15, 2004, the Rules Review Commission (RRC) reviewed the permanent Phase II stormwater management rules. The RRC returned the rules to the EMC for failure to comply with the Administrative Procedure Act and objected to the rules based on ambiguity and lack of statutory authority. The RRC's return of the permanent Phase II stormwater management rules caused the temporary rules to expire and prevented the permanent rules from becoming effective on August 1, 2004, as scheduled. The EMC subsequently sued the RRC over the return of the permanent rules. In June of 2005, a Wake County Superior Court ruled in the EMC's favor, finding that the RRC erred, acted arbitrarily, and exceeded its statutory authority in unilaterally returning the rules to the EMC. The Court remanded the rules to the RRC for further review in a manner consistent with the court's decision. The RRC subsequently approved the EMC rules.

While the case was pending and there were no Phase II stormwater management rules in effect, the General Assembly enacted S.L. 2004-163 (Phase II Stormwater Management), which provided for the temporary implementation of the federal stormwater requirements. S.L. 2004-163 adopted many of the provisions of the EMC temporary rules and also established a number of new and different requirements for stormwater management. S.L. 2004-163 became effective in August of 2004.

S.L. 2006-246 disapproves the EMC's permanent Phase II stormwater management rules; sunsets S.L. 2004-163 effective July 1, 2006; and provides for the implementation of the Phase II stormwater management requirements as follows.

Areas Covered by Phase II Stormwater Management Requirements

S.L. 2006-246 provides that development that cumulatively disturbs one acre or more of land located in the unincorporated area of a county must comply with the post-construction stormwater management standards beginning July 1, 2007 if the new development or redevelopment is located in:

- An area that is federally designated as an urbanized area in the most recent federal census.
- Certain unincorporated areas of counties that extend one, two, or three miles (depending on population) outside of a municipality that has been designated as an urbanized area under the most recent federal census.

- 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 an urbanized area; (ii) certain unincorporated areas of the county that extend outside of a municipality that has been designated as an urbanized area; (iii) the area delineated as a regulated coverage area; (iv) the jurisdiction of a designated regulated entity; (v) the area that is regulated by a NPDES stormwater management permit required pursuant to the petition process; and (vi) areas of the county that are subject to any stormwater management program administered by DWQ equal to or exceeding 75 percent of the total geographic area of the county.
- A county that contains an area that is designated as an urbanized area under the 1990 or 2000 federal census and that has an actual population growth rate that exceeded the State population growth rate for the period 1995 through 2004.

In addition to establishing stormwater management requirements for certain unincorporated areas, S.L. 2006-246 provides that development that cumulatively disturbs one acre or more of land located in the incorporated areas of a county that is covered by the stormwater management standards that is not designated as an urbanized area under the federal census must comply with the post-construction stormwater management standards beginning July 1, 2007.

S.L. 2006-246 also provides a designation process and a petition process by which additional local governments and other entities may be required to obtain a NPDES stormwater management permit.

Exclusions from Phase II Stormwater Management Requirements

S.L. 2006-246 provides that the post-construction stormwater management requirements will not apply to:

- Development that is conducted pursuant to one of the following authorizations that was obtained prior to the effective date of the post-construction stormwater control requirements:
 - A building permit.
 - A site-specific development plan.
 - For an area where the EMC implements post-construction requirements, a phased development plan approved by a county that provides certain types of information based on the phase of the development.
 - A vested right under statutory or common law.
- Development is defined as land-disturbing activity that increases the amount of impervious or partially-pervious cover or that otherwise decreases the infiltration of precipitation into the soil.

Redevelopment is defined as any land-disturbing activity that does not result in a net increase in impervious or partially-pervious cover and that provides equal or greater stormwater control than the previous development.

S.L. 2006-246 also authorizes DENR or a local government to grant exceptions from certain stormwater management requirements to development that meets certain criteria; exempts a municipality with a population of less than 1,000 from NPDES stormwater management permit requirements if the municipality is not contributing to the impairment of State waters; and authorizes DENR to waive the NPDES stormwater management permit requirement for certain small municipalities.

Post-Construction Stormwater Management Requirements

S.L. 2006-246 provides that certain existing water quality programs will satisfy the post-construction requirements. The legislation also provides that a number of different strategies may be used by an entity that implements a stormwater program to satisfy the post-construction

requirements so long as the chosen strategy meets the federal post-construction requirements to minimize the water quality impacts of stormwater.

S.L. 2006-246 provides specific stormwater controls based on a project's level of density and its proximity to Shellfish Resource Waters. Shellfish Resource Waters are waters classified by the EMC as Class SA waters (shellfish growing waters) that contain an average concentration of 500 parts per million of natural chloride ion (saltwater). The specific requirements are as follows:

- Low Density Projects: A project that is located within one-half mile of and draining to Shellfish Resource Waters is a low density project if it contains no more than 12 percent built-upon area. A project that is not located within one-half mile of Shellfish Resource Waters is a low density project if it contains no more than 24 percent built-upon area or no more than two dwelling units per acre. Low density projects must use vegetated conveyances to the maximum extent practicable to transport stormwater runoff from the project.
- High Density Projects: A project that is located within one-half mile of and draining to Shellfish Resource Waters is a high density project if it contains more than 12 percent built-upon area. A project that is not located within one-half mile of Shellfish Resource Waters is a high density project if it contains more than 24 percent built-upon area or more than 2 dwelling units per acre. High density projects must use structural stormwater management systems that will control and treat runoff from the first one inch of rain unless the project is in a coastal county, in which case the project must use structural stormwater management systems that will control and treat runoff from the first one and one-half inches of rain. In addition, projects that are located within one-half mile and draining to Shellfish Resource Waters must control and treat the difference in the stormwater runoff from the pre-development and post-development conditions for the one-year, 24-hour storm as well as meet certain design standards.

S.L. 2006-246 also provides for a number of other requirements that must be met by an entity that implements a stormwater management program.

Implementation Schedule

S.L. 2006-246 provides that a regulated entity must:

- Apply for a NPDES stormwater management permit within 18 months of being notified that it is a regulated entity subject to the requirements of this act.
- Implement its post-construction program no later than 24 months from the date the permit is issued.
- Fully implement its permitted program within five years of permit issuance.

Environmental Management Commission Rulemaking Authority

S.L. 2006-246 authorizes the EMC to adopt rules to replace the disapproved rules. If the EMC does adopt rules, the rules must be substantively identical to the provisions of this act and will be automatically subject to review by the General Assembly and not subject to review by the RRC.

Construction of the Act

S.L. 2006-246 provides that:

- Except as provided in the express rulemaking authority granted by the legislation, nothing in this act will alter the authority of the EMC or a local government.
- Federal exemptions from NPDES stormwater management permit requirements for agriculture and silviculture apply to the legislation.
- The legislation does not affect any delegation of power or duty to the EMC or DENR.
- The definitions of "development" and "redevelopment" set out in the legislation do not alter the definition of "redevelopment" set out in the Coastal Area Management Act (CAMA).
- The phrase "common plan of development or sale" as used in the legislation, will be interpreted and implemented consistent with the July 24, 2006 memorandum from the Director of the Division of Water Quality of the Department of Environment and

Natural Resources to Interested Parties referenced as "Guidance Interpreting Phase II Stormwater Requirements." This memorandum describes how the Division and Department currently interpret and implement the phrase "common plan of development or sale."

This act became effective retroactively to July 1, 2006. The substantive provisions of the act expire when permanent rules to replace them have become effective. (JH)

Nutrient Management Strategy

S.L. 2006-259, Sec. 31 ([SB 1523](#), Sec. 31) amends the date from July 1, 2008 to July 1, 2009 for the Environmental Management Commission to develop and implement a nutrient management strategy for drinking water supply reservoirs. This section requires the Commission to report its progress in developing and implementing nutrient management strategies for reservoirs to the Environmental Review Commission on April 1 of each year beginning April 1, 2006.

This section became effective August 23, 2006. (JM)

Renewable Energy/Alternative Fuels

Ethyl Alcohol Tax Credit

S.L. 2006-66, Sec. 24.7 ([SB 1741](#), Sec. 24.7). See **Finance**.

Tax Credit for Biodiesel Producer

S.L. 2006-66, Sec. 24.8 ([SB 1741](#), Sec. 24.8). See **Finance**.

State Energy Use Planning/Energy Assistance

S.L. 2006-206 ([SB 2051](#)) makes the following changes to energy and water conservation policies in the State:

Reduce and Displace Petroleum Products in State Fleets. - The act directs the Department of Administration (Department) to develop a plan for the targeted conversion of fuel dispensing facilities to provide greater availability of biodiesel, ethanol, and other alternative fuels for State-owned fleets. The purpose of this plan is to promote attainment of the 20 percent requirement for reduction or displacement of petroleum products consumed in State-owned vehicle fleets by January 1, 2010, established by Section 19.5 of the 2005 Appropriations Act (S.L. 2005-276).

The Department must submit the plan to the Joint Legislative Committee on Governmental Operations no later than November 1, 2006, and will report annually on progress in implementing the plan as part of its existing reporting requirement on the 20 percent reduction requirement.

Provide Energy Assistance for Low-Income Persons. - The act codifies the North Carolina Energy Assistance Program for Low-Income Persons. This program, implemented by the Office of Economic Opportunity of the Department of Health and Human Services, includes a number of programs related to weatherization assistance, heating and air conditioning repair and replacement, and other energy-related assistance programs for low-income persons in existing housing. The act authorizes the Office of Economic Opportunity and the Secretary of Administration to exercise various powers and duties to implement the program, including the adoption of rules, the creation of a Policy Advisory Council, and administration of any grants or funds to implement the program for the benefit of low-income persons in existing housing.

Biofuels Industry Strategic Plan. - The act establishes the North Carolina Biofuels Industry Strategic Plan Work Group in order to develop a strategic plan for expansion of biofuels as an industry in North Carolina. The Work Group must include representatives of the College of Agriculture and Life Sciences at North Carolina State University, The School of Agriculture and Environmental Sciences at North Carolina Agricultural and Technical State University, the North Carolina Biotechnology Center, and the Rural Economic Development Center, Inc. The Work Group will consult with a number of additional stakeholders in the development of the plan. The Work Group must submit the strategic plan, including any legislative proposals, to the Environmental Review Commission and the General Assembly no later than February 1, 2007.

Study Energy and Water Use in State Facilities. - The act directs the Joint Legislative Oversight Committee on Capital Improvements (Committee) to study the costs and benefits of reducing energy and water use in State facilities by 20 percent by January 1, 2012. The Committee must consider the following factors: (i) the role of repair and renovation investments for existing facilities; (ii) the construction and design of new facilities; (iii) the State's method of funding utility costs for State facilities; (iv) the State's method of funding and planning capital projects in order to improve the integration of long-term operating costs into the design of the facilities; (v) the costs and benefits of constructing green buildings; (vi) the relationship of guaranteed energy savings contracts to the State's investments in capital facilities; and (vii) any other issue the Committee determines is pertinent to the reduction of water and energy use in State-owned facilities. The Committee must report its findings to the 2007 General Assembly no later than February 1, 2007.

This act became effective August 8, 2006. (TD)

Studies

New/Independent Studies/Commissions

Land and Water Conservation Study

S.L. 2006-223 ([SB 1122](#)) establishes the Land and Water Conservation Commission to: (i) identify and evaluate existing sources of funding for land and water conservation, historic preservation, and economic and community development tied to conservation and preservation; (ii) collect research and information on tools and techniques for land conservation; (iii) hold at least three public meetings across the State; and (iv) prepare a report concerning the funding needs and other issues affecting land and water conservation in the State. The Commission must report its findings and recommendations to the General Assembly and the Environmental Review Commission on or before February 1, 2007.

This act became effective August 10, 2006. (JLM)

Landfill Moratorium and Studies

S.L. 2006-244, Sec. 5 ([SB 353](#), Sec. 5) establishes the Joint Select Committee on Environmental Justice to study the impact of the siting of landfills in low-income and minority communities in the State and report its findings and any legislative recommendations to the Environmental Review Commission and the General Assembly on or before February 1, 2007. The act directs the Committee to study:

- The location of landfills in the State and identification of landfills located in proximity to minority and low-income communities.
- The impacts that landfills located in proximity to minority and low-income communities have on these communities with regard to human health, the environment, and economic development.

- Factors, including economic factors, that may have caused landfills to be concentrated in minority and low-income communities in the State.
- Past enforcement actions taken at landfills in the State in order to assess whether enforcement practices for violations at these sites have resulted in uneven enforcement outcomes, and to determine if alternative or stronger enforcement measures could be taken, or in the alternative if other methods could be used to allocate resources, in order to more equitably serve minority and low-income communities.
- Statutes, rules, and policies used by State, regional, and local governments, and a review of the role played by these entities to influence or make siting and land-use decisions concerning landfills in the State.
- Data and methodologies by which State, regional, and local governments might become more specifically aware of situations in which neighborhoods are at particularly high risk for potential threats to human health and the environment from the siting of landfills.
- Approaches to ensure consideration of environmental justice and equity issues when formulating and implementing policies, procedures, and legislation within governmental agencies and other institutions.

This section became effective August 14, 2006. (JLM)

Waterfront Access Study Committee

S.L. 2006-248, Secs. 45.1 through 45.6 ([HB 1723](#), Secs. 45.1 through 45.6) establish the Waterfront Access Study Committee. The Committee consists of 21 members and will study the degree of loss and potential loss of the diversity of uses along the coastal shoreline of North Carolina and how these losses impact access to the public trust waters of the State. The Committee will gather information about land-use management and zoning, current shoreline development trends, and local tax rates; collect research and information from North Carolina and other states and jurisdictions regarding incentive-based techniques and management tools to preserve waterfront diversity; and assess the applicability of such tools to North Carolina's shorelines. The Committee may submit an interim report of its study to the Joint Legislative Commission on Seafood and Aquaculture, the Marine Fisheries Commission, and the Coastal Resources Commission no later than January 15, 2007. The Committee must submit a final report and recommendations to these Commissions on or before April 15, 2007 at which time the Committee will terminate.

These sections became effective August 16, 2006. (JH) (JM)

Referrals to Existing Commissions/Committees

Landfill Moratorium and Studies

S.L. 2006-244, Sec. 4 ([SB 353](#), Sec. 4) directs the Environmental Review Commission (ERC) to study issues related to solid waste, including: financial responsibility requirements for landfills; application of franchise requirements and local government approval for landfill permits, siting, design, and operational requirements for landfills that are proposed in areas susceptible to flooding from natural disasters, areas with high water tables, and other environmentally sensitive areas; traffic considerations for proposed landfills; regulatory oversight and staffing for permitting and compliance of solid waste landfills; compliance with statutory prohibitions on disposal of certain types of solid waste; and ways to reduce the amount of solid waste disposed of within North Carolina landfills. The ERC is directed to report its findings and any recommended legislation to the 2007 General Assembly upon its convening.

This section became effective August 14, 2006. (JLM)

Mercury Reduction and Education

S.L. 2006-248, Sec. 8.2 ([HB 1723](#), Sec. 8.2) authorizes the Environmental Review Commission to study measures to reduce the quantity of mercury that is released into the environment, that impacts natural resources, and that harms the public health of the citizens of the State. If the Commission undertakes this study, it may refer to the mercury reduction and education measures set out in the First Edition of HB 1513 and mercury reduction and education measures adopted by other states. If the study is conducted, the Commission must report its findings and recommended legislation to the 2007 General Assembly upon its convening.

This section became effective August 16, 2006. (JM)

Abandoned Mobile Homes

S.L. 2006-248, Sec. 8.3 ([HB 1723](#), Sec. 8.3) authorizes the Environmental Review Commission to study issues related to abandoned manufactured homes. The Commission may establish a subcommittee of the Commission to facilitate the study. If a subcommittee is appointed, nonlegislative subcommittee members with special knowledge or expertise on this issue will be appointed in consultation with the President Pro Tempore of the Senate and the Speaker of the House of Representatives. If the study is conducted, the Commission must report its findings and recommended legislation to the 2007 General Assembly upon its convening.

This section became effective August 16, 2006. (JLM) (JM)

Merger of Ecosystem Enhancement Program and Clean Water Management Trust Fund

S.L. 2006-248, Sec. 16 ([HB 1723](#), Sec. 16) directs the Environmental Review Commission and the Joint Legislative Transportation and Oversight Committee to study jointly the merger of the organization and functions of the Ecosystem Enhancement Program and the Clean Water Management Trust Fund. The Commission and Committee may hire consultants to assist with this study. The final report must be made to the 2007 General Assembly.

This section became effective August 16, 2006. (JM)

Management of Menhaden and Atlantic Thread Herring

S.L. 2006-248, Sec. 37 ([HB 1723](#), Sec. 37) authorizes the Joint Legislative Commission on Seafood and Aquaculture to study the management of menhaden and Atlantic thread herring, including whether it should be unlawful to take menhaden or Atlantic thread herring with a purse seine off the shore of Brunswick and New Hanover Counties during all or part of each year. If the study is conducted, the Commission must report its findings and recommendations, including legislative proposals, to the 2007 General Assembly.

This section became effective August 16, 2006. (JH) (JM)

Referrals to Departments, Agencies, Etc.

Measures to Prevent or Mitigate Potential Flooding in Certain Areas

S.L. 2006-248, Sec. 30 ([HB 1723](#), Sec. 30) directs the Department of Environment and Natural Resources to study the causes of the flooding in Canton, Biltmore Village, Blue Ridge Paper Company, and the City of Newland to determine what measures can be taken to prevent

or mitigate the flooding potential in those areas. The Department must report its findings to the 2007 General Assembly.

This section became effective August 16, 2006. (JM)

Study Inherently Dangerous Animals

S.L. 2006-248, Secs. 32.1 through 32.3 ([HB 1732](#), Secs. 32.1 through 32.3). **See Agriculture and Wildlife.**

Costs and Benefits of Reducing Motor Vehicle Emissions

S.L. 2006-248, Sec. 43 ([HB 1723](#), Sec. 43) directs the Division of Air Quality of the Department of Environment and Natural Resources to study the costs and benefits of reducing emissions of oxides of nitrogen, particulate matter, and greenhouse gases from motor vehicles in this State. The Division must evaluate the desirability and air quality benefits of adopting motor vehicle emissions standards adopted in other states. The Division must submit an interim report on its findings and recommendations, including legislative proposals, no later than January 15, 2007 and must submit a final report no later than April 1, 2007 to the Environmental Review Commission and the Legislative Commission on Global Climate Change.

This section became effective August 16, 2006. (JM)

For a complete list of the studies and reports authorized by the 2006 Session of the 2005 General Assembly, please refer to the Appendix contained in this publication.

Chapter 11

Finance

Cindy Avrette (CA), Dan Ettefagh (DE), Trina Griffin (TG),
Canaan Huie (CH), Martha Walston (MW)

For a more detailed summary, see the 2006 Finance Law Changes publication.

Enacted Legislation

S Corporation Income Tax Adjustments

S.L. 2006-17 ([HB 1898](#)) provides that an individual's pro rata share of income from an S corporation is subject to individual income tax adjustments only, rather than being subject to both individual and corporate income tax adjustments. The act preserves an addition to federal taxable income for a shareholder's share of the built-in gains tax paid by the S corporation at the federal level for purposes of determining State taxable income, since North Carolina does not assess a built-in gains tax. The act has minimal impact upon the General Fund.

This act is effective for taxable years beginning on or after January 1, 2006. (MW)

Internal Revenue Code Update

S.L. 2006-18 ([HB 1892](#)) updates the reference to the Internal Revenue Code (IRC) used in defining and determining certain State tax provisions. In addition, the act shortens the time span in which a taxpayer has to file an amended estate, income, or gift tax return when the federal government corrects or otherwise determines the amount on which the tax is based. The act also conforms the filing date for income tax returns for a nonresident alien to the federal dates. Finally, the act conforms the amounts of the credit for child care and certain employment-related expenses to the amounts allowed for the corresponding federal credit. The annual revenue loss to the General Fund is estimated to be \$5.1 million.

The portion of the act that updates the State's reference to the IRC became effective on June 21, 2006. The portion of the act that reduces the period of time in which a taxpayer must report a federal change from two years to six months became effective July 1, 2006, and applies to federal determinations made on or after that date. The remainder of the act is effective for taxable years beginning on or after January 1, 2006. (DE)

Amend Taxation of Logging Machinery

S.L. 2006-19 ([HB 1938](#)) exempts from the 1 percent privilege tax, with an \$80 maximum tax per article, commercial logging machinery, attachments, repair parts for commercial logging machinery, lubricants applied to commercial logging machinery, and fuel to operate commercial logging machinery for use in commercial logging operations

This act became effective July 1, 2006, and applies to purchases made on or after that date. (DE)

Property Tax Changes

- S.L. 2006-30 ([HB 2097](#)) makes the following changes to the property tax laws:
- Allows for the electronic listing of individual as well as business personal property.

- Clarifies that only 60 percent of the first month's interest collected on delinquent registered motor vehicle taxes is transferred to the Combined Motor Vehicle and Registration Account, not the total interest collected on the unpaid taxes.
- Gives a county board of equalization and review the authority to approve late applications for present use-value appraisal of property.
- Validates the current practice of allowing tax collectors to receive tax receipts for assessments that have been or are subsequently appealed to the Property Tax Commission and to send the taxpayer an initial bill for those taxes.

This act does not have an impact on State revenues, and it has an insignificant impact on local revenues.

This act became effective June 29, 2006. (CA)

Streamlined Sales Tax Agreement Definitions/Sales Tax Payments

S.L. 2006-33 ([HB 1915](#)) does 3 things:

- Incorporates several definitions from the Streamlined Sales Tax Agreement (SSTA) concerning telecommunications into North Carolina law.
- Changes the tax payment requirements for semi-monthly sales tax payers.
- Allows a credit for sales tax paid on tangible personal property that is added to a modular home and sold with the modular home.

The amended definitions become effective January 1, 2007. The changes to tax payment requirements for semi-monthly sales tax payers become effective October 1, 2007. The tax credit for modular homes became effective on July 1, 2006, and applies to purchases made on or after that date. (CH)

Mill Rehabilitation Tax Credit

S.L. 2006-40 ([HB 474](#)) does 3 things:

- Provides a tax credit for rehabilitating vacant historic manufacturing sites if the taxpayer spends at least \$3 million to rehabilitate the site. The credit is a percentage of the qualified rehabilitation expenditures and rehabilitation expenses. The percentage amount of the credit varies depending upon the development tier location of the site and its eligibility for the federal credit.
- Provides an enhanced credit for rehabilitating a facility that at one time was a State-owned training school for juvenile offenders.
- Eliminates the requirement that in order for a project to be eligible for a credit for rehabilitating non-income producing property, it must receive the certification of the State Historic Preservation Officer before commencement of work.

This act is expected to decrease General Fund revenues \$2.8 million in fiscal year 2006-2007. This loss grows to an anticipated \$14.7 million in fiscal year 2008-2009 before beginning to decline. Preservation North Carolina estimates that there are approximately 30 to 35 mill properties out of more than 200 eligible properties throughout North Carolina likely to be rehabilitated as a result of this tax credit.

This act is effective for taxable years beginning on or after January 1, 2006, and applies to eligible sites placed into service on or after July 1, 2006. The act expires for qualified rehabilitation expenditures and rehabilitation expenses incurred on or after January 1, 2011. (CA)

Refund of Local Sales and Use Taxes to a Local School Administrative Unit

S.L. 2006-66, Sec. 7.20 ([SB 1741](#), Sec. 7.20). Prior to the 2006-2007 fiscal year, local school administrative units (LEAs) were eligible for an annual refund of sales and use taxes paid by the unit. In 2005, the General Assembly repealed the provision which authorized the refund for local school administrative units in an attempt to redirect estimated State sales tax revenues refundable to LEAs to the State Public School Fund for allotment through State position, dollar, and categorical allotments. However, the amount that was transferred to the State Public School Fund was sufficient to offset only the State portion of the taxes that were previously refunded. The effect of this was to reduce the amount going to the public schools. This provision maintains the repeal of the refund of the State taxes, but allows LEAs to apply for a refund of the local sales and use taxes paid by the unit. As before, the refund applies to sales and use taxes paid on direct purchases of tangible personal property, other than telecommunications and electricity, and indirect purchases of building materials. Also as before, the request for a refund must be in writing and is due within six months after the end of the entity's fiscal year. This is the only instance in which a taxpayer is eligible for a refund of local sales and use taxes when the taxpayer is not also eligible for a refund of State sales and use taxes.

This section is effective retroactive to July 1, 2005, and applies to sales made on or after that date. (CH)

Private Well-Water Testing Fee

S.L. 2006-66, Sec. 10.20 ([SB 1741](#), Sec. 10.20). See **Environment and Natural Resources**.

Increase the Uniform Fees Paid to Jurors

S.L. 2006-66, Sec. 14.17 ([SB 1741](#), Sec. 14.17). See **Courts, Justice, and Corrections**.

Revised Maximums for Collection Assistance Fees

S.L. 2006-66, Sec. 19.2 ([SB 1741](#), Sec. 19.2) increases the maximum amount of collection assistance fee proceeds that the Department of Revenue may apply to taxpayer locator services from \$100,000 to \$141,000 per year, and adds a yearly limit of \$353,000 to the amount of the fees that may be applied towards postage or other delivery charges for correspondence related to collecting overdue tax debts. In 2001, the General Assembly established a system under which the cost of collecting overdue tax debts is to be borne by the delinquent taxpayers, not by the taxpayers who pay their taxes on time. The collection assistance fee is 20 percent of the overdue tax debt and is a receipt of the Department. The proceeds of the fee are credited to a special, non-reverting account to be used only for collecting overdue tax debts.

This section became effective July 1, 2006. (MW)

Consolidate Tax Project Reports

S.L. 2006-66, Sec. 19.3 ([SB 1741](#), Sec. 19.3) places the report on the Department of Revenue's efforts to collect tax debts and its use of the proceeds of the collection assistance fee in G.S. 105-256. The statute contains a list of the reports the Department must provide. This section adds the report on its collection efforts to this list.

This section became effective July 1, 2006. (CA)

Special Indebtedness Projects

S.L. 2006-66, Sec. 23.12 ([SB 1741](#), Sec. 23.12) authorizes the issuance of special indebtedness to finance the capital facility costs, including construction or renovation, of the following projects and in the following amounts:

- North Carolina Museum of Art - \$40 million.
- Central Regional Psychiatric Hospital for the Department of Health and Human Services - \$20 million.
- A new Secondary State Data Center - \$24,841,300.
- A new Center City Classroom Building at the University of North Carolina-Charlotte - \$45,827,400.
- The Department of Health and Human Services Public Health Laboratory and Office of Chief Medical Examiner - \$101 million.
- The Eastern Regional Psychiatric Hospital for the Department of Health and Human Services - \$145 million. No more than \$20 million may be issued for this project prior to July 1, 2007. No more than \$100 million may be issued prior to July 1, 2008.
- The Regional Medical Center and Mental Health Center of the Department of Correction - \$132,200,000. The indebtedness must be incurred over a period of time, with a cap on maximum indebtedness issued or incurred of \$8.2 million prior to July 1, 2007, \$58.2 million prior to July 1, 2008, and \$98.2 million prior to July 1, 2009.
- The Western Regional Psychiatric Hospital for the Department of Health and Human Services - \$162.8 million. However, no indebtedness may be incurred prior to July 1, 2008.

This section became effective July 1, 2006. (TG)

Reduce Sales Tax Rate Early

S.L. 2006-66, Sec. 24.1 ([SB 1741](#), Sec. 24.1) provides for an earlier reduction of the State sales tax rate from 4.5 percent to 4.25 percent, effective December 1, 2006. Prior to October 16, 2001, the general rate of State sales tax was 4 percent. Effective October 16, 2001, the general rate was raised to 4.5 percent. The general rate was set for reduction back to 4 percent on July 1, 2007. This section moved up the date of reduction of the State sales tax to 4 percent from July 1, 2007, to December 1, 2006. The remaining quarter-cent sales tax will expire as scheduled on July 1, 2007. The cost of the early sales tax reduction is estimated at \$140.1 million for the 2006-2007 fiscal year and applies to sales made on or after that date.

This section becomes effective December 1, 2006, and applies to sales made on or after that date. (DE)

Reduce Income Tax Rate Applicable to Most Small Businesses Early

S.L. 2006-66, Sec. 24.2 ([SB 1741](#), Sec. 24.2) provides for an earlier reduction in the upper-income individual tax bracket rate from 8.25 percent to 8 percent, effective for taxable years beginning on or after January 1, 2007. In 2001, the General Assembly added a new tax bracket that imposed an additional one-half percent income tax (a total rate of 8.25 percent) on certain North Carolina taxable income for 3 years. In 2003, the General Assembly extended the rate until 2006, and in 2005 the General Assembly extended the rate until 2008. The anticipated impact of this change on General Fund revenues is a one-time reduction of \$28.6 million in non-recurring revenues in fiscal year 2006-2007.

This section becomes effective for taxable years beginning on or after January 1, 2007. (DE)

Motor Fuels Tax Cap

S.L. 2006-66, Sec. 24.3 ([SB 1741](#), Sec. 24.3) caps the variable wholesale component of the motor fuel excise tax rate at its current rate of 12.4¢ per gallon for the period of July 1, 2006, through June 30, 2007. In addition, Section 2.2(g) of the act provides a reserve in the General Fund for the purpose of holding harmless the Highway Fund and the Highway Trust Fund in the event that the variable wholesale component of the excise tax was to exceed 12.4¢ per gallon, if it were not capped. (The amount allocated to the environmental funds is not affected because that amount depends upon the number of gallons sold.) If the calculated variable component of the motor fuel excise tax rate exceeds the cap, the State Treasurer is directed to transfer funds, on a monthly basis, from the reserve account to the Highway Fund and the Highway Trust Fund. The amount transferred is the difference between the amount of motor fuel excise tax revenue allocated to each of those funds for a month and the amount that would have been allocated to it if the variable wholesale component were not capped at 12.4¢ per gallon. The total amounts that may be transferred to the Highway Fund and the Highway Trust Fund are limited to \$17.6 million and \$5.7 million, respectively. Funds remaining in the Reserve for Motor Fuels Tax Ceiling on June 30, 2007 revert to the Savings Reserve Account within the General Fund on that date.

This section became effective July 1, 2006. (TG)

Small Business Health Insurance Tax Credit

S.L. 2006-66, Sec. 24.4 ([SB 1741](#), Sec. 24.4) creates a new tax credit for small businesses that provide health benefits to their eligible employees. The credit amount is equal to \$250 per employee whose total wages or salary received from the business does not exceed \$40,000 annually, not to exceed the taxpayer's cost of providing the health insurance benefit. The taxpayer may use the credit against either their income tax or their franchise tax liability. The credit may not exceed 50 percent of the taxpayer's tax liability. Any unused portions of the credit may be carried forward for five years.

This section is effective for taxable years beginning on or after January 1, 2007 and it expires for taxable years beginning on or after January 1, 2009. (TG)

Expand Definition of Development Zone

S.L. 2006-66, Sec. 24.5 ([SB 1741](#), Sec. 24.5) expands the definition of a development zone to include an economic development and training district. Location in a development zone leads to more favorable treatment for the taxpayer under the Bill Lee Act with respect to the wage standard, the credit for creating new jobs, the credit for investing in machinery and equipment, and the credit for worker training and could result in extending the availability of the credits if certain other criteria are met with respect to a project.

This section is effective retroactive for taxable years beginning on or after January 1, 2004. (CA)

Extend Sunsets on Sales and Use Tax Refunds for Aviation Fuel

S.L. 2006-66, Sec. 24.6 ([SB 1741](#), Sec. 24.6) extends the sunset for refunds of the State sales and use tax on fuel used by interstate passenger air carriers and on aviation fuel used by a motorsports racing team or a motorsports-sanctioning body to January 1, 2009. The extension of the sunset is expected to reduce General Fund revenues by \$90,000 in fiscal year 2006-2007.

This section became effective July 10, 2006. (DE)

Ethyl Alcohol Tax Credit

S.L. 2006-66, Sec. 24.7 ([SB 1741](#), Sec. 24.7) extends the sunset on the credit for constructing renewable fuel production facilities from 2008 until 2011. This section also creates an enhanced credit if the taxpayer invests at least \$400 million in 3 separate facilities over a 5-year period. As with the current credit, the enhanced credit cannot exceed 50 percent of the amount of tax liability. Unlike the current credit, the enhanced credit may be claimed only against the income tax, but has a carryforward period of 10 years. A taxpayer may not claim both credits with respect to the same facility.

This section becomes effective for taxable years beginning on or after January 1, 2006. (CH)

Tax Credit for Biodiesel Producer

S.L. 2006-66, Sec. 24.8 ([SB 1741](#), Sec. 24.8) provides for a tax credit for certain biodiesel providers. In order to qualify for the credit, the provider must be a producer of biodiesel (as opposed to an importer) that produces at least 100,000 gallons of biodiesel during the taxable year. The amount of the credit is equal to the per-gallon excise tax (currently 29.9¢ per gallon) paid by the producer on the biodiesel. The credit may be claimed against income tax or franchise tax, is limited to 50 percent of the amount of tax liability against which it is claimed, and has a carryforward period of 5 years.

This section becomes effective for taxable years beginning on or after January 1, 2008, and expires for taxable years beginning on or after January 1, 2010. (CH)

Research and Development Sales Tax Changes

S.L. 2006-66, Sec. 24.9 ([SB 1741](#), Sec. 24.9), as amended by Section 12 of S.L. 2006-196, exempts research and development equipment from State and local sales and use tax and imposes a 1 percent privilege tax with an \$80 cap, thus affording this type of equipment the same tax treatment as mill machinery.

This section becomes effective January 1, 2007. (TG)

Sales and Use Tax Refund for Motorsports Racing Teams

S.L. 2006-66, Sec. 24.10 ([SB 1741](#), Sec. 24.10) provides a sales and use tax refund for a professional motorsports racing team for purchases of professional motor racing vehicle component parts other than tires or accessories made by it. The amount of the refund is equal to 50 percent of the sales and use tax paid.

This section becomes effective July 1, 2007, and applies to purchases made on or after that date. (DE)

Joint Filing Options

S.L. 2006-66, Sec. 24.11 ([SB 1741](#), Sec. 24.11) provides a married couple with the option of filing their individual income tax return jointly if they file a federal joint return and if one spouse is a nonresident with no income from North Carolina. Because North Carolina does not have jurisdiction over the nonresident spouse, the act permits, but does not require, a joint return. This option would also allow North Carolina residents to file jointly in Georgia and South Carolina. Currently, those two states do not allow nonresident joint filing for residents of states that do not allow joint filings for Georgia and South Carolina residents.

This section is effective for taxable years beginning on or after January 1, 2006. (TG)

Parental Savings Trust Fund Tax Deduction

S.L. 2006-66, Sec. 24.12 ([SB 1741](#), Sec. 24.12) allows an individual taxpayer to deduct from the taxpayer's taxable income a maximum amount of \$750 contributed by the taxpayer to an account in the Parental Savings Trust Fund. A married couple filing jointly may deduct a maximum of \$1,500. To qualify for the deduction, the adjusted gross income of the individual taxpayer or married couple filing jointly must not exceed a specified amount. S.L. 2006-221, Sec. 27 increased the amount that may be deducted to a maximum of \$2,000 for a single filer and \$4,000 for a married couple filing jointly, effective January 1, 2007.

This section is effective for taxable years beginning on or after January 1, 2006, and is repealed for taxable years beginning on or after January 1, 2011. (MW)

Sales Tax on Railroad Cars

S.L. 2006-66, Sec. 24.13 ([SB 1741](#), Sec. 24.13) provides that when a lease or rental agreement requires periodic payments for a railway car that is leased by a utility company and the railway car would be considered transportation equipment if it were in interstate commerce, the periodic payments are sourced according to the following general sourcing principles set out in G.S. 105-164.4B(a) for sales tax purposes. It also provides utility companies with the same refund for a portion of sales and uses taxes paid on purchases of railway cars and accessories currently available to interstate carriers for those same purchases. These provisions are expected to reduce General Fund revenue by \$370,000 in fiscal year 2006-2007.

This section became effective July 1, 2006, and applies to purchases made on or after that date. (MW)

Wage Standard – Certain Manufacturers

S.L. 2006-66, Sec. 24.14 ([SB 1741](#), Sec. 24.14) retroactively alters the definition of "location" with respect to certain manufacturers for the purpose of meeting the wage standard under the Bill Lee Act.

This change is effective for taxable years beginning January 1, 1996. (CA)

Real Property Tax Donation Credit

S.L. 2006-66, Sec. 24.15 ([SB 1741](#), Sec. 24.15). In 2001, the General Assembly moved to conform North Carolina law to federal law regarding a partnership's eligibility for certain tax credits. Now, North Carolina law states that a dollar-amount limitation on a tax credit applies to a partnership as a whole, as well as to each individual partner. When this change was made, the General Assembly voted to delay its imposition on the dollar-amount limitation on the credit allowed for real property donations. The credit for real property donations is allowed when a person makes a qualified donation of an interest in real property that is useful for public beach access, public access to public waters or trails, fish and wildlife conservation, or other similar land conservation purposes. The credit is equal to 25 percent of the fair market value of the donated property interest. To be eligible for the credit, the interest in property must be donated to and accepted by the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions under the Internal Revenue Code. The credit amount may not exceed \$250,000. Originally, that delay was set to expire in 2005. In 2004, the time period for that delay was extended by one year. This section extends that delay another year until 2007. This section also directs the Revenue Laws Study Committee to study this issue before the 2007 General Assembly.

This section became effective July 1, 2006. (CH)

Agrarian Growth Zones – Bill Lee

S.L. 2006-66, Sec. 24.16 ([SB 1741](#), Sec. 24.16) authorizes the creation of agrarian growth zones and provides for favorable treatment of the zones under the Bill Lee Act.

This section is effective for taxable years beginning on or after January 1, 2006, and applies to business activities occurring on or after that date. (CA)

Internet Data Center Facilities – Tax Exemption

S.L. 2006-66, Sec. 24.17 ([SB 1741](#), Sec. 24.17) provides an exemption from the sales and use tax on sales of tangible personal property and electricity to an eligible Internet data center.

This section became effective for sales made on or after October 1, 2006. (CA)

Oyster Shell Tax Credit

S.L. 2006-66, Sec. 24.18 ([SB 1741](#), Sec. 24.18) provides for a nonrefundable income tax credit of \$1 for each bushel of oyster shells that a taxpayer donates to the Division of Marine Fisheries of the Department of Environment and Natural Resources. To be eligible for the credit, the taxpayer must provide the Department of Revenue with documentation, supplied by the Division of Marine Fisheries, verifying the donation and the number of bushels donated. The credit may be carried forward for five years. The taxpayer may not claim a deduction for any oyster shells for which a credit is claimed.

This section is effective for taxable years beginning on or after January 1, 2006, and expires for taxable years beginning on or after January 1, 2011. (CH)

Reduce Sales Tax on Electricity Sold to Manufacturers

S.L. 2006-66, Sec. 24.19 ([SB 1741](#), Sec. 24.19) replaces the current sales tax rate of 2.83 percent on sales of electricity to manufacturing industries and manufacturing plants for use in connection with their operation, with a sales tax rate of 2.6 percent. As under current law, the reduced rate will be applied to the sales price of electricity that is measured by a separate meter or another separate device.

This section becomes effective July 1, 2007, and applies to sales made on or after that date. (MW)

No Sales Tax Refund for Alcohol Purchases

S.L. 2006-66, Sec. 24A.1 ([SB 1741](#), Sec. 24A.1) disallows sales and use tax refunds for purchases of alcoholic beverages. The impact on General Fund revenues is expected to be negligible.

This section became effective July 1, 2006, and applies to purchases made on or after that date. (MW)

Franchise Tax Loophole Closing

S.L. 2006-66, Sec. 24A.2 ([SB 1741](#), Sec. 24A.2) adds language to the revenue statutes that would close another franchise tax loophole. It amends the definition of "corporation," as it applies to the franchise tax statutes, to include a limited liability company (LLC) that elects to be taxed as a C Corporation for federal income tax purposes. The effect of this change is that the corporate franchise tax will apply to these LLCs. It also makes conforming changes to the LLC

statute to provide that LLCs that do not elect to be taxed as a C Corporation will be considered "noncorporate LLCs" and will be subject to the attribution rules in this statute for franchise tax purposes. It provides LLCs that elect to be taxed as a C Corporation a nonrefundable credit for the difference between the annual report fee for corporations, which is \$20, and the annual report fee for LLCs, which is \$200. The fiscal impact of these changes cannot be determined.

This section becomes effective for taxable years beginning on or after January 1, 2007. (MW)

Expansion of Royalty Reporting Option

S.L. 2006-66, Sec. 24A.3 ([SB 1741](#), Sec. 24A.3) expands the royalty payment reporting option for corporations and their related members to include payments received for use of patents and copyrights.

This section is effective for taxable years beginning on or after January 1, 2006. (CH)

Property Tax Due Date Change

S.L. 2006-72 ([SB 1372](#)) authorizes a taxing unit to pass a resolution allowing property taxes for certain newly-annexed property to be collected over a three-year period. It applies to taxes only for the partial fiscal year of October 1, 2005 through June 30, 2006 on property located in an area that was annexed between January 1, 2003 and January 1, 2006, and for which effective date of the annexation was set by judicial order. This act gives property owners in the 27-square miles of territory annexed to the City of Fayetteville last year, 3 years to pay taxes owed from October 1, 2005 through June 30, 2006. Otherwise, those 9 months of property taxes would be due with the regular annual tax bill mailed in August, and the affected landowners would owe 21 months of property taxes at once. This act is a statewide act, rather than a local one, to avoid conflicting with the prohibition in the North Carolina Constitution on certain local acts.

This act became effective July 10, 2006. (CA)

Franchise Tax Base Calculation

S.L. 2006-95 ([SB 1283](#)) clarifies the treatment of deferred tax assets in the computation of the franchise tax capital base.

This act became effective July 10, 2006. (CH)

Delinquent Property Tax/Inventory/Study

S.L. 2006-106 ([SB 1451](#)) makes several changes to the property tax laws to facilitate the collection of delinquent property taxes, to provide for a standard for prorating property taxes in real estate closings, and to clarify that certain modular homes qualify as inventory and are, therefore, not subject to tax as real estate. In addition, this act directs the Revenue Laws Study Committee to study issues related to the present-use value property tax system.

This act is effective for taxes imposed for taxable years beginning on or after July 1, 2006, except that the provisions concerning proration of property taxes in real estate closings became effective for contracts entered into on or after October 1, 2006; the study provisions became effective July 13, 2006. (CH)

University Indebtedness Projects

S.L. 2006-146 ([SB 1809](#)) authorizes new self-liquidating indebtedness projects for constituent institutions of The University of North Carolina and makes modifications to existing authorizations for self-liquidating indebtedness projects, special indebtedness projects, and general obligation indebtedness projects.

This act became effective July 19, 2006. (CA)

Video Service Competition Act

S.L. 2006-151 ([HB 2047](#)) establishes uniform taxes for video programming services and seeks to promote consumer choice. It establishes equal taxation of the same service by applying the State seven percent sales tax to all video programming services, repealing the local authority to impose a local franchise tax, and repealing the sales tax credit allowed to cable companies for local franchise tax paid. It preserves the local government revenue stream by distributing part of the sales tax revenues from telecommunications and video programming services to the counties and cities. The distribution formula is based upon the amount of cable franchise tax imposed during the first six months of fiscal year 2006-2007, plus any subscriber fees imposed during that same period.

The act promotes competition by providing a State franchise process, in lieu of the current locally negotiated franchise agreements. It seeks to ensure competitive neutrality by allowing cable providers to opt out of existing local agreements when one or more households in the franchise area may be served by both the existing provider and the holder of a State-issued franchise. The act specifically prohibits discrimination in the provision of video programming services and declares a violation of this law to be an unfair or deceptive trade practice. The holder of a State-issued franchise must comply with customer service and emergency alert requirements established by the Federal Communications Commission. The act designates the Consumer Protection Division of the Attorney General's Office as the State agency to receive customer complaints regarding video programming services.

The act preserves local regulation of public rights-of-way and provides for public educational or governmental access channel (PEG) support and growth. The act requires local governments that imposed subscriber fees to use a portion of the amount of revenue distributed to it for PEG channel operation and support and it requires local governments that appropriated money for PEG channels in fiscal year 2005-2006 to continue appropriating that amount of money for PEG channel support. In addition to this mandated funding, the act provides \$2 million for supplemental PEG support through direct appropriation for PEG channel support and operation and through grants. The act provides that existing franchise agreements will determine the number, service tier placement, and transmission quality required of PEG channels under a State-issued franchise. In the absence of an existing agreement, the number of PEG channels a county or city may have is determined by the area's population. A local entity may acquire additional PEG channels, with the maximum number of channels set at seven. The act also requires cable service providers to provide free basic service to local public buildings.

This act becomes effective January 1, 2007. (CH)

Revenue Laws Technical and Motor Fuel Tax Changes

S.L. 2006-162 ([HB 1963](#)) makes technical, clarifying, and administrative changes to the revenue laws and related statutes and to the motor fuel tax laws to improve collection and administration. The act also authorizes counties that impose an additional one-half cent sales and use tax for public transit to levy a vehicle rental tax. This act has no fiscal impact on the General Fund, and the impact to local government revenue cannot be determined.

This act became effective July 24, 2006. (MW)

Economic Development Program Modifications

S.L. 2006-168 ([HB 2744](#)) makes numerous changes to the Job Development Investment Grant Program. This act extends by two years the time period in which eligible major industries can qualify as such in order to qualify for the extension of the Bill Lee Act, and adds financial services, securities operations, and related systems development as an industry that is eligible for the sales and use tax refund related to certain building materials. The act could reduce General Fund revenues by as much as \$570 million over a 12-year period.

This act became effective July 27, 2006. (CA)

Simplify Fire Tax Rate/Other Tax Changes

S.L. 2006-196 ([HB 1891](#)) does the following things:

- Clarifies and simplifies the application of the additional gross premiums taxes on fire and lightning coverage. Effective January 1, 2008, the act combines the statewide and local rates for insurance policies providing fire and lightning coverage and establishes a new statewide rate of 0.85 percent for the supplemental tax. The tax will apply to 100 percent of premiums for property coverage and 10 percent of premiums for auto physical damage. Because the new statewide rate is calculated to be revenue-neutral, it is estimated that the rate change will have no fiscal impact.
- Makes a conforming change to the definition of "holding company" for purposes of the franchise tax, effective for taxable years beginning on or after January 1, 2007. The change has no impact upon the General Fund.
- Clarifies the application of the royalty reporting option when one of the related members is in a foreign country, effective for taxable years beginning on or after January 1, 2006. This change has no impact upon the General Fund.
- Allows the Department of Revenue to share information with a county or city on a room occupancy tax to the same extent as a prepared food and beverage tax.
- Changes from January 1, 2007 to July 1, 2007, the effective date of a budget provision exempting research and development equipment from State and local sales tax and imposing a 1 percent privilege tax, with an \$80 cap.
- Directs the Revenue Laws Study Committee to study various issues.

Except as otherwise noted, the act became effective August 3, 2006. (TG)

Local Government Debt Revisions

S.L. 2006-211 ([SB 1436](#)). See **Local Government**.

Exempt Agri-Tourism from Privilege Tax

S.L. 2006-216 ([HB 143](#)) exempts the following activities from the three percent gross receipts privilege tax on amusements: all farm-related exhibitions, shows, attractions, or amusements offered on land used for farm purposes, including hayrides, animal exhibitions, and farm pond fishing. According to the North Carolina Department of Revenue, the privilege tax is not collected for activities such as hayrides and farm pond fishing because these activities are participatory in nature, as opposed to other types of amusements subject to the tax. Animal exhibitions are considered to be taxable under current law, however, the Department is aware of only two instances in which current taxpayers would be affected by the act. It is unclear whether other businesses would be affected by the exemption. Because the act is retroactive to January 1, 1999, the first-year impact of the act would include any refunds to qualifying businesses that have paid the tax since that date.

This act became effective January 1, 1999, and applies to agri-tourism activities occurring on or after that date. (DE)

Film Incentive Changes

S.L. 2006-220 ([HB 1522](#)) eliminates the prohibition against claiming both an income tax deduction and an income tax credit for the same qualifying expenses spent by a production company with regard to the film incentives tax credit. The act is estimated to reduce General Fund revenues by \$8.1 million in fiscal year 2007-2008, \$8.5 million in fiscal year 2008-2009, \$9.0 million in fiscal year 2009-2010, and \$9.5 million in fiscal year 2010-2011.

This act becomes effective for taxable years beginning on or after January 1, 2007. (MW)

Various Alcohol Beverage Control Law Changes

S.L. 2006-227, Sec. 14 ([HB 1025](#), Sec. 14) requires the Secretary of Revenue to credit the Department of Commerce \$200,000 quarterly from the net proceeds of the excise tax collected on unfortified wine. The impact on General Fund revenues is negligible.

This section becomes effective July 1, 2007. The remainder of this act makes various changes to alcoholic beverage control laws. For additional information, see **Alcoholic Beverage Control**. (DE)

Special Indebtedness Projects

S.L. 2006-231 ([SB 1621](#)) authorizes an additional \$7 million in special indebtedness to complete 5 youth development centers for which special indebtedness was originally authorized in 2004. It authorizes the issuance of \$20 million in special indebtedness to finance the purchase of land by the Wildlife Resources Commission to be used as State game lands. To assist with the repayment of this indebtedness, the act also exempts sales of timber on land owned by the Wildlife Resources Commission from the service charge imposed by the Department of Administration. Lastly, it authorizes the issuance of \$20 million in special indebtedness to finance the construction of a new parking deck in downtown Raleigh.

The authorization of additional special indebtedness for the construction of youth development centers is effective January 1, 2007. The remainder of the act became effective August 10, 2006. (TG)

Public-Private Partnerships for Schools

S.L. 2006-232 ([SB 2009](#)). See **Education**.

Bill Lee Changes

S.L. 2006-252 ([HB 2170](#)) creates a new article under Chapter 105 of the General Statutes to provide tax credits to new and expanding businesses, effective for taxable years beginning on or after January 1, 2007; sunsets the Bill Lee Act for activities occurring on or after January 1, 2007, rather than January 1, 2008; and makes conforming changes to other statutes that refer to provisions of the Bill Lee Act.

The new tax credits and the sunset of the existing Bill Lee Act become effective January 1, 2007. (CA)

Studies

Referrals to Existing Commissions/Committees

Finance Law Studies

S.L. 2006-66, Sec. 24A.4 ([SB 1741](#), Sec. 24A.4) directs the Revenue Laws Study Committee (Committee) to study the following issues:

- Providing tax deductions for all 529 plans regardless of contribution amount or plan.
- Effectiveness of the tax credit for certain real property donations.
- Effectiveness of tax credits for qualifying expenses of a production company and whether those credits should be modified to more closely conform to the North Carolina general practice of not requiring an addback of a deduction for the expenses for which a credit is claimed.
- Effectiveness of tax credits in encouraging the production and use of renewable fuels in the State.

The Committee must report on these studies, including any recommendations and legislative proposals to the 2007 General Assembly.

This section became effective July 1, 2006. (CA)

Delinquent Property Tax/Inventory/Study

S.L. 2006-106, Sec. 9 ([SB 1451](#), Sec. 9) directs the Revenue Laws Study Committee to study changes to the special class of property taxed on the basis of the value of the property at its present use.

This section became effective July 13, 2006. (CA)

Simplify Fire Tax Rate/Other Tax Changes

S.L. 2006-196, Sec. 13 ([HB 1891](#), Sec. 13) directs the Revenue Laws Study Committee to study the following issues:

- Simplification of the additional tax imposed on insurance contracts on property coverage and the distribution of the revenue generated by the tax.
- Secretary of Revenue authority to require taxpayers to file consolidated returns.
- Feasibility of replacing current corporate income and franchise tax laws with a commercial activity tax based on business gross receipts.
- Administrative process for the review of disputed tax matters.

This section became effective August 3, 2006. (CA)

The Studies Act of 2006

S.L. 2006-248, Part VII ([HB 1723](#), Part VII) authorizes the Revenue Laws Study Committee to study the following issues:

- Valuation of partially improved, undeveloped subdivision lots.
- Administrative and judicial review of tax cases.
- Reforming and simplifying State business enterprises taxation.
- Sound management program for forestland to allow owners to qualify for present-use value property tax status.
- Tax refund donation for prostate cancer research.
- Housing authority tax exemption issues.

- Providing space on individual income tax forms for charitable contributions.
- Feasibility of creating tax "check-offs."
- Creation of an intermodal rail facility.
- Issues related to comprehensive reform and simplification of the existing State tax structure.

This part became effective August 16, 2006. (CA)

For a complete list of the studies and reports authorized by the 2006 Session of the 2005 General Assembly, please refer to the Appendix contained in this publication.

Chapter 12

Health and Human Services

Denise Huntley (DH), Shawn Parker (SP), Ben Popkin (BP)

Enacted Legislation

Strengthen Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services Oversight Role

S.L. 2006-32 ([HB 2120](#)) amends the statutes governing the Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services (LOC) to provide the committee with the ability to obtain information and data from all State officers, agents, agencies, and departments, while in discharge of its duties. This provision is consistent with other legislative oversight committees. The act repeals Article 23 of Chapter 120 of the General Statutes abolishing the Legislative Study Commission on Mental health, Developmental Disabilities, and Substance Abuse Services and directs the LOC to study the following:

- Mechanisms to allow Local Management Entities to purchase bed days from the State psychiatric hospitals.
- Impacts of expanding a Medicaid 1915(b) waiver to a statewide basis.
- Impacts of consolidating age and disability funding categories.

This act became effective June 29, 2006. (SP)

Change Progress Report Date: Quality Improvement Consultation Program for Adult Care Homes

S.L. 2006-66, Sec. 10.1 ([SB 1741](#), Sec. 10.1). See **Senior Citizens**.

Rate Setting for Child Caring Institutions

S.L. 2006-66, Sec. 10.2 ([SB 1741](#), Sec. 10.2) amends the powers and duties of the Social Services Commission. The section directs the Commission to establish standardized rates for child-caring institutions, taking into consideration rate-setting recommendations provided by the Office of the State Auditor.

This section becomes effective July 1, 2007. (BP)

Procedures for Changes to Department of Health and Human Service as Medical Policy

S.L. 2006-66, Sec. 10.4 ([SB 1741](#), Sec. 10.4) establishes procedures for changing medical coverage policy. The section requires the Department of Health and Human Services to consult with the Physician Advisory Group of the North Carolina Medical Board and other appropriate entities during the development of a new medical coverage policy or amendment of an existing medical coverage policy. At least 45 days prior to adoption of the policy, the Secretary of Health and Human Services is directed to facilitate a comment period including publishing

notice, notifying Medicaid providers, and receiving oral and written comments on the proposed policy change.

This section became effective July 1, 2006. (SP)

Transfer of Assets Rewrite

S.L. 2006-66, Sec. 10.5 ([SB 1741](#), Sec. 10.5) repeals the previous transfer of assets statute (G.S. 108A-58) and enacts a new transfer of assets statute (G.S. 108A-58.1). The new statute incorporates the most recent revisions to federal Medicaid law addressing transfer of assets as brought about by the Deficit Reduction Act of 2005 (Public Law 109-171).

The new statute states that an individual who would otherwise be eligible to receive medical assistance under Part 6 of Chapter 108A of the General Statutes, Medical Assistance Program (Program), will be ineligible for Medicaid coverage for the duration of a "penalty period" if the individual or their spouse transferred an asset for less than fair market value on or after a set "lookback date." Both the penalty period and the lookback date are defined by direct reference to United States Code provisions (42 U.S.C. 1396p(c)(1)(D), (E), and (H), and 42 U.S.C. 1396p(c)(1)(B), respectively).

The lookback date covers the period 60 months prior to the individual's application for Program benefits (or prior to the date of institutionalization or receipt of services for which they are applying for coverage and payment). If the individual or their spouse transfers an asset at less than fair market value during this period, then they may not receive Program coverage for services during a penalty period running from the later of either the date of transfer of the asset, or the date on which they would have become eligible for Medicaid coverage.

This section includes a series of exceptions included in federal law, by reference to the applicable sections of the United States Code, as well as a "hardship waiver" whereby the Department of Health and Human Services is directed to waive a transfer of assets penalty if imposition of the penalty would "...create an undue hardship."

This section became effective July 1, 2006, and applies to transfers of assets that take place on or after February 8, 2006, in accordance with federal law. (BP)

Medicaid Dually Eligible to Enroll in Medicare Parts B and D

S.L. 2006-66, Sec. 10.6 ([SB 1741](#), Sec. 10.6) requires State Medical Assistance recipients who qualify to enroll in Medicare Parts B and D. A recipient is not required to enroll in Medicare Part D if the person has acceptable prescription drug coverage.

This section became effective July 1, 2006. (SP)

Pilot Projects to Control Cost and Improve Quality of Care for Aged, Blind, and Disabled Medicaid Recipients

S.L. 2006-66, Sec. 10.7A ([SB 1741](#), Sec. 10.7A) expands the scope of the Community Care of North Carolina care management model, to provide that the initiatives may include pilot projects to control costs and improve care for the aged, blind, and disabled recipients of Medicaid. The act also amends section 10.14 of S.L. 2005-276 to authorize use of funds for grants through the Office of Rural Health and Community Care for cost containment programs.

This section became effective July 1, 2006. (SP)

Required Data Sharing By Private Health Insurers

S.L. 2006-66, Sec. 10.8 ([SB 1741](#), Sec. 10.8). See **Insurance**.

Ticket to Work Effective Date Change

S.L. 2006-66, Sec. 10.9 ([SB 1741](#), Sec. 10.9) revises the implementation date of the Health Coverage for Workers with Disabilities Act, which was created by Section 10.18 of S.L. 2005-276, to become effective on July 1, 2007.

This section became effective July 1, 2006. (BP)

Extend Effective Date on Changes to Liens on Real Property for Purposes of Estate Recovery under Medicaid

S.L. 2006-66, Sec. 10.9B ([SB 1741](#), Sec. 10.9B) amends Section 10.21C(c) of S.L. 2005-276 by changing the effective date of the section from July 1, 2006 to July 1, 2007.

This section became effective July 1, 2006. (BP)

Pilot Program to Evaluate Telemonitoring Equipment in Home Care Services

S.L. 2006-66, Sec. 10.9C ([SB 1741](#), Sec. 10.9C). See **Senior Citizens**.

Increase Health Care Access for Uninsured Persons

S.L. 2006-66, Sec. 10.12 ([SB 1741](#), Sec. 10.12) directs the Secretary of Health and Human Services to develop a plan to expand health care access for uninsured North Carolinians through the use of public/private partnerships, federal flexibility and resources, and promotion of charity care by health care providers. Stated goals of the plan are to aid small businesses wanting to provide health care coverage to their employees, expansion of health care coverage for the working uninsured, receipt of all available federal funds, and promotion of charity care by health care providers. This section includes 7 items for consideration by the Secretary in developing the plan and specifies that \$100,000 of monies appropriated to the Department of Health and Human Services, Division of Medical Assistance, by the Appropriations Act of 2006 be used to support development of the plan. The proposed plan is to be submitted to the General Assembly not later than March 1, 2007.

This section became effective July 1, 2006. (BP)

Clarification of Certain Audit Requirements

S.L. 2006-66, Sec. 10.19 ([SB 1741](#), Sec. 10.19) requires that those private, nonprofit organizations receiving assistance from employees of the Department of Health and Human Services document all contributions received and compensation paid to State employees. The section allows organizations with less than \$500,000 in annual income to submit an affidavit or annual audit from its chief officer making this report within 6 months from the end of the fiscal year and requires organizations with more than \$500,000 in annual income to provide an audit by the State Auditor's Office or from a certified public accountant.

This section became effective July 1, 2006. (SP)

Private Well-Water Testing Fee

S.L. 2006-66, Sec. 10.20 ([SB 1741](#), Sec. 10.20). See **Environment and Natural Resources**.

Area Authority and County Program Crisis Regions

S.L. 2006-66, Sec. 10.26 ([SB 1741](#), Sec. 10.26) provides direction for the use of funds appropriated to the Department of Health and Human Services (Department) for a continuum of regional and local crisis facilities and services for individuals with mental illnesses, developmental disabilities, and substance abuse addictions and provides direction to the Secretary of Health and Human Services (Secretary), the Department, and Local Management Entities (LMEs) as to how to proceed with development of these crisis services and facilities.

Funds appropriated for the 2006-2007 fiscal year are addressed in the following fashion:

- \$5,250,000 is to be allocated on a per capita basis and to be used for operational start-up, capital, or subsidies related to development and implementation of a plan for a continuum of regional crisis facilities and local crisis services (crisis plan).
- \$225,000 is designated for personal services contracts to provide technical assistance to LMEs to develop and implement the crisis plans.

The section directs the Secretary to "...designate between 15 and 25 appropriate groupings of LMEs for the development of regional crisis facilities" by no later than August 15, 2006. Area authorities and county programs are directed to work with consultants to identify gaps in their regions' crisis services and develop plans to address needs identified. Capabilities to be developed include the following:

- 24-hour crisis telephone lines.
- Walk-in crisis services.
- Mobile crisis outreach.
- Crisis respite/residential services.
- Crisis stabilization units.
- 24-hour beds.
- Facility-based crisis.
- In-patient crisis.
- Transportation.

Crisis regions demonstrating both a long-term need and the sustainability of facility-based crisis centers must attempt to secure services through existing community hospitals or facilities, where possible. If it has been determined that a region's crisis needs are being met already, then area authorities and county programs may use allocated funds to meet local crisis service needs.

The section directs each LME to submit its crisis service plan to the Secretary no later than March 1, 2007 for review and approval. Upon approval of a plan by the Secretary, that LME will be awarded its implementation funding. The section authorizes the Department to allocate up to three percent of the appropriated crisis plan development and implementation funds to LMEs to assist them with the cost of developing their crisis services plans. The section directs the LMEs to report to the Department and to the consultant on the following items on a monthly basis: the use of funds allocated; any reductions in the use of State psychiatric hospitals for acute admissions; and any remaining gaps in local and regional crisis services. The consultant and the Department then must report on a quarterly basis regarding each LME's proposed and actual use of funds appropriated under this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Fiscal Research Division, and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services. These reporting requirements expire July 1, 2008.

This section became effective July 1, 2006. (BP)

Changes to the State Plan for Mental Health, Developmental Disabilities and Substance Abuse Services

S.L. 2006-66, Sec. 10.28 ([SB 1741](#), Sec. 10.28) creates the following tasks and responsibilities for independent consultants hired with funds appropriated concerning changes to the State plan for mental health, developmental disabilities and substance abuse services:

- Assist the Department of Health and Human Services (Department) with strategic planning necessary to develop the revised State Plan.
- Determine ways to increase the Department's capacity to implement system reform in a manner that maintains strong management functions by area authorities and county programs at the local level.
- Assist the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (MH/DD/SAS) of the Department to work with area authorities and county programs to:
 - Develop and implement critical performance indicators to be used to hold area authorities and county programs accountable for managing the MH/DD/SAS system.
 - Standardize the utilization management functions and functions related to person-centered plans.
 - Implement other uniform procedures for the management functions of area authorities and county programs.
- Provide technical assistance and oversight to private service providers, area authorities, and county programs to ensure that best practices and new services are being delivered with fidelity to the service definition model.
- Provide ongoing and focused technical assistance to area authorities and county programs in the implementation of their administrative and management functions and the establishment and operation of community-based programs.
- Assist the MH/DD/SAS with implementing standard forms, contracts, processes, and procedures to be used by all area authorities and county programs with other public and private service providers.

This section became effective July 1, 2006. (SP)

Local Management Entity Administrative Functions

S.L. 2006-66, Sec. 10.32 ([SB 1741](#), Sec. 10.32) directs the Department of Health and Human Services (Department) to recalculate Local Management Entity (LME) systems management allocations for fiscal year 2006-2007 to include funds for each LME to implement 24-hour, 7-days-a-week screening, triage and referral, and to review, monitor, and comment on all person-centered plans. The section then directs the Department to allocate appropriated funds to LMEs to implement these functions.

This section also directs the Secretary of Health and Human Services to "...review and revise the LME systems management cost model to provide adequate funds for LMEs to fully implement the functions outlined in G.S. 122C-115.4(b)..." and requires that the Secretary consult with the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services before implementing the revised cost model. The section directs the Department to maintain 2005-2006 funding levels until the revised cost model is implemented except for utilization review (capped at \$13,333,481) and claims processing (capped at \$12,156,042). Any savings realized from the revised cost model must be reallocated to State-funded services for mental health, developmental disabilities, and substance abuse services (MH/DD/SA). Funds withdrawn from LME administrative services must be reallocated to other LMEs for the provision of MH/DD/SA services.

The section also amends existing law to establish a required minimum catchment area for all area authorities or county programs of either a minimum population of 200,000 or a minimum of 6 counties. Area authorities or county programs that do not comply with this new minimum catchment area requirement will have their administrative funding reduced by 10 percent annually by the Department.

The revised catchment area portion of this section becomes effective July 1, 2007. The remainder of this section became effective July 1, 2006. (BP)

Rewrite Special Education Laws

S.L. 2006-69 ([HB 1908](#)). See **Education**.

Long-Term Disability Amendment

S.L. 2006-74 ([SB 1738](#)). See **Labor and Employment**.

Designate General Assembly Buildings Nonsmoking

S.L. 2006-76 ([HB 1133](#)). See **State Government**.

Enhance Embargo Authority/Protect Food Supply

S.L. 2006-80 ([HB 2200](#)). See **Agriculture and Wildlife**.

Liability Protection for State Medical Assistance Teams

S.L. 2006-81 ([HB 2195](#)) expands the definition of "emergency management worker" set forth in the Emergency Management Act to include health care workers performing health care services as a member of a hospital-based or county-based State Medical Assistance Team designated by the North Carolina Office of Emergency Medical Services. The amended definition now includes these workers among the "emergency management workers" to whom the statute provides immunity from liability for personal injuries and property damage resulting from "emergency management measures" enacted during an officially declared state of emergency or disaster.

This act became effective July 10, 2006. (BP)

Community Colleges Exempt from Smoking Laws

S.L. 2006-133 ([HB 448](#)). See **Education**.

Mental Health Reform Changes

S.L. 2006-142 ([HB 2077](#)) makes changes in respect to reform efforts in the areas of Mental Health, Developmental Disabilities, and Substance Abuse Services.

The following is a section by section analysis of the Act. Sections that are not included in the analysis make only technical or conforming changes to the statutes:

- **Section 1.** - Requires area authorities when contracting with persons for provisions of services, to use the standard contract adopted by the Secretary of Health and Human Services (Secretary). The Act allows area authorities to amend the contract to comply with a court-imposed duty.

- **Section 2(a).** - Directs the Department of Health and Human Services (Department) to revise the State Plan for Mental Health, Developmental Disabilities and Substance Abuse Services (MH/DD/SAS) to make it more of a strategic planning document and to include a mechanism to measure the State's progress towards increased performance in the delivery of MH/DD/SAS.
- **Section 2(b).** - Directs the Department to produce a cumulative document addressing applicable provisions of State plans implemented since July 1, 2001. The document will constitute the State Plan until July 1, 2007.
- **Sections 3(a-b).** - Clarify the existing process by which a Local Management Entity (LME) must submit its quarterly financial statement to the board of county commissioners of the counties that are members of the LME.
- **Section 4(a).** - Creates a statutory definition for "Local Management Entity." This is a term that has been used for the past five years to describe the six different types of local public agencies that are responsible for the management of publicly funded mental health, developmental disabilities, and substance abuse services.
- **Section 4(b).** - Clarifies that it is the duty of the director of a LME to manage both the public MH/DD/SAS system and to enforce all applicable laws.
- **Section 4(c).** - Makes a technical correction to rename business plans as LME business plans.
- **Section 4(d).** - Creates a new law that states that LMEs are responsible for the management and oversight of the public MH/DD/SAS system at the local level. The specific functions are consistent with current practice, but previously were not clearly articulated in the law. The functions are:
 - Access to service, provider endorsement, and monitoring.
 - Review and approval of services for non-Medicaid eligible consumers.
 - Concurrent review of person-centered plans.
 - Authorization of State facility bed days.
 - Care coordination.
 - Community collaboration.
 - Financial management.

LMEs would be allowed to subcontract any of these functions consistent with applicable laws. The Secretary could remove one or more of a LME's functions if the LME is not performing the function adequately as measured by critical performance measures adopted by the Secretary.
- **Sections 4(e-g).** - Relate to the composition of a LME board. It requires that at least two of the members have financial expertise and not more than 50 percent of the members can be consumers, family members, or advocates. It also limits board terms to three years and two consecutive terms. A member of a LME board as of July 1, 2006 could serve one more three-year term.
- **Sections 4(h-k).** - Relate to the qualifications of the director of a LME. It would add requirements of the job classification for a LME director as adopted by the State Personnel Commission. The requirements would apply to persons hired on or after January 1, 2007.
- **Section 4(l).** - Clarifies that counties may be providers of services to MH/DD/SAS consumers provided the county meets the provider qualifications established by the Secretary. The Commission on MH/DD/SAS must adopt rules to ensure fair competition. The Department must review the effect of this provision and report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services (LOC) by December 1, 2009 and the LOC must make recommendations to the 2009 General Assembly whether to modify or extend the authority.
- **Section 4(m).** - Amends the powers and duties of the Secretary regarding the provision of local MH/DD/SA services. The changes clarify the purpose of the regular

monitoring by the Secretary of LMEs and providers, to provide ongoing technical assistance to LMEs to implement their management functions, to adopt uniform contracts and processes, and to develop and implement critical performance indicators to be used to hold LMEs accountable for their management functions.

- **Section 5.** - Amends Article 4 of Chapter 122C of the General Statutes by adding a new part which requires area authorities and county programs to establish committees made up of consumers and family members. The Consumer and Family Advisory Committees (CFAC) will be self-governing and self-directed organizations that advise the LME in its catchment area on the management of the local public mental health, developmental disabilities and substance abuse services system. Each disability group will be represented equally and will reflect as closely as possible the racial and ethnic composition of the catchment area.

The local CFAC is responsible for:

- Reviewing and monitoring the local business plan.
- Identifying service gaps and underserved populations.
- Making recommendations regarding service array.
- Reviewing the area authority or county program's budget.
- Participating in quality improvement measures.
- Submitting its findings to the State Consumer and Family Advisory Committee.

This section also establishes the State Consumer and Family Advisory Committee as a self-governing and self-directed organization that advises the Department and the General Assembly on the planning and management of the State's public mental health, developmental disabilities, and substance abuse services system. The State CFAC will be composed of 21 members who are parents of consumers or adult consumers of mental health, developmental disabilities, and substance abuse services. The Secretary, the General Assembly, the Council of Community Programs, and the North Carolina Association of County Commissioners will have specific appointing authority.

The State CFAC is responsible for:

- Reviewing and monitoring the State Plan for MH/DD/SAS.
- Identifying service gaps and underserved populations.
- Making recommendations regarding service array.
- Reviewing the State budget for MH/DD/SAS.
- Participating in quality improvement measures.
- Receiving findings from the local CFAC.
- Providing technical assistance to local CFACs to implement their duties.

- **Section 6(a).** - Authorizes a LME, notwithstanding G.S. 143-23, to transfer up to 15 percent of funds allocated from one age or disability category to another if the transfer meets applicable federal requirements, and the LME publicly documents that it has addressed the service needs of the category from which funds are being transferred and submits the required documentation to the Division of MH/DD/SAS and the Fiscal Research Division within 15 days of the transfer.
- **Section 6(b).** - Provides a sunset of July 1, 2007 to the provision in Section 6(a) of the act.
- **Section 7.** - Adjusts the definition of licensable facility in G.S. 122C-3(14) to make facility licensure requirements for outpatient substance abuse services consistent with the facility licensure requirements for outpatient mental health or developmental disability services.

This act became effective July 19, 2006. (SP)

Schoolchildren's Health Act

S.L. 2006-143 ([HB 1502](#)). See **Education**.

Physical Therapy Board Licensure/Strengthen Medical Board/Patient Safety Organizations

S.L. 2006-144 ([HB 1301](#)). See **Occupational Boards and Licensing**.

Health Plans/Changes to Basic and Standard

S.L. 2006-154 ([HB 1987](#)). See **Insurance**.

Stroke Advisory Council

S.L. 2006-197 ([HB 1860](#)) directs the Justus-Warren Heart Disease and Stroke Prevention Task Force to establish and maintain a Stroke Advisory Council. The Council will advise the Task Force regarding the development of a statewide system of stroke care.

This act became effective August 3, 2006. (SP)

Medicaid Reimbursements for Ocular Prosthetists

S.L. 2006-198 ([HB 2037](#)) expands Medicaid reimbursement eligibility to include providers of ocular prosthetics who are certified, licensed, or accredited in accordance with the requirements established by the Department of Health and Human Services.

This act became effective July 1, 2006. (SP)

Departments of Social Services Disclosure of Information/Abuse/Neglect

S.L. 2006-205 ([SB 1216](#)) amends two sections of the Juvenile Code (Chapter 7B of the General Statutes). First, it revises the confidentiality provisions of the abuse, neglect and dependency reporting, investigative, and assessment law to require departments of social services to disclose confidential information to any federal, State, or local governmental entity or its agent needing confidential information to protect a juvenile from abuse and neglect. Any confidential information disclosed will remain confidential and may be redisclosed only for purposes directly connected with carrying out the entity's mandated responsibilities. Second, it revises juvenile information disclosure law to authorize designated local agencies to share information relevant to any assessment of a report of child abuse, neglect, or dependency, or the provision or arrangement of protective services in a child abuse, neglect, or dependency case.

This act became effective August 8, 2006. (BP)

State Energy Use Planning/Energy Assistance

S.L. 2006-206, Part II ([SB 2051](#), Part II). See **Environment and Natural Resources**.

Public Housing Authority/Target Incomes

S.L. 2006-219 ([HB 767](#)) revised existing law regarding the prioritization and awarding of public housing to low income applicants. The act implements a requirement that at least 40 percent of public housing allocations granted be given to families on the housing waiting list whose incomes are at or below 30 percent of the area median income.

This act became effective August 8, 2006. (BP)

Vision Care Program Changes

S.L. 2006-240 ([HB 2699](#)) modifies the Governor's Vision Care Program beginning in the 2007-2008 school year as follows:

- The Governor's Commission on Early Childhood Vision Care (Commission) is required to adopt standards for vision care screenings. Children entering kindergarten are required to obtain a vision screening conducted by a licensed physician, optometrist, physician assistant, nurse practitioner, registered nurse, orthoptist, or a vision screener certified by the Prevent Blindness North Carolina Board. The parent/guardian/person standing in loco parentis (parent/guardian) of the child has 180 days from the start of the school year to present a standard certificate verifying the screening has been performed within the past 12 months. This requirement applies to students who enter 1st grade without having been enrolled in kindergarten. A comprehensive eye exam is required for students who receive but fail to pass a vision screening. Appropriate school personnel may recommend to a child's parent/guardian that the student have a comprehensive eye exam. Notification to the parent/guardian must include information about funds the Commission may have available to assist in paying for the exam and corrective lenses.
- Comprehensive eye exams are to be conducted by a duly licensed optometrist or ophthalmologist. The results of the exam are to be included on the proper transmittal form and the parent must submit the form to the school. No child will be excluded from attending kindergarten for failure to obtain a comprehensive eye exam.
- The membership of the Commission is changed from 6 to 10 members. The Governor appoints four optometrists, two ophthalmologists, (of which one must be a current serving member of the Prevent Blindness North Carolina Board), one pediatrician with a family practice or a family physician who provides services to children, and one school nurse who is certified by the Prevent Blindness North Carolina Board. The appointments made by the Speaker of the House of Representatives and the President Pro Tempore of the Senate remain the same.
- The Department of Health and Human Services (Department), Division of Public Health (Division) is required to study and determine a methodology for compiling data on children receiving comprehensive eye exams. The Department must report its findings to the Commission, the Fiscal Research Division, the House Appropriations Subcommittee on Health and Human Services, and the Senate Appropriations Committee on Health and Human Services by July 1, 2007. The Commission is required to prepare information for providers of vision screenings to give to parents/guardians of screening recipients and is directed to work with the Department of Public Instruction to establish procedures for identifying and referring children who need a screening or exam.
- The Division may reimburse providers for comprehensive exams and corrective lenses provided to eligible families from funds appropriated for the 2006-2007 fiscal year. The Division is directed to work with the Commission to establish a procedure for reimbursements and the Commission is directed to establish procedures to inform parents about applying and qualifying for vision care services.
- The Department may use up to five percent of funds appropriated to the Vision Care Program for operations and expenses.
- The Commission is authorized to adopt rules to implement the act.
- Children who have received vision screenings prior to the availability of forms are deemed to have obtained the required screening.

This act became effective August 13, 2006. (SP)

Appellate Counsel in Civil Commitment Actions

S.L. 2006-264, Sec. 61 ([SB 602](#), Sec. 61) provides that counsel for appeals in civil commitment cases will be appointed in accordance with rules adopted by the Office of Indigent Defense Services. Special counsel hired by the Commission on Indigent Defense Services will still be responsible for civil commitment hearings, rehearings, and supplemental hearings for all indigent defendants, but no longer will be responsible for handling civil commitment appeals. An appellate defender appointed by the Commission on Indigent Defense Services for a four-year term will be responsible for civil commitment appeals. This change conforms to the procedure for civil commitment appeals used in criminal indigent defense appeals.

This section became effective October 1, 2006, and applies to appeals filed on or after that date. (DH)

Subrogation Rights of State Health Plan

S.L. 2006-264, Sec. 66 ([SB 602](#), Sec. 66). See **Insurance**.

Studies

Legislative Research Commission

Issues Related to Health and Human Services

S.L. 2006-248, Secs. 2.1(8)a through e and 2.1(9)h and v ([HB 1723](#), Secs. 2.1(8)a through e and 2.1(9)h and v) authorize the Legislative Research Commission to study:

- Issues related to men's health.
- Necessity for and feasibility of requiring food establishments to post information about certain food allergens, notably those containing peanuts or tree nuts.
- Naturopathic registration.
- Cost controls of medical services for persons in local confinement facilities.
- Funding mechanisms, target populations, and interagency collaboration regarding drug treatment courts.
- System of care common identifiers.
- Historical and current information about the scope and nature of the spread of hepatitis in North Carolina.
- Issues regarding the regulation of pharmacy benefit management.

If the Commission undertakes these studies, they may report any findings and recommended legislation to the 2007 General assembly upon its convening.

This section became effective August 16, 2006. (SP)

New/Independent Studies/Commissions

Joint Legislative Commission on Health Insurance Accessibility

S.L. 2006-248, Part XX ([HB 1723](#), Part XX). See **Insurance**.

Chronic Disease Kidney Task Force

S.L. 2006-248, Part XLVIII ([HB 1723](#), Part XLVIII) requests The North Carolina Institute of Medicine to convene a Task Force to study chronic kidney disease.

The purpose of the Task Force is to develop a plan to:

- Reduce the occurrence of chronic kidney disease by controlling the most common risk factors, diabetes and hypertension, through preventive efforts at the community level and disease management efforts in the primary care setting.
- Educate the public and health care professionals about the advantages and methods of early screening, diagnosis, and treatment of chronic kidney disease and its complications based on Kidney Disease Outcomes Quality Initiative Clinical Practice Guidelines for chronic kidney disease or other medically recognized clinical practice guidelines.
- Educate health care professionals about early renal replacement therapy education for patients (including in-center dialysis, home hemodialysis, peritoneal dialysis, as well as vascular access options and transplantation) prior to the onset of End Stage Renal Disease when kidney function is declining.
- Make recommendations on the implementation of a cost-effective plan for prevention, early screening, diagnosis, and treatment of chronic kidney disease and its complications for the State's population.
- Identify current barriers to adoption of best practices and potential policy options to address these barriers.

This part became effective August 16, 2006. (SP)

Referrals to Existing Commissions/Committees

Joint Legislative Health Care Oversight Committee

S.L. 2006-248, Part III ([HB 1723](#), Part III) 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 2007 General Assembly upon its convening:

- Methods to increase the number of geriatric care providers in the State.
- Approaches to find medical cost savings and to ensure quality of medical care provided to the citizens of the State.
- The regulation of Nurse Practitioner practice including:
 - Issues surrounding the practice parameters of advanced practice registered nurses (APRNs).
 - The relationship between APRNs and physicians.
 - Whether APRNs should be regulated through the North Carolina Board of Nursing or the North Carolina Medical Board.
- The need for and funding issues related to community health centers, including federally qualified health centers, health centers that meet the criteria for federally qualified health centers, and State-designated rural health centers and public health departments.
- The conversion of county-owned hospitals to private not-for-profit hospitals and the merger and acquisition of health care systems.
- The feasibility of establishing an Office for Prescription Drug Cost Management in the Department of Administration or other appropriate State agency to manage the cost of prescription drugs incurred by State agencies and programs that cover or provide prescription drugs.
- Certain laws relating to the North Carolina Occupational Therapy Act.
- Alternatives to the State Health Plan for The University of North Carolina.

- Smoking in public places including:
 - Proposal to ban smoking in all State-controlled buildings, and granting local governments the authority to do the same in their buildings.
 - Proposal to ban smoking in the workplace.
 - Repealing State law that does not allow counties and cities to enact smoking ordinances more restrictive than State law.
 - Examining the health factors associated with secondhand smoke and its effect on persons exposed to it.
 - Examining whether the practice of separate areas for smoking and nonsmoking is adequate to protect nonsmokers from secondhand smoke.
 - Considering whether there should be any exceptions to new smoking restrictions.
 - Examining the effects on health and to the economy that any similar legislation has had in other states.
- The health care needs in rural areas of the State and health professional shortages in areas of the State without inpatient services and with a high percentage of uninsured residents.

This part became effective August 16, 2006. (SP)

Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services

S.L. 2006-248, Part XIV ([HB 1723](#), Part XIV) authorizes the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services to study and report its findings, together with any recommended legislation on the following topics to the 2007 General Assembly upon its convening:

- Issues related to mental health parity.
- Funding for area and county program administration.

This part became effective August 16, 2006. (SP)

Referrals to Departments, Agencies, Etc.

Department of Health and Human Services to Study Strategies to Offset the Cost to Pharmacists of Providing Services to Medicaid Recipients Enrolled in Medicare Part D

S.L. 2006-66, Sec. 10.9D ([SB 1741](#), Sec. 10.9D) directs the Department of Health and Human Services to study issues relating to the provision of pharmacy services to Medicaid recipients enrolled in Medicare Part D and to develop strategies to assist pharmacists to provide services to this population. Specific items to be addressed include the special circumstances of pharmacists providing services to long-term care facilities and the impact of the Deficit Reduction Act of 2005 on the payment for generic drugs under Medicaid. Findings and recommended strategies must be reported no later than April 1, 2007 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, 2006. (BP)

Study of Rate-Setting Methodology for State-Funded Kidney Dialysis

S.L. 2006-248, Part XXXVI ([HB 1723](#), Part XXXVI) authorizes the Department of Health and Human Services to study its rate-setting methodology for State-funded kidney dialysis services to determine the feasibility of inflationary increases that correspond to rate and inflationary increases provided for equivalent Medicaid services.

This part became effective August 16, 2006. (SP)

Survey of Pharmacy Providers Participating in the Medicaid Program to Determine the Cost of Dispensing a Medicaid Prescription

S.L. 2006-248, Part XLIV ([HB 1723](#), Part XLIV) directs the Department of Health and Human Services to conduct a survey of pharmacy providers participating in the Medicaid program to determine the cost of dispensing a Medicaid prescription in North Carolina by January 1, 2007. The Department may use a recently-conducted national survey of a statistically-relevant sample of pharmacies in place of the survey. The Department will report its findings to the Senate Appropriations Subcommittee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division by March 1, 2007.

This part became effective August 16, 2006. (SP)

For a complete list of the studies and reports authorized by the 2006 Session of the 2005 General Assembly, please refer to the Appendix contained in this publication.

Chapter 13

Insurance

Kory Goldsmith (KG), Denise Huntley (DH), Tim Hovis (TH), Shawn Parker (SP), Howard Alan Pell (HAP), Ben Popkin (BP)

Enacted Legislation

Insurance Technical Corrections

S.L. 2006-105, Secs. 2.4 through 2.6, 2.8, 2.9, and Part III ([SB 615](#), Secs. 2.4 through 2.6, 2.8, 2.9, and Part III) make substantive and technical corrections to Chapter 58 of the General Statutes governing insurance.

Section 2.4 makes changes to the law governing the confidentiality of financial statement analyses and financial analyses work papers given to the Department of Insurance (Department). This section adds specific definitions of financial statement analysis and financial statement analysis work papers to allow disclosure by the Department of certain work papers provided as part of statements required to be filed with the Commissioner of Insurance (Commissioner), Certified Public Accountant (CPA) audit reports filed with the Commissioner, documents filed as part of an initial rate filing and any supplemental filing necessary to complete a rate filing. This section also clarifies that public access to financial or actuarial information filed for rating purposes is not limited.

Section 2.5 makes an exception to the statute governing identity theft from public records to allow the Department to disclose documents without redacting employer taxpayer identification numbers.

Section 2.6 amends G.S. 58-21-35 to allow a surplus lines broker or licensee to file an acknowledged statement that the broker has made a diligent search for coverage from licensed carriers. Previously, this law required the broker to file a notarized statement.

Section 2.8 clarifies G.S. 58-33-95 by providing that a person acting as a third-party administrator for an unauthorized insurer is liable for certain civil and criminal penalties. The law as enacted in 1994 included these same penalties for a person who solicits, negotiates, or sells insurance of an unauthorized insurer, but third-party administrators were inadvertently omitted. A definition of "third-party administrator" is also included in this section.

Section 2.9 makes changes to a 1995 law which required insurers to issue certificates to those covered by an annuity. This law was based on a National Association of Insurance Commissioners model act. However, a provision was inadvertently omitted. This section adds the omitted language which provides that an annuity used to fund certain employee plans, including pension plans, Internal Revenue Service plans, church or government plans and State or local government deferred compensation plans are not required to issue certificates of coverage.

Part III of the act makes changes to various statutes governing the payment of dividends to stockholders.

Section 3.1 allows a domestic insurance company to declare and pay stock dividends at any time with the Commissioner's written approval. Under prior law, dividends could be paid based only on the company's unassigned surplus reflected in its most recent financial statement. This section also defines "unassigned surplus" to include unrealized capital gains and or revaluation assets filed as a part of the company's most recent financial statement filed with the Commissioner.

Section 3.2 changes the time for a domestic insurer to report dividends and other distributions to the Commissioner from 15 days to 5 days from the declaration of the premium and at least 30 days before the actual payment of dividends.

Section 3.3 deletes language limiting income which may be considered when determining whether a dividend or distribution is extraordinary.

Section 3.4 adds to the list of factors to be considered when determining whether the surplus of those insurers within a holding company system is reasonable in relation to its liabilities "the quality of the insurer's earnings and the extent to which the reported earnings of the insurer include extraordinary items."

Sections 2.4 through 2.6 and Sections 2.8 through 2.9 of the act became effective July 13, 2006. Part III of the act becomes effective December 31, 2006. (TH)

Auto Insurance

Property Insurance/Disasters/Motor Vehicle Self-Insurers

S.L. 2006-145 ([SB 277](#)) includes five sections which accomplish the following:

Section 1 of the act renames Article 44 of Chapter 58 of the General Statutes "Property Insurance Policies" and adds a Part 2 to the Article, entitled "Mediation of Emergency or Disaster-Related Property Insurance Claims." This new part creates a program for mediation of emergency or disaster-related residential property insurance claims that are in dispute. The disaster mediation program operates only if the Governor or the President has declared a state of disaster for all or part of the State. The act requires insurers to notify their policyholders of their right to mediate disputed claims when a state of disaster has been declared and requires that insurers pay all fees of the Mediator and Administrator of the program. If the insured decides not to mediate or if the mediation does not produce an agreement, the insured may proceed under the appraisal provision in the policy.

Section 2 of the act requires insurers selling property insurance policies that do not provide coverage for losses from flood, earthquake, mudslide, mudflow, or landslide to identify to the policyholder on issuance and renewal of the policy which of these events are not covered under the policy.

Section 3 of the act provides relief to policyholders and others during a state of disaster and relieves persons and the Department of Insurance (Department) from deadlines if the operations of the Department are interrupted by an unexpected or uncontrollable event. In particular, this section of the act does the following:

- Extends time periods within which an insured must file property damage claims for as long as the state of disaster is in effect.
- Requires all insurance companies, HMOs, premium finance companies, and debt collection agencies to give persons the opportunity to defer premium or debt payments during the state of disaster.
- Provides that after the end of the deferral period, any health benefit plan premiums in arrears are payable to the insurer; and if not paid, coverage will be terminated and the insured will be liable for medical expenses incurred since the effective date of the lapse.
- Provides that if property is insured by a property policy and a separate windstorm policy, losses must be adjusted by the company that issued the property policy and not by the entity that issued the windstorm policy; and the latter must reimburse the former for reasonable adjusting expenses.

Section 4 of the act amends existing insurance law to exempt contracts provided for in Part 2 of Article 44 from the consultant service contract provisions of Article 3C of Chapter 143 of the General Statutes (as is currently the case for contracts provided for in Articles 36 and 37).

Section 5 of the act amends existing law relating to self-insurers for automobile insurance to allow certain recognized religious organizations to apply to the Commissioner of Insurance for a certificate of self-insurance. The act sets forth specific criteria to be met by the

applicant organizations and authorizes the Commissioner to issue, deny or cancel a group's certificate of self-insurance at the Commissioner's discretion.

Section 2 of this act becomes effective January 1, 2007, and applies to policies issued or renewed on or after that date. Section 5 of this act becomes effective January 1, 2007. The remaining sections of this act became effective July 19, 2006. (BP)

Lapse in Liability Insurance

S.L. 2006-213 ([SB 881](#)) revises the penalties for individuals operating motor vehicles when their liability insurance policies have lapsed.

The act clarifies the process by which the Division of Motor Vehicles (DMV) notifies and takes action against an owner of a motor vehicle who allows his or her liability insurance policy to lapse. It also changes the penalties for not maintaining financial responsibility by creating an increasing scale of monetary penalties based on the number of lapses an owner has had in the previous three years. For the first lapse, the penalty would be \$75, a second would be \$150, and a third or subsequent lapse would be \$250. Previously, the penalty was \$50, regardless of the number of lapses.

The act also makes failure to surrender a registration plate and card to the DMV after it has been revoked a Class 2 misdemeanor (currently a Class 1 misdemeanor). The restoration fee to reregister the vehicle after a revocation would be \$50. Any applicable civil penalty would also have to be paid before a vehicle could be reregistered.

The changes become effective July 1, 2008, and apply to lapses occurring on or after that date. (KG)

Health and Life Insurance

Repeal Sunset/State Health Plan Local Option

S.L. 2006-7 ([SB 1208](#)). See **Labor and Employment**.

Require Data Sharing by Private Health Insurers

S.L. 2006-66, Sec. 10.8, as amended by S.L. 2006-221, Sec. 9(c) ([SB 1741](#), Sec. 10.8, as amended by SB 198, Sec. 9(c)), requires health insurers to provide, upon request of the Division of Medical Assistance (DMA) and at no cost to the Department of Health and Human Services, information in regard to individuals who are covered by the insurer and are eligible for or receive medical assistance. In providing this information the insurer will not be liable on that account in any civil or criminal action and is required to:

- Cooperate with the DMA to determine whether a named individual who is a recipient of medical assistance may be covered under the insurer's health benefit plan and eligible to receive benefits under the health benefit plan for services provided under the State Medical Assistance Plan.
- Respond to the request for information within 90 working days after receipt of written proof of loss or claim for payment for health care services provided to a recipient of medical assistance who is covered by the insurer's health benefit plan.
- Accept the DMA's right of recovery and the assignment to the DMA of any right of an individual or other entity to payment from the party for an item or service for which payment has been made under the State Medical Assistance Plan.
- Respond to any inquiry by the DMA regarding a claim for payment for any health care item or service that is submitted not later than three years after the date of the provision of the health care item or service.

- Agree not to deny a claim submitted by the DMA solely on the basis of the date of submission of the claim, the type of format of the claim form, or a failure to present property documentation at the point-of-sale that is the basis of the claim, if:
 - The claim is submitted by the DMA within the three-year period beginning on the date on which the item or service was furnished; and
 - Any action by the DMA to enforce its rights with respect to the claim is commenced within six years of the DMA's submission of the claim.

This section becomes effective January 1, 2007. (SP)

Increase Health Care Access for Uninsured Persons

S.L. 2006-66, Sec. 10.12 ([SB 1741](#), Sec. 10.12). See **Health and Human Services**.

Small Business Health Insurance Tax Credit

S.L. 2006-66, Sec. 24.4 ([SB 1741](#), Sec. 24.4). See **Finance**.

Health Plans/Changes to Basic and Standard

S.L. 2006-154 ([HB 1987](#)) makes several changes concerning basic and standard health plans for small group insurance carriers, including the following provisions:

- Allows carriers to include in both the basic and standard health plans for small group insurance carriers optional deductible and co-payment levels including a high-deductible option.
- Gives small group carriers the option of offering two alternative health plans to all small employers on a guaranteed issue basis instead of offering the basic and standard plans.
- Creates standards that the small group carriers must meet when they offer the new alternatives plans instead of the basic and standard plans.
- Expands rating bands which limit the amount by which premium rates for a particular small group may vary from the average rate based on the group's known or expected claims experience. The act expands rating bands from +/- 20 percent to +/- 25 percent.
- Adds employer industry as a factor that carriers may use when setting the premium for each group and limits the weight given to the rating factor for industry to approximately +/- 10 percent.
- Redefines "geographic area" (a permitted rating factor) to mean "medical care system," and specifies that such factors reflect the relative differences in expected costs due to the different medical care systems that serve different locales, i.e., geographic factors will now be determined based on the service areas of each medical care system rather than on county lines.
- Effective January 1, 2007, terminates reinsurance coverage under the North Carolina Small Employer Health Reinsurance Pool (Pool) for small groups and employees of small groups that small group carriers have ceded to the Pool.
- Requires that small group carriers fairly market all of the small group plans that are required to be sold on a guaranteed-issue basis. The change is an update of the law to recognize that the basic and standard plans are no longer the only plans that are required to be offered on a guaranteed-issue basis and have not been since North Carolina adopted the Health Insurance Portability and Accountability Act (HIPPA).

This act became effective July 23, 2006. (TH)

State Health Plan/20-Year Vesting

S.L. 2006-174 ([SB 837](#)). See **Labor and Employment**.

Subrogation Rights of State Health Plan

S.L. 2006-264, Sec. 66 ([SB 602](#), Sec. 66) amends laws pertaining to the subrogation right of the Teachers' and State Employees' Comprehensive Major Medical Plan (Plan) to a Plan member's right to recover damages for medical expenses from a liable third party. The Plan's right of subrogation is limited to one-half of the total damages for medical expenses recovered by the Plan member after deducting the Plan member's reasonable costs of collection. The reasonable costs of collection are to be determined by the Plan. It also exempts from the limitations on liability of wrongful death proceeds for medical expenses that portion of the recovery to which the Plan has a right of subrogation.

This section became effective August 27, 2006, and applies to medical payments made by the Plan after July 20, 2004, for which the Plan seeks reimbursement on or after August 27, 2006. This act also applies to rights of recovery for wrongful deaths occurring on or after August 27, 2006. (DH)

Workers' Compensation/Unemployment Insurance

Workers' Compensation/Driver's Status

S.L. 2006-26 ([HB 818](#)), as amended by S.L. 2006-259, Sec. 19 ([SB 1523](#), Sec. 19), makes changes to the law governing a truck driver's status as an employee or independent contractor. The act, as amended, provides that a principal contractor, intermediate contractor, or subcontractor is not liable as an employer for the payment of compensation on account of the injury or death of an independent contractor if the principal contractor, intermediate contractor, or subcontractor contracts:

- With an independent contractor licensed by the United States Department of Transportation; and
- The independent contractor personally is operating the vehicle solely pursuant to that license.

The act, as amended, became effective August 23, 2006. (TH)

Law Enforcement Officer Creditable Service/Workers' Compensation

S.L. 2006-29 ([HB 447](#)) provides that the employer percentage rate of contribution for workers' compensation is payable by the employer that granted the leave of absence for a local law enforcement officer if the officer:

- Is receiving workers' compensation benefits due to serious bodily injury suffered in the line of duty as a result of an intentional or unlawful act of another;
- Is on an approved leave of absence which terminates on or before a return to service; and
- Elects to purchase retirement service credit.

The act authorizes an employer to voluntarily pay all or part of the cost to purchase this service credit for any member or group of members. The cost to the member is reduced by the amount paid by the employer. The member's portion paid by the employer is credited to the Pension Accumulation Fund. The portion paid by the member is credited to the member's annuity savings account.

This act became effective August 1, 2006, and applies to members who return to service from an approved leave of absence on or after that date. (HAP)

Employment Security Commission/Employers' Protest Filing Period

S.L. 2006-242 ([HB 2885](#)). See **Labor and Employment**.

Miscellaneous

Debt Collection Licensing Changes

S.L. 2006-134 ([HB 1388](#)). See **Commercial Law and Consumer Protection**.

Simplify Fire Tax Rate/Other Tax Changes

S.L. 2006-196 ([HB 1891](#)). See **Finance**.

Studies

Legislative Research Commission

Issues Related to Insurance

S.L. 2006-248, Part II, Sec. 2.1 (4) ([HB 1723](#), Part II, Sec. 2.1 (4)) directs the Legislative Research Commission (LRC) to study the following insurance issues:

- Assist small business health insurance.
- High-risk insurance.
- Additional sureties for public construction contracts.

S.L. 2006-248, Part II, Sec. 2.1.(p) ([HB 1723](#), Part II, Sec. 2.1.(p)) also directs the LRC to study the requirements for issuance of building permits for on-site business installation or repair of electrical equipment.

This section became effective August 16, 2006. (KG)

New/Independent Studies/Commissions

Joint Legislative Commission on Health Insurance

S.L. 2006-248, Part XX ([HB 1723](#), Part XX) creates the Joint Legislative Commission on Health Insurance Accessibility (Commission). The Commission is composed of 16 members, 8 appointed by the President Pro Tempore of the Senate and 8 appointed by the Speaker of the House of Representatives. The Commission is charged with studying the legal, fiscal, and policy implications of a variety of means of increasing accessibility to health insurance. The Commission is authorized to study the creation of a high-risk insurance pool and a Fair Share health insurance access program. The Commission may make an interim report. The Commission's final report is due to the 2007 General Assembly and must include findings and recommendations regarding:

- Whether the State should implement a small employer health insurance program supported by State funds; and

- An estimate of the cost to the State to provide stop-loss coverage, high-risk coverage, or other approaches of ensuring small employer health insurance access and affordability.

The Commission will terminate upon the filing of its final report or upon the adjournment of the 2007 General Assembly.

This part became effective August 16, 2006. (KG)

For a complete list of the studies and reports authorized by the 2006 Session of the 2005 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),
Denise Huntley (DH), Theresa Matula (TM), Howard Alan Pell (HAP)

Enacted Legislation

General Labor and Employment

Workers' Compensation/Drivers' Status

S.L. 2006-26 ([HB 818](#)). See **Insurance**.

Small Business Health Insurance Tax Credit

S.L. 2006-66, Sec. 24.4 ([SB 1741](#), Sec. 24.4). See **Finance**.

Liability Protection for State Medical Assistance Teams

S.L. 2006-81 ([HB 2195](#)). See **Health and Human Services**.

Raise Minimum Wage

S.L. 2006-114 ([HB 2174](#)) raises the minimum wage in North Carolina from \$5.15 to \$6.15 per hour. Current law provides that the State minimum wage is the same as the federal minimum wage. The act changes the law to provide that the minimum wage must be the greater of \$6.15 or the minimum wage set by federal law. Because the new State minimum wage amount is higher than the federal minimum wage, the State rate will be effective.

This act becomes effective January 1, 2007. (HAP)

Health Plans/Changes to Basic and Standard

S.L. 2006-154 ([HB 1987](#)). See **Insurance**.

Employment Security Commission/Employers' Protest Filing Period

S.L. 2006-242 ([HB 2885](#)) reduces from 15 to 10, the number of days that an employer has to protest a claim for unemployment insurance. When a person files a claim for unemployment benefits with the North Carolina Employment Security Commission (ESC), the person must provide certain information regarding the employment and the circumstances resulting in the termination of employment. The ESC then sends a notice of claim to the employer and requests similar information from the employer. The ESC compares the two versions and makes an initial determination regarding whether to pay benefits, and if so, the date benefits will commence, the weekly benefit amount payable, and the potential maximum duration of the benefits.

An employer who wants to protest a claim and have it referred to an adjudicator has 15 days to respond to the claim as measured from the earlier of mailing or delivery of the notice of the filing. This act reduces the amount of time, from 15 to 10 days, as measured from the earlier of mailing or delivery of the notice of the filing, during which an employer may protest a claim for benefits and have the matter referred to an adjudicator. The act also requires a copy of the notice to be faxed to the employer at the same time it is mailed or delivered, if a fax number is on file.

Finally, the act requires that the employer receive written notice of the employer's appeal rights and any forms required for the employer to protest the claim. The forms must include a section referencing the rules applicable to appeals and instructions on how to appeal.

This act became effective October 1, 2006, and applies to claims filed on or after that date. (BG)

All-Terrain Vehicle Helmet Law Modification for Utility Company Employees

S.L. 2006-259, Sec. 10 ([SB 1523](#), Sec. 10) amends the law pertaining to the operation of an all-terrain vehicle to create an exemption to the mandatory all-terrain vehicle helmet law for employees of electric utility companies under certain conditions. While doing utility work, employees of utility companies must comply with current industry and North Carolina Department of Labor standards for the wearing of safety helmets and eye protection. All other persons operating all-terrain vehicles are required to wear safety helmets and eye protection that meet the standards set by the U.S. Department of Transportation.

This section becomes effective December 1, 2006, and applies to acts committed on or after that date. (DH)

Governmental Employment

Repeal Sunset/State Health Plan Local Option

S.L. 2006-7 ([SB 1208](#)) removes the sunset from the law that allows certain local government employers to participate in the Teachers' and State Employees' Comprehensive Major Medical Plan. The option applies to Bladen, Cherokee, Rutherford, Washington, and Wilkes counties and to the Town of Forest City.

This act became effective June 8, 2006. (KG)

Law Enforcement Officers Creditable Service/Workers' Compensation

S.L. 2006-29 ([HB 447](#)). See **Insurance**.

Suspend Career Banding Initiative

S.L. 2006-66, Sec. 22.15A ([SB 1741](#), Sec. 22.15A), as amended by S.L. 2006-221, Sec. 21A(a) ([SB 198](#), Sec. 21A(a)), provides that the State Personnel Commission, the Office of State Personnel, and each State department, agency, and institution must suspend further implementation of career banding pending subsequent action by the General Assembly after its review of the State Personnel Act, including the traditional graded classification system and career banding. However, career-banded classifications approved on or before June 15, 2006, and for which the

agency had begun implementation by that date, may continue to be implemented without suspension if:

- It is fully and completely implemented no later than February 1, 2007, and
- It is implemented entirely using technical resources provided by the Office of State Personnel and the affected agency or constituent institution.

The section also establishes the intent of the 2005 General Assembly to authorize a legislative study commission to review and evaluate the compensation and other personnel policies affecting employees and employing agencies of State government. (See Studies this chapter). The section further provides that career-banded classifications already approved by the State Personnel Commission on or before June 15, 2006, may be incorporated into the HR/Payroll (BEACON) program development and implementation, provided that inclusion will not delay completion and implementation of the program.

This section became effective July 1, 2006. (TM)

Long-Term Disability Amendment

S.L. 2006-74 ([SB 1738](#)) creates a trial rehabilitation period for individuals on long-term disability benefits under the Disability Income Plan of North Carolina.

- The act amends the definition of "Trial Rehabilitation" to include a return to service in any capacity and in any position so long as the salary earned is equal to or greater than the salary upon which the long-term disability benefit is based immediately preceding the return to service.
- The act also amends Section 4 of S.L. 2004-78, as amended by Section 29.3B of S.L. 2005-276, and amends Section 6 of S.L. 2004-78, as amended by Section 29.30B, to extend the effective date of changes made to the eligibility standard for the Disability Income Plan to August 1, 2007.
- Additionally, the act allows a long-term disability beneficiary to return to work for trial rehabilitation periods not greater than 36 months of continuous service. If during the trial rehabilitation, the beneficiary is unable to continue in service, the beneficiary may be entitled to a restoration of the long-term disability benefit upon certification by the Medical Board. If the beneficiary returns to service for a trial rehabilitation and has continued in service for greater than 36 continuous months, the beneficiary will become a participant and any subsequent incapacity will be treated as a new incapacity causing a new waiting period.

Changes to the definition of "Trial Rehabilitation" are effective August 1, 2007. The extension of the effective dates for changes made to the eligibility standard are effective July 10, 2006, and the remainder of the act has a retroactive effective date of July 1, 2002. (TM)

Mental Health Reform Changes-Office of State Personnel Develop Job Classifications

S.L. 2006-142, Sec. 4(h) ([HB 2077](#), Sec. 4(h)). See **Health and Human Services**.

Planning Time and Duty-Free Lunch for Teachers

S.L. 2006-153 ([HB 1151](#)). See **Education**.

State Health Plan/20-Year Vesting

S.L. 2006-174 ([SB 837](#)) changes the eligibility requirements for health benefit coverage for retired teachers, State employees, and members of the General Assembly. It provides that for

employees hired on or after October 1, 2006, and members of the General Assembly first taking office on or after February 1, 2007:

- Those who have 20 or more years of retirement service credit will be covered by the health benefits under the State Health Plan on a non-contributory basis.
- Those who have between 10 and 20 years of creditable service will be eligible for coverage on a partially contributory basis if they pay 50 percent.
- Those who have less than 10 years of creditable service will be eligible for coverage on a contributory basis if they pay the full premium cost of coverage.

This act became effective July 1, 2006. (KG)

State Health Plan Changes

S.L. 2006-249 ([HB 1059](#)) makes a number of changes to the Teachers' and State Employees' Comprehensive Major Medical Plan (State Health Plan).

- The act allows the Executive Administrator and Board of Trustees to authorize coverage for certain over-the-counter medications, impose a co-payment requirement on those covered medications, and also establish limits on the amount of coverage that would be available for the medications for a 12-month period for a covered individual. Prior to implementing any coverage for, or co-payment requirements on, over-the-counter medications, the Executive Administrator and the Board of Trustees must submit the proposed policies to the Committee on Employee Hospital and Medical Benefits for review.
- The act allows the Executive Administrator and the Board of Trustees to authorize the establishment of incentive programs to assist State Health Plan members achieve and maintain a healthy life style.
- The act changes the references to various classifications of prescription medications which are subject to different allowable charges and requires that procedures to surgically implant bone-anchored hearing aids are subject to prior medical approval.
- The act clarifies that plan members may only enroll in a single health benefit program or plan offered by the State Health Plan, and that the optional plans and programs under the State Health Plan are subject to the prompt pay requirements under G.S. 58-3-225.
- The act also allows the creation of eight new full-time positions.
- Finally, the act grants to the Executive Administrator and the Board of Trustees the discretion to allow up to four additional local government employers to participate in the State Health Plan.

This act became effective July 1, 2006. The provisions related to coverage for over-the-counter medications and incentive programs expire July 1, 2009. (KG)

Verification of Legal Work Status of Certain Government Employees

S.L. 2006-259, Sec. 23.1 ([SB 1523](#), Sec. 23.1) requires each State agency, department, institution, university, community college, and local education agency hiring individuals to verify, after hiring the individual, each individual's legal status or authorization to work in the United States. The individual's status must be verified using the Basic Pilot Program administered by the United States Department of Homeland Security.

This requirement applies to employees hired by State agencies, departments, institutions, universities, and community colleges on or after January 1, 2007, and to employees hired by local education agencies on or after March 1, 2007. This requirement does not apply to persons under contract or subcontract.

This section became effective August 23, 2006. (TM)

Studies

Legislative Research Commission

Various State Government Employee Issues

S.L. 2006-248, Sec. 2.1(6)a through h, 2.1(c), and 2.1(n) ([HB 1723](#), Sec. 2.1(6)a through h, 2.1(c), and 2.1(n)) authorizes the Legislative Research Commission to study the following topics:

- Beneficiary designation and dependent survivors of members of the Teachers' and State Employees' Retirement System.
- State employee mediation and length of backlog of appeals process.
- Mediation of State employee grievances.
- Severance pay changes.
- State employee demonstration projects.
- Prospective elimination of longevity pay for employees subject to the State Personnel Act.
- Flexible benefits program centralized under the Office of State Personnel.
- Sick leave bank and family leave.
- Transferring the Deferred Compensation Program.

The Legislative Research Commission may report its findings, together with any recommended legislation, to the 2007 General Assembly upon its convening.

This section became effective August 16, 2006. (TM)

Various Labor, Employment, and Economic Development Issues

S.L. 2006-248, Sec. 2.1(7)a through I ([HB 1723](#), Sec. 2.1(7)a through I) authorizes the Legislative Research Commission to study the following topics:

- North Carolina National Guard Pension Fund.
- Validity of statistics provided by the Industrial Commission.
- Industrial Commission's monitoring of filing of forms.
- Streamline forms required by Industrial Commission.
- Unemployment Insurance claims/shorten employer response time.
- Loss of workers' compensation for fraud.
- Workers' compensation and injuries to extremities.
- Employee work incentives under the Workers' Compensation Act.
- Increase cap on award for loss of organ under the Workers' Compensation Act.
- Small business improvement.
- Amendments to Workers' Compensation Act.

The Legislative Research Commission may report its findings, together with any recommended legislation, to the 2007 General Assembly upon its convening.

This section became effective August 16, 2006. (TM)

New/Independent Studies/Commissions

Legislative Study Commission on the State Personnel Act

S.L. 2006-221, Sec. 21A(b through e) ([SB 198](#), Sec. 21A(b through e)) establishes the Legislative Study Commission (Commission) on the State Personnel Act which consists of 18 members appointed as follows:

- Six members appointed by the Governor – one current State employee subject to the State Personnel Act and not currently working in human resources management, one that is a current State employee and currently working in human resources management, an individual with experience and expertise in human resources management in a large private sector organization with greater than 500 employees, an individual with experience and expertise in human resources management in a large public sector organization with greater than 500 employees, and 2 members of the general public.
- Six members appointed by the Speaker of the House of Representatives – four that are members of the House of Representatives and two members of the general public.
- Six members appointed by the President Pro Tempore of the Senate – four that are members of the Senate and two that are members of the general public.

The Commission is charged with the following:

- Review Chapter 126 of the General Statutes, the State Personnel Act, to determine whether the Act should be revised or repealed, in whole or in part.
- Consider the efficacy of changes in policy related to the following: classification system, compensation philosophy, salary structure, merit-based pay, pay equity, pay delivery, and performance evaluation.
- Evaluate career banding as an alternative to the traditional classification system, considering career progression salary adjustments as compared to current compensation increase philosophy, government/private industry best practices, and the real and perceived impact to State employees of moving to a career banding classification system.
- Review any other matter that the Commission finds relevant to its charge.

The Commission may provide interim reports and must provide its final report identifying its findings, recommendations, and legislative proposals by May 1, 2008.

This section became effective July 1, 2006. (TM)

Study Commission on Worker Retraining

S.L. 2006-248, Part XL ([HB 1723](#), Part XL) establishes the Study Commission on Worker Retraining that will consist of 32 members, with 16 appointed by the President Pro Tempore of the Senate and 16 appointed by the Speaker of the House of Representatives. The President Pro Tempore of the Senate must appoint two cochairs and the Speaker of the House of Representatives must appoint two.

The Commission is charged with examining:

- Business incentives that encourage employers to support efforts by employees to retrain in order to qualify for higher paying or nonexportable jobs by allowing employees time off, reimbursing employees for education expenses, or providing other support.
- Successful retraining incentive programs in this and other states.

The Commission must submit a final report of its findings and recommendations, including any legislative recommendations, to the 2007 General Assembly upon its convening.

This part became effective August 16, 2006. (TM)

Government Performance Audit Committee

S.L. 2006-248, Part XLVI ([HB 1723](#), Part XLVI) establishes the Government Performance Audit Committee (Committee) which will be located administratively in the General Assembly. The Committee will consist of 10 members: 5 members of the House of Representatives, appointed by the Speaker of the House of Representatives, and 5 members of the Senate, appointed by the President Pro Tempore of the Senate. The Committee will contract for a performance audit of the executive branch of State government which will include an examination of the efficiency and effectiveness of major management policies, practices, and functions including the following:

- Planning, budgeting, and program evaluation policies and practices, including an analysis of the compliance of the executive branch with existing planning requirements, such as the Capital Improvement Planning Act, Article 1B of Chapter 143 of the General Statutes.
- Personnel systems operations and management.
- State purchasing operations and management.
- Information technology and telecommunications systems policy, organization, and management.
- Review of duplications and related or overlapping services or activities for the purpose of coordinating and streamlining programs to achieve consistent and clear objectives.

The results of the audit must be reported on or before February 1, 2008.

This part became effective August 16, 2006. (TM)

Referrals to Existing Commissions/Committees

Legislative Study Commission on State Personnel Statutes

S.L. 2006-248, Part XLII ([HB 1723](#), Part XLII) amends S.L. 2004-161, Sec. 5.1 to allow the Legislative Study Commission on State Personnel Statutes to make an interim report to the 2006 (previously 2005) General Assembly and to make a final report to the 2007 General Assembly (previously 2006 Regular Session of the 2005 General Assembly).

This part became effective August 16, 2006. (TM)

For a complete list of the studies and reports authorized by the 2006 Session of the 2005 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 S. Perry (GSP), Barbara Riley (BR)

Enacted Legislation

Law Enforcement Officers Creditable Service/Workers' Compensation

S.L. 2006-29 ([HB 447](#)). See **Insurance**.

Property Tax Changes

S.L. 2006-30 ([HB 2097](#)). See **Finance**.

Change Local Governmental Retirement Board

S.L. 2006-64 ([HB 1237](#)). See **State Government**.

Property Tax Due Date Change

S.L. 2006-72 ([SB 1372](#)). See **Finance**.

Various Transportation/Motor Vehicle Law Changes

S.L. 2006-135 ([HB 1399](#)). See **Transportation**.

Wastewater System Approvals/Small Counties

S.L. 2006-136 ([HB 1094](#)). See **Environment and Natural Resources**.

Video Service Competition Act

S.L. 2006-151 ([HB 2047](#)). See **Finance**.

Butner Water/Sewer System Transfer/Public Safety

S.L. 2006-159 ([SB 491](#)). See **State Government**.

Strengthen Neighborhood Watch Programs

S.L. 2006-181 ([HB 1120](#)). See **Criminal Law and Procedure**.

Legislative Research Commission Red Light Camera Study

S.L. 2006-189, Sec. 2. ([SB 1442](#), Sec. 2). See **Transportation**.

Public-Private Solid Waste Collection

S.L. 2006-193 ([SB 951](#)) amends the laws governing annexation regarding the rights of private solid waste collection services affected by the annexation. The act requires a county, city, authority, or other political subdivision (local government) to give notice prior to taking action to displace a private solid waste collection contractor, including displacements due to annexation.

Upon taking action to displace the contractor following annexation, the local government is required either to allow the contractor to continue collection services for at least 2 years or compensate the contractor in the amount of 15 times the average monthly gross revenue for the 3 months prior to the notice of intent to terminate services. Payment by the local government is to be made over a 13-month period.

The act requires the local governmental unit, upon taking action to displace an existing solid waste contractor, either to allow the contractor to continue collection services for at least 15 months, or compensate the contractor in an amount equal to the total gross receipts for the 6 months prior to the notice of intent to terminate services. Payment by the local government is to be made over a 7-month period. The term "displacement" does not include: (i) failure by a local government to renew a contract; (ii) actions taken because the company's operations constitute a threat to human health and safety; or (iii) termination due to the contractor's breach of contract.

This act becomes effective January 1, 2007. (EC)

Procurement Preference/North Carolina Firms

S.L. 2006-210 ([SB 522](#)). See **State Government**.

Local Government Debt Revisions

S.L. 2006-211 ([SB 1436](#)) does the following:

- Authorizes regional councils of government to finance real property purchases or improvements by pledging the real property as security for the debt, subject to approval by the Local Government Commission.
- Authorizes regional planning commissions to acquire real property for office space and program needs and to acquire real property by pledging the property as security for the debt, subject to approval by the Local Government Commission. A regional planning commission may not use eminent domain to exercise this power.
- Exempts a private agency that enters into a contract with a local government unit pursuant to a development financing plan from the statutes governing government contracts to the extent specified in the contract.

This act became effective August 8, 2006. (EC)

Eminent Domain Restrictions

S.L. 2006-224 ([HB 1965](#)). See **Property, Trusts, and Estates**.

Professional Engineering Services for Public Water Systems

S.L. 2006-238 ([HB 1099](#)). See **Environment and Natural Resources**.

State Health Plan Changes

S.L. 2006-249 ([HB 1059](#)). See **Labor and Employment**.

Enhance Local Government Administration of Environmental Programs

S.L. 2006-250, Sec. 7 ([HB 1413](#), Sec. 7) permits local governments to grant authorization for a person to stand in, on, or near a street or State roadway, within the local government's corporate limits, to solicit a charitable contribution if the person files a written application that provides information about the solicitation event, pays the applicable fee, and provides evidence of satisfactory insurance coverage. Any individual failing to follow a law enforcement officer's lawful order to cease solicitation is guilty of a Class 2 misdemeanor.

This section becomes effective December 1, 2006 and applies to offenses committed on or after that date. See also Sections 1 through 6 of this act that pertain to the authority to administer certain environmental programs. For additional information on these sections, see **Environment and Natural Resources**. (EC)

Amend Solid Waste Franchise Statutes

S.L. 2006-256 ([SB 1564](#)). See **Environment and Natural Resources**.

Validate State Law Enforcement of Immigration Laws

S.L. 2006-259, Sec. 24 ([SB 1523](#), Sec. 24). See **State Government**.

Election Changes

S.L. 2006-262 ([HB 128](#)). See **Constitution and Elections**.

For a complete list of the studies and reports authorized by the 2006 Session of the 2005 General Assembly, please refer to the Appendix contained in this publication.

Chapter 16
Military, Veterans', and Indian Affairs

Theresa Matula (TM), Howard Alan Pell (HAP)

Enacted Legislation

Military and Veterans' Affairs

Increase Maximum Pension for National Guard

S.L. 2006-66, Sec. 22.20 ([SB 1741](#), Sec. 22.20). See **Retirement**.

Service Members and Veterans/Identification Theft

S.L. 2006-158 ([HB 2883](#)) provides that a consumer reporting agency must waive its application fee (normally up to \$10) for:

- putting a security freeze on a consumer's credit report,
- removing a freeze, or
- temporarily lifting a freeze for a period of time,

if the consumer is a veteran who was notified by the United States Department of Veterans Affairs (VA) that his or her information was, or may have been, included in the VA's data breach announced on May 22, 2006. From July 23, 2006 through July 1, 2007, the reporting agency may not charge a fee for removing a security freeze put in place under this act.

The consumer's application to the reporting agency must include the notification from the VA and proof of status as a veteran. For purposes of this provision, a veteran is defined as a person who served on active duty and was discharged under conditions other than dishonorable, and service members on active duty or in the Reserves, including the North Carolina National Guard. This act also applies to persons who are authorized agents of, or receive benefits from, the State or federal government based on a relationship to a veteran who would or could qualify under the conditions provided above.

This act became effective July 23, 2006, and is effective for a minimum of 90 days from that date, but otherwise will expire on January 1, 2007, or upon the VA implementing a program that will pay for a subscription to a credit monitoring program for the persons eligible for the fee waived under this act, whichever event occurs first. (TM)

Disorderly Conduct/Funeral/Military Services

S.L. 2006-169 ([SB 1833](#)). See **Criminal Law and Procedure**.

Special Diplomas to Korea and Vietnam Vets

S.L. 2006-260 ([SB 862](#)). See **Education**.

Lapsed Insurance Penalties Waived for Deployed Service members

S.L. 2006-264, Sec. 38 ([SB 602](#), Sec. 38). See **Transportation**.

Indian Affairs

Phase Out Video Poker/Except by Compact

S.L. 2006-6, Sec. 6 ([SB 912](#), Sec. 6) provides that the Governor must report to the Joint Legislative Commission on Governmental Operations any gaming compacts, or amendments to the compacts, that are entered into pursuant to the Indian Gaming Regulatory Act and State law.

This section became effective June 6, 2006.

The other sections of this act relate to phasing out the legal possession of video gaming machines, except pursuant to a valid Tribal-State Compact. For additional information on the act, see **Criminal Law and Procedure**. (HAP)

Haliwa-Saponi Tribe Name Change

S.L. 2006-111 ([SB 1857](#)) describes the origin tribes of the Haliwa-Saponi Indian Tribe, corrects the official name of the Tribe, and states the Tribe's eligibility for special programs and services offered by the federal government due to its status as an Indian tribe.

This act became effective July 13, 2006. (HAP)

For a complete list of the studies and reports authorized by the 2006 Session of the 2005 General Assembly, please refer to the Appendix contained in this publication.

Chapter 17

Occupational Boards and Licensing

Cindy Avrette (CA), Judy Collier (JC)

(For summaries of legislation related to non-occupational boards and commissions, see Chapter 22, **State Government**.)

Enacted Legislation

Clarify Animal Waste Technician Specialist Certification Requirements

S.L. 2006-38 ([SB 1598](#)). See **Environment and Natural Resources**.

Dental Intern Permits

S.L. 2006-41 ([HB 1343](#)) authorizes the North Carolina State Board of Dental Examiners (Board) to renew dental intern permits in annual increments beyond the 72-month limit imposed by existing law, allowing extensions only if:

- The permit holder has held an unrestricted dental license in a Board-approved state or jurisdiction for the five years immediately preceding the issuance of the intern permit;
- The approved employing institution appears before the Board on behalf of the permit holder each time an extension is considered; and
- The permit holder has not attempted and failed a Board-approved written or clinical exam.

This act became effective June 29, 2006. (JC)

Occupational Licensing Board Reports

S.L. 2006-70 ([SB 1485](#)), a recommendation of the Joint Legislative Administrative Procedure Oversight Committee, expands the scope of regulatory reporting for occupational licensing boards. Existing law mandates the filing of annual reports with the Secretary of State and the Attorney General. The act requires filing of annual reports with the Joint Legislative Administrative Procedure Oversight Committee, no later than July 1, 2007. The act also expands the scope of information required in annual reports to include:

- The substance of any anticipated request by the occupational licensing board to the General Assembly to amend statutes related to the occupational licensing board; and
- The substance of any anticipated change in rules adopted by the occupational licensing board or the substance of any anticipated adoption of new rules by the occupational licensing board.

The act requires occupational licensing boards to file financial reports with the Secretary of State, the Attorney General, and the Joint Legislative Administrative Procedure Oversight Committee, no later than July 1, 2007, that must include:

- The source and amount of all funds credited to the occupational licensing board; and
- The purpose and amount of all funds disbursed by the occupational licensing board during the previous 12-month period.

This act became effective July 1, 2006. (JC)

Certify On-Site Wastewater Contractors

S.L. 2006-82 ([HB 688](#)). See **Environment and Natural Resources**.

Physical Therapy Board Licensure/Strengthen Medical Board/Patient Safety Organizations

S.L. 2006-144 ([HB 1301](#)) authorizes the North Carolina Board of Physical Therapy Examiners (Board) to require licensees to demonstrate continuing competence in the practice of physical therapy, allows certain groups to practice as professional corporations, designates information released to patient safety organizations as confidential, and strengthens the authority of the North Carolina Medical Board (Medical Board) to discipline physicians and certain others.

North Carolina Board of Physical Therapy Examiners

The act expands the authority of the North Carolina Board of Physical Therapy Examiners as follows:

Competency of Licensees. - The act authorizes the Board to require physical therapists and physical therapist assistants to submit to the Board periodically or in response to complaints or incident reports, the following information on their qualifications:

- Evidence of continuing education experiences;
- Evidence of minimum standard accomplishments; or
- Evidence of compliance with other Board-approved measures, audits or evaluations;

and to specify remedial actions if necessary or desirable to obtain license renewal or reinstatement.

Renewal of License. - The act authorizes the Board to decline license renewal of physical therapists or physical therapist assistants for failure to comply with any required continuing competency measures. It expressly provides that the manner in which lapsed licenses are revived, reinstated, or extended will be at the discretion of the Board.

Professional Corporation Act

The act amends the Professional Corporation Act to allow physicians practicing orthopedics and licensed podiatrists to be added to the list of professions that may form a professional corporation.

Hospital Licensure Act

The act amends the Hospital Licensure Act to provide for limited release of confidential information to patient safety organizations as defined in the new statutory language.

North Carolina Medical Board

The act, a recommendation of the House Select Committee on Health Care, amends the statutes governing the North Carolina Medical Board and its licensing, effective beginning October 1, 2006.

Revocation, suspension, annulment or denial of license. - The act expands the powers of the Medical Board by adding language expressly authorizing the Board to take the following actions regarding physicians:

- Place on probation, with or without conditions.
- Impose practice limitations and conditions.
- Publicly reprimand.

- Assess monetary redress.
- Issue public letters of concern.
- Mandate free medical services.
- Require satisfactory completion of treatment programs or remedial or educational training.
- Impose fines.

Professional Competence. - The act removes the existing authority of individual members of the Medical Board, or other licensed physicians, to submit inquiries or conduct examinations of physicians under investigation for lack of professional competence and leaves full authority with the Board.

Adverse Action. - The act adds new language to allow adverse action against a licensee who has not actively practiced medicine or maintained continued competency, as determined by the Medical Board, for the two-year period immediately preceding application for an initial license, or reactivation of a license previously issued by the Board, subject to rules to be adopted by the Board.

Impairment. - The act amends the statutes by replacing the State Medical Society Physician Health and Effectiveness Committee with the North Carolina Physicians Health Program for referrals of physicians and physician assistants impaired by alcohol, drug addiction, or mental illness. New statutory language excludes sexual misconduct from the definition of mental illness.

Immunity from Liability. - The act expands statutory language granting immunity from liability in good faith reporting to the Medical Board to include investigating or providing an expert medical opinion to the Board regarding the acts or omissions of a licensee or applicant.

Hearing Committee. - The act replaces the existing statutory provision governing the Medical Board's use of a trial examiner with authority to nominate a hearing committee who may conduct proceedings and make recommendations to the Board, subject to the following statutory guidelines:

- The Medical Board, in its discretion, may designate in writing three or more of its members to conduct hearings as a hearing committee to take evidence.
- Evidence and testimony may be presented at hearings before the Medical Board or a hearing committee in the form of depositions before any person authorized to administer oaths in accordance with the procedure for the taking of depositions in civil actions in the superior court.
- The hearing committee must submit a recommended decision that contains findings of fact and conclusions of law to the Medical Board. Before the Board makes a final decision, it must give each party an opportunity to file written exceptions to the recommended decision made by the hearing committee and to present oral arguments to the Board. A quorum of the Board will issue a final decision.

Reporting Requirements - Health Care Institutions. - The act amends the statutes governing reporting of disciplinary actions of doctors by health care institutions. It requires health care institutions to report any of the following actions involving a physician's privileges to practice in that institution within 30 days of the date the action takes place:

- A summary revocation, summary suspension, or summary limitation of privileges, regardless of whether the action has been finally determined.
- A revocation, suspension, or limitation of privileges that has been finally determined by the governing body of the institution.
- A resignation from practice or voluntary reduction of privileges.
- Any action reportable pursuant to the Health Care Quality Improvement Act of 1986, as amended.

Civil Penalty for Failure to Report. - Under existing law, the Medical Board has a duty to report all known violations to the licensing agency for the institution involved. The act authorizes the licensing agency for the institution involved to order the payment of a civil penalty by the institution for failure to report as follows:

- \$250 for a first violation.
- \$500 for each subsequent violation.

Reporting Requirements - Professional Liability Insurance Awards or Settlements. - The act amends the statutes governing an insurance company's duty to report damage awards and settlements by making the requirement applicable to physician assistants as well as physicians and clarifies the events requiring a report.

Civil Penalty for Failure to Report. - Existing law imposes upon the Medical Board a duty to report all violations to the Commissioner of Insurance. The act authorizes the Commissioner of Insurance to order the payment of a civil penalty by the insurer for failure to report as follows:

- \$250 for a first violation.
- \$500 for each subsequent violation.

Immunity from Liability. - The act authorizes the Medical Board to obtain information in actions involving compliance with reporting requirements compliance and makes responses privileged and confidential. The act expressly provides immunity from any resulting criminal prosecution or civil liability to any officer:

- Making a report.
- Providing additional information required by the Board.
- Testifying in any proceeding as a result of the report or required information.

Self-reporting Requirements; Confidentiality of Medical Board Investigative Information; Cooperation with Law Enforcement; Patient Protection and Board Public Records. - The act amends the statutes as follows:

- Defines and includes investigative information as privileged and confidential.
- Directs the Medical Board, upon written request, to provide the licensee or applicant with access to all information it possesses with intent to offer into evidence at a contested hearing on the matter, subject to applicable privileges or restrictions.
- Excludes from the disclosure obligation of the Board:
 - A Board investigative report.
 - The identity of a non-testifying complainant.
 - Attorney-client communications, attorney work product, or other materials covered by a privilege recognized by the Rules of Civil Procedure or the Rules of Evidence.
- Provides that information furnished to a licensee or applicant, or counsel for a licensee or applicant, is subject to discovery or subpoena in a civil action.
- Directs the Board to report crimes to the appropriate law enforcement agency and to cooperate in a criminal investigation.
- Requires licensees to self-report to the Board within 30 days of arrest or indictment any of the following:
 - Any felony arrest or indictment.
 - Any arrest for driving while impaired or driving under the influence.
 - Any arrest or indictment for possession, use, or sale of any controlled substance.

Peer Review Reporting. - The act expands the law governing societies subject to peer review agreements by requiring immediate reporting to the Medical Board if a licensed physician or physician assistant constitutes an imminent danger to the public or to himself:

- By reason of impairment.
- Mental illness.
- Physical illness.
- The commission of professional sexual boundary violations.
- Any other reason.

Reports of Disciplinary Actions. - The act amends the statutes governing reports of disciplinary action by State-licensed hospitals to include voluntary reduction of privileges by a health care provider to practice in that hospital and expressly grants immunity from any resulting criminal prosecution or civil liability to any person making a report required by statute.

Directives. - The act requires the North Carolina Medical Board, the North Carolina Board of Pharmacy, and the Board of Nursing to develop disciplinary rules consistent with the act and to file a report no later than September 1, 2006 with the chairs of the following committees:

- House Committee on Health.
- Senate Committee on Health Care.
- House Select Committee on Health Care.
- Subcommittee on Patient Safety, Quality and Accountability of the House Select Committee on Health Care.

The act requires that the North Carolina Medical Board develop policies governing institutional and corporate reporting requirements consistent with the act. The act authorizes the Medical Board to recommend additional legislation, if necessary, to implement the policies prior to the convening of the 2007 General Assembly.

Except as otherwise noted in this summary, this act became effective July 19, 2006. (JC)

Criminal Record Checks/Psychology Practice Act

S.L. 2006-175 ([HB 1327](#)), as amended by S.L. 2006-259, Sec. 42, changes the Psychology Practice Act and the statutes governing the State Bureau of Investigation. The act authorizes the North Carolina Psychology Board (Board) to request consent to a criminal history record check from an applicant for licensure or reinstatement under the Psychology Practice Act or from a licensed psychologist or psychological associate under investigation by the Board. The act stipulates that refusal to consent to a criminal history record check may constitute grounds for denial of licensure or reinstatement of a license, or disciplinary action against a licensee (including revocation of license.)

The act charges the Board with responsibility for providing to the North Carolina Department of Justice the following:

- The fingerprints of the applicant or licensee.
- A form signed by the applicant or licensee consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or national repositories.
- Any additional information required by the Department of Justice.
- Collection and remittance to the Department of Justice of any fees for the cost of conducting the criminal history record check.

The act charges the Board with confidentiality of all information obtained pursuant to the act and grants limited immunity to the Board, its officers, and employees from civil liability for good faith licensure actions based on information provided in the criminal history record check.

This act became effective August 1, 2006. (JC)

Modernize Bail Bondsman Registration

S.L. 2006-188 ([SB 846](#)) amends the statutes governing bail bondsmen and runners. The act requires the Commissioner of Insurance and the Administrative Office of the Courts to establish a statewide Electronic Bondsmen Registry for all licenses, powers of appointment, and powers of attorney that must be registered under existing law by bail bondsmen, surety bondsmen, and runners. The deadline for establishing the registry was October 1, 2006.

Under current law, licensed professional bail bondsmen, surety bondsmen, and runners are prohibited from writing bonds in any county where they have not filed appropriate paperwork with the clerk of court. Registration with the statewide registry would replace registration with county clerks of court, allowing all licensed professional bail bondsmen, surety bondsmen, and runners to operate statewide.

This act became effective August 3, 2006. (JC)

Used Motor Vehicle Dealer Courses

S.L. 2006-191 ([SB 729](#)) clarifies the used motor vehicle dealer course required for licensure. The act exempts applicants if both of the following apply:

- They hold new motor vehicle dealer licenses.
- They operate from an established showroom one mile or less from the showroom for which the applicant seeks a used motor vehicle dealer license.

The act allows an applicant holding a new motor vehicle dealer license to designate a representative to complete the required licensing course.

This act becomes effective January 1, 2007, and applies to applications for used motor vehicle dealer licenses filed on or after that date. (JC)

Medicaid Reimbursements for Ocular Prosthetists

S.L. 2006-198 ([HB 2037](#)). See **Health and Human Services**.

Cosmetic Art Definitions/Exam Facilities

S.L. 2006-212 ([SB 489](#)) amends the North Carolina Cosmetic Art Act as follows:

Definitions. - The act modifies the statutory definition of "cosmetic art" and adds definitions of "cosmetology" and "esthetics" to the statutes.

Examinations. - The act modifies the statutes governing examinations as follows:

- Deletes the requirement that applicants for examinations file an application with the Board at least 30 days before the examination date and pay an examination fee.
- Removes the requirement in current law that examinations be held at the office of the North Carolina Board of Cosmetic Art Examiners (Board) or in a public two-year postsecondary educational institution and replaces it with Board authority to administer examinations in any facility approved by the Board.
- Expands current law applicable to applicants for a cosmetologist license to provide that applicants for esthetician, manicurist, or teacher's licenses who fail to pass the examination three times must satisfy additional requirements prescribed by the Board before reapplying to retake the examination.

Licensure Requirements. - The act requires licensure for anyone teaching cosmetic art in a Board-approved cosmetic art school, but authorizes the Board to waive this requirement if the instructor is a guest lecturer.

The act expands the statutory language setting out qualifications for applicants for a cosmetology or esthetician teacher's license. The applicant for either license must have worked in a cosmetic art shop, or any Board-approved employment capacity in the cosmetic arts industry, for the time period specified in the law.

Continuing Education. - The act provides an exception to the statutes requiring continuing education for a licensed cosmetologist who has at least 20 consecutive years of experience as a cosmetologist as of October 1, 2004. The cosmetologist must report any continuing education classes completed to the Board whether the continuing education classes are Board-approved or not.

This act became effective August 8, 2006. (JC)

Dental Hygiene Law Changes

S.L. 2006-235 ([SB 1487](#)), a recommendation of the Joint Legislative Administrative Procedure Oversight Committee, authorizes the North Carolina State Board of Dental Examiners (Board) to accept the results of other Board-approved regional or national independent third-

party clinical examinations of applicants seeking a license to practice as a dental hygienist and authorizes the Board to charge applicants the actual cost of the third-party testing service.

The act directs the Board to continue to conduct clinical examinations for applicants until at least September 30, 2007. The act expressly provides that no applicant for a dental hygiene license is required to take a Board-approved regional or national independent third-party clinical examination prior to September 30, 2007.

This act became effective July 1, 2006. (JC)

General Contractors/Extend License Validity/License Exceptions

S.L. 2006-241 ([HB 2882](#)) amends the statutes governing the State Board of General Contractors by extending the period in which a license remains in effect after a person licensed on behalf of a firm or corporation ceases to be associated with that firm or corporation. The act extends from 30 days to 90 days the post-employment period in which a license remains in full force and effect for a person who passed the general contractor license examination on behalf of a firm or corporation.

The act also clarifies existing statutory language providing licensing exceptions for heating and plumbing contractors and electrical contractors who bid directly on public building projects.

This act became effective August 13, 2006. (JC)

General Contractor License Exceptions/Department of Transportation

S.L. 2006-261 ([HB 1827](#)). See **State Government**.

Studies

Referrals to Existing Commissions/Committees

Physical Therapy Board Licensure/Strengthen Medical Board/Patient Safety Organizations

S.L. 2006-144, Sec. 10.(a) ([HB 1301](#), Sec. 10.(a)) directs the subcommittee of the North Carolina Medical Board and the subcommittee of the Board of Nursing, charged with working jointly to develop rules governing the performance of medical acts by registered nurses pursuant to existing statutes, to examine adding the provisions of G.S. 90-14(a) (concerning the Board's disciplinary powers) to the joint rules that set forth grounds for action against a registered nurse's approval to perform medical acts.

S.L. 2006-144, Sec. 10.(b) ([HB 1301](#), Sec. 10.(b)) directs the subcommittee of the North Carolina Medical Board and the subcommittee of the Board of Pharmacy, charged with working jointly to develop rules governing the performance of medical acts by clinical pharmacist practitioners pursuant to existing statutes, to examine adding the provisions of G.S. 90-14(a) (concerning the Board's disciplinary powers) to the joint rules that set forth grounds for action against a clinical pharmacist practitioner's approval to perform medical acts.

S.L. 2006-144, Sec. 10.(c) ([HB 1301](#), Sec. 10.(c)) requires the North Carolina Medical Board, the North Carolina Board of Pharmacy, and the Board of Nursing to develop disciplinary rules consistent with the act and file a report no later than September 1, 2006 with the chairs of the following committees:

- House Committee on Health;
- Senate Committee on Health Care;
- House Select Committee on Health Care; and
- Subcommittee on Patient Safety, Quality and Accountability of the House Select Committee on Health Care.

S.L. 2006-144, Sec. 10.(d) [HB 1301, Sec. 10.(d)] requires the North Carolina Medical Board to develop policies governing institutional and corporate reporting requirements consistent with the act. The Board may recommend additional legislation, if necessary, to implement the policies prior to the convening of the 2007 General Assembly.

These sections became effective July 19, 2006. (JC)

Occupational Therapy Licensing Revisions

S.L. 2006-248, Sec. 3.8 ([HB 1723](#), Sec. 3.8) authorizes the Joint Legislative Health Care Oversight Committee to study the amendment of certain laws relating to the North Carolina Occupational Therapy Act. The Committee may report its findings, together with any recommended legislation, to the 2007 General Assembly upon its convening.

This section became effective August 16, 2006. (JC)

For a complete list of the studies and reports authorized by the 2006 Session of the 2005 General Assembly, please refer to the Appendix contained in this publication.

Chapter 18

Property, Trusts, and Estates

Karen Cochrane-Brown (KCB), Kory Goldsmith (KG), Trina Griffin (TG),
Denise Huntley (DH), Walker Reagan (WR), Steve Rose (SR)

Enacted Legislation

Property Tax Changes

S.L. 2006-30 ([HB 2097](#)). See **Finance**.

Notary Public Corrections

S.L. 2006-59 ([HB 1432](#)), as amended by S.L. 2006-199 ([SB 1375](#)), makes technical, conforming, and other changes to the new Notary Public Act adopted in 2005 and makes conforming changes to other related laws. The purpose of the 2005 changes had been to add additional details to the notary statutes, to improve the integrity of the notary system, and to give the Secretary of State's Office, as the administrator of the law, the necessary tools to insure compliance. But, as a result of strengthening the notarization requirements, questions arose concerning the validity of the execution and recording of documents where notarizations did not technically comply with all the requirements of the new law. The primary effect of the 2006 changes is to uncouple the technical notary requirements from the validity and enforceability of documents where it appears that the person who executed the document actually appeared before the notary, established his or her identity, and voluntarily executed the document in the notary's presence. The substantive changes are summarized below:

- Clarifies the exemption from the public records law of certain personal identity information included in the statement of personal qualifications including the applicant's date of birth, residence address and telephone number, last four digits of the social security number, and personal and business email address.
- Clarifies the notary recommission requirements to eliminate the requirement that the notary retake the notary course, have a high school diploma, or obtain another recommendation from a public official. Effective July 1, 2006, a notary who has been continuously commissioned since July 10, 1991, with no disciplinary actions by the Secretary of State will not be required to pass a test in order to be recommissioned.
- Expands the ways the notary's name can be legibly shown in a notarial certificate and permits the statement of the expiration of the commission to be in the notary stamp or seal.
- Prohibits the notary from acting when the credible witness is not personally known to the notary and clarifies when a notary named on the document being notarized is not disqualified.
- Allows the notary to administer an oath or affirmation without completing a certification.
- Repeals a redundant section and substitutes language originally intended to be included last year to specify the requirements for the notary's official signature, including the requirement to only sign after the principal signs and prohibiting notary signatures other than by hand.
- Relaxes the requirements for storing a notary's seal to be only a secured location and limits the circumstances when law enforcement and/or the Secretary of State need to be notified about the condition of a seal to when the seal is lost or stolen.

- Allows a notary to continue to use his or her old notary seal obtained prior to October 1, 2006, that does not comply with the new law, until the notary is recommissioned. This section also prohibits the notary from altering the appearance of the notary seal once the seal is placed on the record. This section clarifies that the failure of a notary seal to comply with the technical requirements for a seal does not invalidate a notarial certificate.
- Creates a legal presumption that by executing a notary certificate the notary certifies that all the requirements for the type of notarial act performed have been complied with, that at the time the notary was lawfully commissioned, the notary's commission had not expired, and the notarial act was performed within the State and performed in compliance with the law. The notary also is deemed to certify that the person whose signature is notarized did not appear to be incompetent, lacking in understanding of the nature and consequences of the transaction, or acting involuntarily, under duress or undue influence. This section also clarifies that a person who purports to be acting in a representative capacity when signing has the authority to do so.
- Creates a statutory certificate form for the verification or proof of a non-subscribing witness.

The act also adds the following new provisions to the Notary Public Act:

- G.S. 10B-67 cures erroneous commission expiration dates when the notary was lawfully commissioned at the time of the notarial act.
- G.S. 10B-68 cures technical defects in notarial certificates including use of a noncompliant notary seal, an erroneous commission expiration date, a notary's name inconsistent with the name shown on the notary commission, and defects in the notary's commissioning or recommissioning. It also cures any defects in the commissioning or recommissioning of a notary that is approved by the Department of the Secretary of State.
- G.S. 10B-68 cures the use of an outdated notarial certificate form on a State-issued document, such as a Department of Motor Vehicles title, when the execution of the certificate conformed to the law at the time the document was issued.
- G.S. 10B-99 preserves the common law doctrine of substantial compliance for notarial acts and validates notarial acts performed prior to October 1, 2006 that conformed to either the law as it existed prior to the 2005 changes or after the 2005 changes.

Other provisions include:

- The creation of a legal presumption under the registration statutes that at the time a document was accepted by the register of deeds for recording, the notary seal was clear and legible.
- Clarification that the acknowledgment for a grantor can be used generically for multiple persons or persons acting in a representative capacity, including for any form of business entity.
- Clarification that the statutory corporate conveyance notary forms also can be modified and adopted for use by other business entities.

Finally, the act directs the General Statutes Commission to study the need for additional changes to laws relating to notaries public, the notarization of documents, and the registration of documents notarized in other jurisdictions. The Commission must report its findings and recommendations to either the 2007 or 2009 General Assembly.

The provision regarding which notaries are required to be tested upon recommissioning became effective July 1, 2006. The curative provisions also became effective July 1, 2006, and apply to notarial acts committed on or after December 1, 2006. The remainder of the act became effective October 1, 2006, and except as otherwise provided, applies to notarial acts performed on or after that date. (KG)

Transfer of Assets Rewrite

S.L. 2006-66, Sec. 10.5 ([SB 1741](#), Sec. 10.5). See **Health and Human Services**.

Extend Effective Date on Changes to Liens on Real Property for Purposes of Estate Recovery Under Medicaid

S.L. 2006-66, Sec. 10.9B ([SB 1741](#), Sec. 10.9B). See **Health and Human Services**.

Delinquent Property Tax/Inventory/Study

S.L. 2006-106 ([SB 1451](#)). See **Finance**.

Amend the Forfeiture of Property Rights Law

S.L. 2006-107 ([SB 1378](#)). See **Civil Law and Procedure**.

Motor Vehicle Self-Insurers

S.L. 2006-145 ([SB 277](#)). See **Insurance**.

Local Government Debt Revisions

S.L. 2006-211 ([SB 1436](#)). See **Local Government**.

Eminent Domain Restrictions

S.L. 2006-224 ([HB 1965](#)), as amended by S.L. 2006-259, Sec. 47 ([SB 1523](#), Sec. 47) makes changes in certain statutes applicable to eminent domain powers. The act does three things:

- **Repeals local acts.** - Makes clear the intent of the General Assembly that the purposes listed in G.S. 40A-3 are the only purposes for which the eminent domain power may be used by private condemnors, local public condemnors, and other public condemnors. Any local acts that have broadened the power in the past are repealed. Any condemnation action commenced prior to August 15, 2006 may be completed under existing law.
- **Urban redevelopment.** - Makes changes to the Urban Redevelopment Act, Article 22 of Chapter 160A of the General Statutes, so that parcels in blighted areas may be condemned only if they are blighted parcels and generally restricts the eminent domain powers of redevelopment commissions to blighted parcels.
- **Revenue bond projects.** - Excludes economic development projects from the list of revenue bond projects for which eminent domain powers may be used by the State and municipalities. The act would not apply this prohibition to projects for which revenue bonds have been approved by the Local Government Commission prior to August 15, 2006.

This act became effective August 15, 2006. (SR)

Unincorporated Nonprofit Association Act/General Statutes Commission Technical Corrections

S.L. 2006-226, Part I ([SB 1479](#), Part I). See **Commercial Law and Consumer Protection**.

Trust and Estates Technical Changes

S.L. 2006-259, Sec. 13 ([SB 1523](#), Sec. 13) makes various technical changes to the laws of trusts and estates enacted in 2005, including the following:

Subsections (c)-(f). - Repeal multiple citations to Article 2 (proceedings before the clerk of court) that appear in Article 4 (proceedings in Superior Court) of Chapter 36C of the General Statutes (North Carolina Uniform Trust Code). These citations have been misleading as they were interpreted to mean that the procedural provisions of Article 2 applied to actions under Article 4.

Subsection (g). - Repeals a redundant provision granting exclusive jurisdiction to the clerk of court to modify the terms of a trust to achieve the settlor's tax objectives.

Subsection (h). - Amends G.S. 36C-4-417(a) to delete the requirement of notice to the qualified beneficiaries which was not required under prior law.

Subsection (j). - Amends G.S. 36C-7-701(b) to clarify that a trustee who does not accept trusteeship within 120 days after written notice of trusteeship is considered to have rejected the trusteeship.

Subsection (k). - Amends G.S. 36C-8-815 to clarify that (1) a trustee's power includes both those in the instrument and other powers usually given to trustees, except where the instrument limits those powers; and (2) although the trustee must exercise all powers in accordance with the trustee's fiduciary duty, third parties may rely on acts by the trustee without confirming that the trustee exercised powers in accordance with the trustee's fiduciary duties.

Subsection (l). - Amends G.S. 6-21.5 to make clear that the statute's application includes an estate or trust proceeding brought under the Uniform Trust Code.

This section becomes effective October 1, 2006, and applies to (i) all trusts created before, on, or after that date; (ii) all judicial proceedings concerning trusts commenced on or after that date; and (iii) all judicial proceedings concerning trusts commenced before that date unless the court finds that application of a particular provision of this act would substantially interfere with the effective conduct of the judicial proceedings or prejudice the rights of the parties, in which case the law as of September 30, 2006 would apply. (DH)

For a complete list of the studies and reports authorized by the 2006 Session of the 2005 General Assembly, please refer to the Appendix contained in this publication.

Joint Resolutions

Honor Appalachian State University Football Team

Res. 2006-1 ([HB 1836](#)).

Confirm Bill Culpepper

Res. 2006-2 ([HB 1807](#)).

Honor Alpha Phi Alpha Fraternity

Res. 2006-3 ([HB 2274](#)).

Honor Town of Troutman/100th Anniversary

Res. 2006-4 ([HB 1019](#)).

General Contractors/Extend License Validity

Res. 2006-5 ([HB 1870](#)).

Authorizing Resolution/Employers' Protest Filing Period

Res. 2006-6 ([HB 1982](#)).

Identity Theft

Res. 2006-7 ([HB 2038](#)).

No Prayer for Judgment/Bus Stop Arm Violation

Res. 2006-8 ([HB 2341](#)).

Protect Military Veterans from Identity Theft

Res. 2006-9 ([HB 2852](#)).

Honor Veterans/Flag Day

Res. 2006-10 ([HB 2878](#)).

Honor Ida Elizabeth Inman Cameron

Res. 2006-11 ([HB 2877](#)).

Honor Canes for Stanley Cup Win

Res. 2006-12 ([HB 2887](#)).

Honor Canes

Res. 2006-13 ([HB 2891](#)).

Honor Joey Cheek

Res. 2006-14 ([SB 2060](#)).

Honor Hugh Morton

Res. 2006-15 ([HB 2890](#)).

Prohibit Various Lending Subterfuges

Res. 2006-16 ([HB 1818](#)).

Honor City of Kannapolis/100th Anniversary

Res. 2006-17 ([HB 2311](#)).

Honor John Clarence "J.C." Scarborough, Sr.

Res. 2006-18 ([SB 2057](#)).

Military Funeral/Unlawful Protest

Res. 2006-19 ([SB 1832](#)).

African-American Breast Cancer Awareness

Res. 2006-20 ([HB 2893](#)).

Honoring Senator Hamilton C. Horton, Jr.

Res. 2006-21 ([SB 2064](#)).

Honor Warren Claude "Pete" Oldham

Res. 2006-22 ([HB 2876](#)).

Honor Frank Edwin Rhodes

Res. 2006-23 ([HB 1103](#)).

Sine Die Adjournment for 2005

Res. 2006-24 ([SB 2066](#)).

For a complete list of the studies and reports authorized by the 2006 Session of the 2005 General Assembly, please refer to the Appendix contained in this publication.

Chapter 20 Retirement

Karen Cochrane-Brown (KCB), Theresa Matula (TM)

Enacted Legislation

Law Enforcement Officers Creditable Service/Workers' Compensation

S.L. 2006-29 ([HB 447](#)). See **Insurance**.

Consolidate Public Employee Retirement Programs in Single Agency

S.L. 2006-66 Sec. 20.1 ([SB 1741](#), Sec. 20.1) amends the law to relocate the Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan from the Department of Administration to the Department of State Treasurer and makes conforming amendments regarding the provision of services that support the Board. Additionally, the *ex officio* chairman of the Board is changed from the Secretary of Administration to the State Treasurer.

This section became effective July 1, 2006. (TM)

Provide Cost-of-Living Increases for Retirees of the Teachers' and State Employees' Retirement System, the Judicial Retirement System, and the Legislative Retirement System

S.L. 2006-66, Sec. 22.18 ([SB 1741](#), Sec. 22.18) provides a 3 percent increase to beneficiaries of the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, and the Legislative Retirement System who retired on or before July 1, 2005. Those who retired between July 1, 2005, and June 30, 2006, will receive a prorated amount of the 3 percent increase.

This section became effective July 1, 2006. (KCB)

Increase the Monthly Pension for Members of the Firemen's and Rescue Squad Workers' Pension Fund

S.L. 2006-66, Sec. 22.19 ([SB 1741](#), Sec. 22.19) increases the pension paid to a retired member of the North Carolina Firemen's and Rescue Squad Workers' Pension Fund from \$163 to \$165 per month. Additionally, this section makes a conforming change to increase, from \$163 to \$165, the monthly benefit paid to a member who becomes totally and permanently disabled in the line of duty.

This section became effective July 1, 2006. (KCB)

Increase the Maximum Monthly Pension Benefits for Retired Members of the North Carolina National Guard

S.L. 2006-66, Sec. 22.20 ([SB 1741](#), Sec. 22.20) increases the monthly benefit from \$75 to \$80 for qualifying national guard members with 20 years of creditable military service with an additional \$8 per month (previously \$7.50) for each additional year of service. The provision also increases the maximum total pension from \$150 to \$160 per month.

This section became effective July 1, 2006. (KCB)

Reemployment of Certain Retired Employees

S.L. 2006-77 ([HB 1974](#)) allows a member of the Teachers' and State Employees' Retirement System to be reemployed by the State under the reemployment law that existed at the time the member filed for retirement, if the member meets the following criteria:

- the member was employed by a community college;
- the member filed for retirement before August 31, 2005, for an effective retirement date of November 1, 2005; and
- the member was provided with incorrect information about the period of time a retired member must wait before returning to employment in order to continue receiving retirement benefits.

This act became effective July 10, 2006. (KCB)

Roth 401k Accounts/Law Enforcement Officers

S.L. 2006-141 ([HB 2651](#)) adds a provision to the laws governing certain retirement benefits for State and local law enforcement officers. The act provides that officers must not be precluded from exercising their rights under the Supplemental Retirement Income Plan for Law Enforcement Officers if the officer elects to make Roth after-tax contributions to the Plan, except that the contributions and earnings must not be subsequently transferred to the State or Local Retirement System.

This act became effective July 1, 2006. (KCB)

Optional Retirement Program Changes

S.L. 2006-172 ([HB 853](#)) allows a member of the Teachers' and State Employees' Retirement System to purchase creditable service for periods during which the member worked for a State institution of higher education and participated in the Optional Retirement Program. The member may purchase the service by paying the full actuarial cost of the service in a lump sum to the Annuity Savings Fund. The act also clarifies that faculty of the North Carolina School of Science and Mathematics may participate in the Optional Retirement Program.

The part of this act relating to purchase of service credit became effective August 1, 2006. The part of the act relating to membership in the Optional Retirement Program becomes effective July 1, 2007, and applies only to eligible persons who are employees as of that date, or who are employed thereafter. (KCB)

State Health Plan/20-Year Vesting

S.L. 2006-174 ([SB 837](#)). See **Labor and Employment**.

For a complete list of the studies and reports authorized by the 2006 Session of the 2005 General Assembly, please refer to the Appendix contained in this publication.

Chapter 21

Senior Citizens

Theresa Matula (TM), Shawn Parker (SP)

Enacted Legislation

Change Progress Report Date: Quality Improvement Consultation Program for Adult Care Homes

S.L. 2006-66, Sec. 10.1 ([SB 1741](#), Sec. 10.1), amends S.L. 2005-276, Section 10.40A(p), to require the progress report on the Quality Home Improvement Consultation Program (Program) to be submitted by the Department of Health and Human Services on or before January 1, 2007 (previously April 1, 2006). The report must be submitted to the Study Commission on Aging, the Senate Appropriations Committee on Health and Human Services, and to the House of Representatives Subcommittee on Health and Human Services, and must address the following topics:

- Principles and philosophies that are resident-centered and promote independence, dignity, and choice for residents.
- Approaches to develop continuous quality improvement with a focus on resident satisfaction and optimal outcomes.
- Dissemination of best practice models that have been used successfully elsewhere.
- A determination of the availability of standardized instruments, and their use to the extent possible, to assess and measure adult care home performance according to quality of life indicators.
- Utilization of quality improvement plans for adult care homes that identify and resolve issues that adversely affect quality of care and services to residents. The plans include agreed upon time frames for completion of improvements and identification of needed resources.
- Training required to equip county departments of social services' staff to implement the Program.
- A distinction of roles between the regulatory role of the Department's Division of Facility Services and the quality improvement consultation and monitoring responsibilities of the county departments of social services.
- Identification of staffing and other resources needed to implement the Program.

This section became effective July 1, 2006. (SP)

Transfer of Assets Rewrite

S.L. 2006-66, Sec. 10.5 ([SB 1741](#), Sec. 10.5). See **Health and Human Services**.

Pilot Projects to Control Cost and Improve Quality of Care for Aged, Blind, and Disabled Medicaid Recipients

S.L. 2006-66, Sec. 10.7A ([SB 1741](#), Sec. 10.7A). See **Health and Human Services**.

Extend Effective Date on Changes to Liens on Real Property for Purposes of Estate Recovery Under Medicaid

S.L. 2006-66, Sec. 10.9B ([SB 1741](#), Sec. 10.9B). See **Health and Human Services**.

Pilot Program to Evaluate Telemonitoring Equipment in Home Care Services

S.L. 2006-66, Sec. 10.9C ([SB 1741](#), Sec. 10.9C), authorizes the Department of Health and Human Services, Division of Medical Assistance, to implement a pilot program to evaluate the use of telemonitoring equipment in home care services and community-based long-term care services. The evaluation will include a representative number of older adults and will evaluate the use of telemonitoring equipment as a tool to improve the health of home care clients and community-based long-term care clients through increased monitoring and responsiveness, and resulting in increased stabilization rates. This section requires the Department to report its findings to the Study Commission on Aging, 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 by July 1, 2007.

This section became effective July 1, 2006.

Note: Also see the summary in this Chapter of S.L. 2006-194 ([SB 1280](#)) DHHS Evaluate Telemonitoring/Home Care Licenses. (SP)

Department of Health and Human Services to Study Strategies to Offset the Cost to Pharmacists of Providing Service to Medicaid Recipients Enrolled in Medicare Part D

S.L. 2006-66, Sec. 10.9D ([SB 1741](#), Sec. 10.9D). See **Health and Human Services**.

Private-Public Long-Term Care Partnership Program

S.L. 2006-66, Sec. 10.10 ([SB 1741](#), Sec. 10.10), directs the Department of Health and Human Services to develop a North Carolina Long-Term Care Partnership Program in an effort to reduce future Medicaid costs for long-term care by delaying or eliminating dependence on Medicaid. The Department must structure the Program in accordance with federal laws and guidelines for qualified State long-term care partnerships. Prior to submitting the Program for federal approval of the State Plan amendment, the Department must submit the proposed Program 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. The Program is prohibited from becoming effective until it is reviewed in accordance with this section.

This section became effective July 1, 2006. (TM)

Independent and Supportive-Living Apartments Initiative

S.L. 2006-66, Sec. 10.30 ([SB 1741](#), Sec. 10.30), requires that the independent and supportive living apartments for persons with disabilities constructed from funds appropriated in the Current Operations and Capital Improvements Appropriations Act of 2006, must be affordable to persons with incomes at the Supplemental Security Income level. The section further provides that if the North Carolina Housing Finance Agency is able to finance the apartments for less than the amount appropriated, any remaining funds, as well as any interest earned on the amount

appropriated, may be used to finance additional apartments, group homes, and transitional housing for individuals with disabilities.

This section became effective July 1, 2006. (TM)

North Carolina New Organizational Vision Award-Special Voluntary Licensure Designation

S.L. 2006-104 ([SB 1277](#)) establishes the North Carolina New Organizational Vision Award (NC NOVA). NC NOVA is a voluntary special licensure designation that will be awarded to adult care homes, home care agencies, and nursing homes that have been determined through written and on-site review, by an independent review organization, to have met a comprehensive set of workplace related interventions intended to improve the recruitment and retention, quality, and job satisfaction of direct care staff, and the care provided to long-term care clients and residents. The NC NOVA program will be implemented by the Department of Health and Human Services.

This act becomes effective January 1, 2007. (TM)

Adult Day Awareness/Status of Study Recommendations

S.L. 2006-108 ([SB 1278](#)) directs the Department of Health and Human Services to ensure that Community Alternatives Program (CAP) case managers are aware of adult day health programs and requires the Department to make a status report on the Partners in Caregiving study recommendations. The Department is required to report on the status of its activities under this act to the North Carolina Study Commission on Aging not later than July 30, 2006.

The act became effective July 13, 2006. (TM)

Special Assistance In-Home Assignments

S.L. 2006-156 ([HB 2576](#)) allows the Department of Health and Human Services to use funds appropriated for the 2006-2007 fiscal year to increase the maximum number of assignments to the special assistance in-home program to 1,500 persons.

This act became effective July 1, 2006. (SP)

Assault Handicapped/Increase Penalty

S.L. 2006-179 ([SB 488](#)). See **Criminal Law and Procedure**.

Department of Health and Human Services Evaluate Telemonitoring/Home Care Licenses

S.L. 2006-194 ([SB 1280](#)) requires the Department of Health and Human Services (Department), Division of Medical Assistance (Division), to implement a pilot program to evaluate the use of telemonitoring equipment in home and community-based services and requires the Division to determine remuneration to home care agencies and other providers for participation. The program must include a representative number of older adults, be implemented by October 1, 2006, and evaluate the use of telemonitoring equipment as a tool to improve the health of home and community-based recipients through increased monitoring and responsiveness, and resulting in increased stabilization rates and decreased hospitalization rates. The Department is required to report to the Study Commission on Aging by August 1, 2007, and the report must include findings and recommendations on the cost-effectiveness of telemonitoring and the benefits to individuals and health care providers.

The act also implements a one-year moratorium, beginning January 1, 2007, on the licensing of new home care agencies offering in-home aide services. The moratorium does not prevent the Department from issuing licenses to certified home health agencies or to agencies that need a new license for an existing home care agency being acquired.

This act became effective August 3, 2006.

Note: Also see the summary in this Chapter of S.L. 2006-66, Sec. 10.9C ([SB 1741](#), Sec. 10.9C), DHHS Pilot Program to Evaluate Telemonitoring Equipment in Home Care Services. However, the provisions pertaining to telemonitoring contained in S.L. 2006-194 ([SB 1280](#)) represent a more recent enactment by the General Assembly and take precedence over similar provisions contained in S.L. 2006-66, Sec. 10.9C. (TM)

Stroke Advisory Council

S.L. 2006-197 ([HB 1860](#)). See **Health and Human Services**.

Long Term Care Quality Improvement Program/Long Term Care Ombudsman Positions

S.L. 2006-221, Sec. 13B ([SB 198](#), Sec. 13B) clarifies that the funds appropriated to the Department of Health and Human Services for Long Term Care Quality Improvement must be allocated to the Area Agencies on Aging to support 8 regional long term care ombudsman positions including benefits and travel and \$100,000 for a contract for the Quality Improvement Program authorized in S.L. 2005-276, Section 10.40A(p). Additionally, this section notes that the long term care ombudsman positions are not State positions.

This section became effective July 1, 2006. (TM)

Studies

Legislative Research Commission

Referrals to Existing Commissions/Committees

Geriatric Care Providers

S.L. 2006-248, Sec. 3.2 ([HB 1723](#), Sec. 3.2) allows the Joint Legislative Health Care Oversight Committee to study the methods of increasing the number of geriatric care providers in the State.

This section became effective August 16, 2006. (TM)

State Fair Housing Act Study

S.L. 2006-248, Sec. 33 ([HB 1723](#), Sec. 33) requires the North Carolina Human Relations Commission to study whether the State Fair Housing Act should be amended to make it an unlawful discriminatory housing practice to refuse to enter into a residential real estate transaction with a person based upon the fact that the person receives public assistance due to age or physical or mental disability. The Commission must report its findings and recommendations to the 2007 General Assembly upon its convening.

This section became effective August 16, 2006. (TM)

Referrals to Departments, Agencies, Etc.

Community Alternatives Program/Disabled Adults Review and Report

S.L. 2006-109 ([SB 1276](#)) requires the Department of Health and Human Services (Department) to review and report on the Community Alternatives Program for Disabled Adults (CAP/DA) in response to the institutional bias report. The report must include actions taken and planned by the Department in response to each bias identified in the institutional bias study. The inclusion of the following information is also required in the report:

- Information on the utilization of CAP/DA slots, including a history of slots used per year over the last 10 years and the anticipated need during the next 10 years.
- A description of the CAP/DA slot allocation formula and a breakdown of slots by county, including the reallocation of any unused slots.
- Strategies to ensure that the CAP/DA waiting list is managed as efficiently as possible, including consideration of whether there should be an expiration date tied to unused slots so that they may be reallocated in a timely manner to areas with waiting lists.
- Implementation of a uniform screening/assessment tool and other strategies to ensure maximum operation efficiency and effectiveness for those individuals qualifying for CAP/DA services. This should include information on whether the lists should be prioritized by risk of institutionalization.

The Department is required to submit an interim report to the Study Commission on Aging on or before August 30, 2006, and a final report on or before August 30, 2007.

The act became effective July 13, 2006. (TM)

Review of North Carolina Institutional Bias Report

S.L. 2006-110 ([SB 1279](#)) directs the Department of Health and Human Services to collaborate with providers and advocates of home and community-based services to make recommendations addressing the biases identified in the institutional bias report prepared by The Lewin Group. (Institutional bias refers to the policies and practices within Medicaid that make it easier for a beneficiary to access institutional care than services in home and community-based settings.) The Department is required to report its findings and recommendations to the Study Commission on Aging on or before October 15, 2006.

This act became effective July 13, 2006. (SP)

Study No-Fault Compensation for Injuries to Elderly and Disabled Persons

S.L. 2006-248, Sec. 18 ([HB 1723](#), Sec. 18) allows the Commissioner of Insurance, the North Carolina Industrial Commission, and the Department of Health and Human Services to jointly study the utility, efficacy, and advisability of creating a system of no-fault compensation, with such compensation based on scheduled amounts and subject to limits on total compensation paid, for injuries resulting from regular and ordinary course of care provided at nursing homes, homes for the elderly, other long-term care facilities, and assisted living facilities. If the study is conducted, the findings and recommendations must be presented to the 2007 General Assembly upon its convening.

This section became effective August 16, 2006. (TM)

For a complete list of the studies and reports authorized by the 2006 Session of the 2005 General Assembly, please refer to the Appendix contained in this publication.

Chapter 22

State Government

Erika Churchill (EC), Karen Cochrane-Brown (KCB), Bill Gilkeson (BG), Kory Goldsmith (KG), Trina Griffin (TG), Tim Hovis (TH), Denise Huntley (DH), Emily Johnson (EJ), Howard Alan Pell (HAP), Giles S. Perry (GSP), Walker Reagan (WR), Barbara Riley (BR)

Enacted Legislation

Agencies and Departments

Department of Transportation Performance-Based Maintenance Contract Bonds

S.L. 2006-67 ([HB 1834](#)). See **Transportation**.

Department of Transportation Contract Provision Changes

S.L. 2006-68 ([HB 1835](#)). See **Transportation**.

Mental Health Reform Changes

S.L. 2006-142 ([HB 2077](#)). See **Health and Human Services**.

Economic Development Program Modifications

S.L. 2006-168, Sec. 1.13 ([HB 2744](#), Sec. 1.13). See **Finance**.

Amend Identity Theft Protection Act of 2005

S.L. 2006-173 ([HB 1248](#)). See **Commercial Law and Consumer Protection**.

State Government Ethics Act

S.L. 2006-201 ([HB 1843](#)) enacts a comprehensive State government ethics act by applying common ethical standards and processes to policymakers in the legislative, executive, and judicial branches, and conforms and revises the lobbying laws regulating lobbyists and lobbyist's principals attempting to influence legislative and executive action.

Government Ethics. - Part I of the act, known as the State Government Ethics Act, establishes an independent bipartisan State Ethics Commission (Commission) to oversee and administer ethics in the legislative, executive, and judicial branches of government. The Commission is responsible for the management of the statements of economic interest process for all covered persons in all three branches. The Commission is authorized to issue confidential advisory opinions on ethics questions which will provide limited immunity to persons who act in reliance on these opinions. The Commission is responsible for overseeing mandatory ethics education programs for the legislative and executive branch members. The Commission will administer the investigations of ethics complaints of unethical conduct, and refer legitimate

complaints against legislators to the Legislative Ethics Commission, and against judges to the Judicial Standards Commission.

The State Government Ethics Act sets out ethical standards for covered persons including: prohibitions on self-dealing; standards for conflicts of interest analysis; a significant ban on gifts that covered persons can receive from lobbyists, lobbyist principals, and persons doing business with the executive agency; and nepotism. Individual agencies can adopt more stringent ethical standards in addition to the standards set out in statute.

Ethics violations are subject to disciplinary actions by the appointing or employing authority, which could ultimately result in the dismissal or removal of the person from their public position. Most violations of this law are not subject to criminal penalties, except for perjury, for making false material statements under oath and lesser crimes, for knowingly concealing or failing to disclose required information, or knowingly giving false information on statements of economic interest.

Part II of the act makes conforming changes to the Legislative Ethics Act. The General Assembly retains ultimate authority for disciplinary actions against legislators and legislative employees and final authority on advisory opinions for legislators.

Lobbying Reforms. - Part III of the act amends the lobbying laws to govern direct lobbying (lobbying on specific legislative or executive issues) and goodwill lobbying (no specific legislative or executive issues) in both the legislative and executive branches. The act also regulates solicitation of others to lobby. The act gives rulemaking authority to the State Ethics Commission for interpretation and advisory opinions of the lobbying laws, and to the Secretary of State for registration and reporting of lobbying activities. The act authorizes the State Ethics Commission to issue advisory opinions on lobbying questions granting qualified immunity. The act also requires the State Ethics Commission to develop a lobbying education program.

The act provides for a single registration to lobby both the legislative and executive branches. Lobbyists and lobbyist principals register separately. Persons spending more than \$3,000 in a 90-day period to solicit others to lobby must also register with the Secretary of State.

The act restricts activities associated with lobbying in the following ways:

1. A lobbyist cannot contribute to the political campaign of a candidate for the office of State legislator or the office of a member of the Council of State.
2. A lobbyist cannot collect or distribute multiple campaign contributions to legislators or Council of State candidates.
3. Lobbyists and lobbyist principals are prohibited from giving most gifts to legislators, legislative employees, and executive branch public servants, with some limited exceptions.
4. Legislators, members of the Council of State, and heads of the principal State departments are restricted from lobbying within a minimum of six months of leaving office.
5. Lobbyists are prohibited from serving on a board within 120 days after last lobbying the board to which the lobbyist is being appointed by a State official.

The act requires lobbying expenditure reports to be made quarterly, unless the General Assembly is in session, in which case reports of reportable expenditures for legislative lobbying must be made monthly. The act states that reportable expenditures must be made if expenditures exceed more than \$10 per day per person for lobbying purposes.

State agencies must designate a legislative liaison for legislative lobbying. Liaisons are required to register and report to the office of the Secretary of State and are subject to the gift ban. The University of North Carolina, its constituent institutions, and its designated liaison personnel, are prohibited from giving athletic tickets to legislators, legislative employees and public servants for the purpose of lobbying.

Violations of the lobbying registration requirements and the prohibitions on contingent fees, election influence, campaign contributions, gifts, revolving door activities, and use of cash and credit by a lobbyist, are punishable as Class 1 misdemeanors. Lobbyists who are convicted of a violation of these laws are prohibited from acting as a lobbyist for a period of two years from

the date of conviction. Non-criminal violations of this law are subject to civil fines of up to \$5,000.

Effective Dates. - The State Ethics Commission was established on October 1, 2006, and is authorized to begin adopting rules and procedures to implement the act beginning on January 1, 2007.

The rest of the act becomes effective January 1, 2007, and applies to covered persons and legislative employees, acts committed, gifts made or received, actions taken, and offenses committed, on or after January 1, 2007. (WR)

Department of Cultural Resources Employees/Personnel Act

S.L. 2006-204 ([HB 2762](#)) authorizes the U.S.S. North Carolina Battleship Commission to appoint and fix the salary of an Executive Director and Assistant Director to serve at its pleasure. The Executive Director and Assistant Director are exempt from most of the requirements of the State Personnel Act. The act also exempts certain enumerated employees of the Department of Cultural Resources from certain classification- and compensation-related rules established by the State Personnel Commission and other requirements related to leave and compensation. The exemptions are to be used to develop organizational classification and compensation innovations that will result in more efficient operations. The Office of State Personnel is directed to assist the Secretary of the Department of Cultural Resources in developing new structures and human resource programs to replace those from which the employees are being exempted. Last year, the General Assembly granted a similar exemption to employees of the Office of Commissioner of Banks.

This act became effective August 8, 2006. (KCB)

Government Performance Audit (Part XLVI of the Studies Act of 2006)

S.L. 2006-248, Part XLVI, ([HB 1723](#), Part XLVI) established the Government Performance Audit Committee for the purpose of contracting for a performance audit of the executive branch of State government. The 10-member committee is made up of 5 House members appointed by the Speaker and 5 Senate members appointed by the President Pro Tempore. The Committee is required to meet at least once a quarter upon the joint call of the co-chairs. The goals of the audit are to evaluate the efficiency of State government and to identify specific ways to make improvements. The results of the audit must be reported on or before February 1, 2008.

This part became effective August 16, 2006. (TG)

Verification of Legal Work Status of Certain Government Employees

S.L. 2006-259, Sec. 23.1 ([SB 1523](#), Sec. 23.1). See **Labor and Employment**.

General Contractor License Exceptions/Department of Transportation

S.L. 2006-261 ([HB 1827](#)) exempts specified Department of Transportation (DOT) maintenance and repair contracts from general contractor licensing requirements, clarifies an exception for heating and plumbing contractors and electrical contractors from certain licensing requirements when bidding directly on public building projects, and revises the State's policy

concerning participation by disadvantaged minority-owned and women-owned businesses in highway construction contracts.

The act exempts the following types of DOT contracts from the general contractor licensing requirements:

- Routine maintenance and minor repair of:
 - pavements,
 - bridges,
 - roadside vegetation and plantings,
 - drainage systems,
 - concrete sidewalks,
 - curbs,
 - gutters, and
 - rest areas.
- Installation and maintenance of:
 - pavement markings and markers,
 - ground mounted signs,
 - guardrail,
 - fencing, and
 - roadside vegetation and plantings.

The act also clarifies an exception for heating and plumbing contractors and electrical contractors who bid directly on public building projects. It provides that plumbing and heating contractors are exempt from electrical contractor licensing requirements, and vice versa, provided that the appropriate licensee performs all work that falls within the statutory classifications and the total amount of the work does not exceed a certain percentage of the total bid price.

The act repeals certain percentage goals for participation by minority businesses in DOT contracts and requires DOT to conduct a study at least every five years on the availability and utilization of disadvantaged minority-owned and women-owned business enterprises. If the study shows a strong basis in evidence of ongoing effects of past or present discrimination, the evidence will constitute the basis for the State's continued compelling governmental interest in remedying the discrimination in highway contracting. The DOT also is directed to use the findings of the Department's Second Generation Disparity Study completed in 2004 to design and incorporate narrowly-tailored remedies and implement a comprehensive antidiscrimination enforcement policy (Minority Contracting Program). DOT must establish annual aspirational goals for disadvantaged minority-owned and women-owned businesses, but the goals should not be applied rigidly on specific contracts or projects. The act specifically does not authorize the use of quotas.

The act also creates the Joint Legislative Commission on the Department of Transportation Disadvantaged Minority-Owned and Women-Owned Businesses Program (Commission). It consists of 12 members: 5 appointed by the Speaker of the House of Representatives; 5 appointed by the President Pro Tempore of the Senate; and the co-chairs of the Joint Legislative Transportation Oversight Committee or their designees. The duty of the Commission is to monitor the implementation and effectiveness of the Minority Contracting Program developed by DOT, review strategies used by DOT to implement the Minority Contracting Program, and develop recommendations for submission to DOT and the General Assembly regarding the Minority Contracting Program. DOT must report quarterly to the Commission regarding the utilization of disadvantaged minority-owned and women-owned business enterprises and any program developed to promote contracting with those businesses. The Commission expires June 30, 2015.

This act became effective August 27, 2006. (KG)

Capital Facilities and State Property

State Facilities Master Plan

S.L. 2006-66, Sec. 23.10 ([SB 1741](#), Sec. 23.10) requires the Department of Administration to develop a new master plan for State facilities, including an inventory of existing properties and projected needs. The new master plan is to be delivered to the Joint Legislative Oversight Committee on Capital Improvements by October 1, 2007. The section also appropriates \$60,000 to the Legislative Services Commission for the Dorothea Dix Hospital Property Study Commission for the retention of a consultant to review proposals for the use of the Dorothea Dix Hospital properties. The results of the consultant's review are to be submitted to the Dorothea Dix Hospital Property Study Commission by November 1, 2006. The Commission must make a recommendation to the 2007 General Assembly.

This section became effective July 1, 2006. (EC)

Designate General Assembly Buildings Nonsmoking

S.L. 2006-76 ([HB 1133](#)) requires that all areas of any building occupied by the General Assembly be designated as nonsmoking areas.

Article 64 of the General Statutes addresses the needs and concerns of both smokers and nonsmokers in public places by providing for designated smoking and nonsmoking areas. A list of buildings owned, leased, or occupied by State government which may be designated as nonsmoking areas is set forth in the statute and includes: museums, libraries, and The University of North Carolina health services facilities. Areas designated either as nonsmoking or smoking areas are to be established by the "appropriate department, institution, agency, or person in charge of the State-controlled building or area." Nonsmoking areas must be visibly posted as such, and requirements for separate ventilation systems and physical barriers between nonsmoking and adjacent smoking areas are provided for in the statute. An itemized list of facilities specifically exempted from regulation by the provisions of Article 64 is set forth in G.S. 143-599.

Violation by continuing to smoke in a nonsmoking area after having been given notice to stop smoking is an infraction punishable by a fine of not more than \$25. Local ordinances, laws or rules passed on or after October 15, 1993 regulating smoking may not contain restrictions exceeding those of Article 64 and only may address smoking in specifically identified types of facilities.

This act adds a new subsection to G.S. 143-597(a1) that requires that, "[a]ll areas of any building occupied by the General Assembly must be designated as nonsmoking areas." The designation of these areas as nonsmoking does not need to be established by "the appropriate department, institution, agency, or person in charge of the State-controlled building or area" as is the case with the State-controlled buildings listed in G.S. 143-597(a).

This act became effective July 10, 2006. (TH)

Water/Utilities Savings in Government Facilities

S.L. 2006-190 ([SB 402](#)). See **Utilities**.

State Energy Use Planning/Energy Assistance

S.L. 2006-206 ([SB 2051](#)). See **Environment and Natural Resources**.

Use of Existing Plans for State Construction

S.L. 2006-217 ([HB 2147](#)) requires State agencies, before designing a construction project, to consult with the Department of Administration on whether appropriate plans and specifications exist and are feasible for the project, and to use existing plans when feasible. The act also authorizes the Department of Administration to require the use of existing plans and specifications where feasible. The act places The Board of Governors of The University of North Carolina under the same requirement with respect to projects with an estimated expenditure of public money of \$2 million or less.

This act became effective September 1, 2006, and applies to construction projects on which design is begun after that date. (HAP)

Boards, Commissions, and Committees

Partnership for Children/Board Appointment

S.L. 2006-20 ([SB 329](#)) appoints two members of the public to the Board of Directors of the North Carolina Partnership for Children, Inc. Charles Morris, from Cumberland County, is appointed upon recommendation of the Majority Leader of the Senate. Samuel Scott Page, of Rockingham County, is appointed upon recommendation of the Minority Leader of the Senate. The term for each individual ends on January 1, 2008.

This act became effective June 27, 2006. (TG)

Treasurer's Designee on Community College Board

S.L. 2006-31 ([HB 677](#)). See **Education**.

Strengthen Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services Oversight Role

S.L. 2006-32 ([HB 2120](#)). See **Health and Human Services**.

Change Local Governmental Retirement Board

S.L. 2006-64 ([HB 1237](#)) revises the membership of the Board of Trustees for the Local Governmental Employees' Retirement System (Board). The overall membership of the Board is reduced from 17 members to 14 members — 7 members of the Teachers' and State Employees' Retirement System (TSERS) Board are removed and replaced with 4 members that must include a county manager, city or town manager, active local governmental employee, and retired local governmental employee. The board now will be constituted as follows:

- The following seven members of the Board of Trustees of the Teachers' and State Employees' Retirement:
 - the State Treasurer,
 - the Superintendent of Public Instruction,
 - two members appointed by the General Assembly,
 - three members appointed by the Governor who are not members of the teaching profession or State employees; and
- The following seven members designated by the Governor:

- one member that is a mayor or a member of the governing body of a city or town participating in the Retirement System,
- one member that is a county commissioner of a county participating in the Retirement System,
- one member that is a law-enforcement officer employed by an employer participating in the Retirement System,
- one member that is a county manager of a county participating in the Retirement System,
- one member that is a city or town manager of a city or town participating in the Retirement System,
- one member that is an active, Fair Labor Standards Act nonexempt, local governmental employee of an employer, and
- one member that is a retired, Fair Labor Standards Act nonexempt, local governmental employee of an employer.

This act became effective July, 9, 2006, and the additional members must be designated by the Governor to serve until April 1, 2008, when their successors will be designated. (KCB)

Extend Climate Change Commission

S.L. 2006-73 ([SB 1591](#)). See **Environment and Natural Resources**.

Stroke Advisory Council

S.L. 2006-197 ([HB 1860](#)). See **Health and Human Services**.

Economic Development Regional Partnership Accountability

S.L. 2006-263 ([HB 1417](#)) establishes a reporting requirement for the four statutorily-created economic development commissions (the Western North Carolina Regional Economic Development Commission, the Northeastern North Carolina Regional Economic Development Commission, the Southeastern North Carolina Regional Economic Development Commission and North Carolina's Eastern Region) and the three regional partnerships (the Charlotte Regional Partnership, Inc., the Piedmont Triad Regional Partnership, and the Research Triangle Regional Partnership). Each report is to include a summary of the preceding year's program activities, objectives, and accomplishments, and an itemized list of expenditures of State funds. The report also must include a demonstration of how the commission's or partnership's economic development and marketing strategies fit with the State's overall economic development and marketing strategies, how it has generated leads, and the most recent audited financial statement regarding State funds.

The act mandates the development and adoption of uniform standards for the use of State funds for commissions and partnerships. These standards are to cover accounting procedures, personnel practices, and purchasing and contracts procedures. Up to \$50,000 of the cost of developing the standards must be paid in equal shares by the commissions and partnerships. The Department of Commerce is directed to pay the costs in excess of \$50,000 from funds available in its 2006-2007 budget. The act further provides that the regional partnerships are subject to the statutes governing the use of State funds by non-State entities and requires the commissions to hold orientation sessions for all newly-appointed commission members.

The substantive portions of the act became effective October 1, 2006. The fiscal provisions became effective July 1, 2006. (BR)

Office of Administrative Hearings/Rules Review Commission Provisions

S.L. 2006-221, Sec. 20 ([SB 198](#), Sec. 20) repeals a position classification chart for the Office of Administrative Hearings enacted in 1988; repeals a 1989 transfer of positions and assets from the Office of Administrative Hearings to the Rules Review Commission; provides that the number of administrative law judges and employees of the Office of Administrative Hearings must be established by the General Assembly, and establishes that number; sets out the exemption of the Chief Administrative Law Judge from the provisions of the State Personnel Act, and the application of the Act to all other employees of the Office of Administrative Hearings; and provides that the Chief Administrative Law Judge must designate, from among the employees of the Office of Administrative Hearings, the Director and staff of the Rules Review Commission.

This section became effective July 1, 2006. (GSP)

Lottery Oversight Committee

S.L. 2006-225 ([HB 2212](#)) creates a committee to oversee lottery operations, including the review of net revenue expenditures, the receipt and review of reports to the General Assembly, and the study of ways to ensure that education funding is not supplanted by lottery revenues. The nine-member Lottery Oversight Committee (Committee) consists of members that are appointed as follows:

- Three members appointed by the Speaker of the House of Representatives, with at least one educator, and at least one person trained or experienced in financial management.
- Three members appointed by the President Pro Tempore of the Senate, with at least one educator, and at least one person trained or experienced in financial management.
- Three members appointed by the Governor, with at least one being an educator, and at least one person trained or experienced in financial management.

The purpose and powers of the Committee include reviewing lottery expenditures to insure compliance with the applicable law; studying ways to ensure that net proceeds will not be used to supplant education funding; receiving and reviewing reports that are submitted to the General Assembly; and studying any other matters that the Committee believes are necessary. The Committee is required to report its analysis and any findings and recommendations to the General Assembly by September 15 of each year.

This act became effective August 10, 2006. (HAP)

Budget Process and Use of State Funds

Tryon Palace Fund/Interest-Bearing

S.L. 2006-180 ([SB 1187](#)) makes the Tryon Palace Historic Sites and Gardens Fund an interest-bearing fund.

The General Assembly created the Tryon Palace Historic Sites and Gardens Fund last session. The fund is non-reverting and consists of the entrance fee receipts. This act makes the fund interest-bearing. At the time of the act's passage, the fund had approximately \$499,445 in it. The rate of return realized on short-term investments for the month of June was 3.39 percent.

This act became effective July 1, 2006. (TG)

State Budget Act

S.L. 2006-203 ([HB 914](#)), as amended by Sec. 40.5 of S.L. 2006-259 ([SB 1523](#), Sec. 40.5) repeals Articles 1 (Executive Budget Act) and 1B (Capital Improvement Planning Act) of Chapter 143 of the General Statutes and enacts a new Chapter 143C (State Budget Act), to simplify, reorganize, and update the current budget statutes, conform the statutes to constitutional provisions governing appropriations, and make other changes. It also incorporates changes that were made to the Executive Budget Act in the 2005 budget and the 2006 continuation budget. The purpose of the new Chapter 143C is to establish procedures for preparing the recommended State budget, enacting the budget, and administering the budget.

Article 1 (General Provisions). - This article titles Chapter 143C as the State Budget Act and applies its provisions to every State agency or non-State entity that receives or spends State funds. This article sets out definitions of important terms used throughout the Chapter. This Article also requires the Office of the State Controller to structure the State's accounting system using the following three fund types promulgated by the Governmental Accounting Standards Board: governmental, proprietary, and agency and trust.

Article 2 (Director of the Budget). - The Governor is deemed the Director of the Budget (Director). This Article provides that the Governor's budgetary powers extend to all State agencies and authorizes the Governor to delegate the authority to perform a budgetary power or duty to the Office of State Budget and Management or to one or more persons. This article also obligates all State agencies and non-State entities to furnish any budget-related information requested by the Governor. State agencies proposing legislation are required to estimate the fiscal impact for the first five years that the legislation would be in effect. It also authorizes the Director, when necessary and with the consent of the Council of State, to direct the State Treasurer to borrow money, in anticipation of tax collections, and to provide for the even payment of appropriations.

Article 3 (Development of the Governor's Recommended Budget). - This article requires the various branches of government, all State agencies, and The University of North Carolina system to submit budget requests to the Director. It further provides that three categories of budget requests require special information. These are as follows:

- A request for repairs and renovations funding. The request must be evaluated by the Department of Administration.
- A request for capital funds. The request must include cash flow requirements and life cycle costing, financing methods, and an estimate of space needs and physical requirements evaluated by the Department of Administration.
- A request for information technology funding. The request must be reviewed and evaluated by the State Chief Information Officer.

This article also directs the Governor and the General Assembly to set a mutually agreeable time for the presentation of the budget recommendations to the General Assembly and specifies the format for the budget recommendations prepared by the Governor.

Article 4 (Budget Requirements). - This article does the following:

- Requires that the budget recommended by the Governor and the budget enacted by the General Assembly be balanced on an annual basis.
- Requires that 25 percent of each year's ending General Fund balance be reserved to the Savings Reserve Account, and provides that the balance can be expended only through an act of appropriation.
- Requires that 25 percent of each year's ending General Fund balance be reserved to the Repairs and Renovations Reserve Account.
- Establishes a Contingency and Emergency Fund from which the Governor, with approval of the Council of State, may make expenditures. Funds may be used to meet emergencies recognized under the Emergency Management Act; to satisfy orders by a court or the Industrial Commission; or for other contingencies and emergencies, including purposes authorized in statute.

- Requires that recipients of an appropriation requiring a match must actually possess the required match amount and must expend a proportionate amount with each disbursement.
- Limits the size of the General Fund operating budget to seven percent of projected total State personal income. The limitation does not affect expenditures for Medicaid, prison operations, or the teachers and State employees health insurance plan.
- Prohibits growth in the number of permanent, full-time equivalent positions in State government at a rate that exceeds the State's residential population growth rate. Public school and community college positions are not included in the computations.

Article 5 (Enactment of the Budget). - This article sets out the procedural requirements for enactment of the budget and requires that the General Assembly enact the Current Operations budget by June 15 in odd-numbered years and June 30 in even-numbered years.

Article 6 (Administration of the Budget). - This article is divided into three parts. The first part addresses the certification requirement and the administration of the budget generally. The second part relates to highway appropriations. The third part sets out the requirements for non-State entities receiving State funds.

Article 7 (Federal and Other Receipts). - This article requires agencies applying for grant funds to furnish a copy of the grant application to the Director of the Budget. All contracts executed in pursuit of a grant must contain a clause specifically stating that funds are subject to appropriation by the General Assembly. It also provides that plans proposing the expenditure of federal Block Grant funds must be submitted to the Director of the Budget, requires the Director of the Budget to submit the plans to the Fiscal Research Division of the General Assembly, and prescribes information that must be included in the plans.

Article 8 (Budgeting Capital Improvement Projects). - This article requires the Office of State Budget and Management to establish a capital improvements planning process. The process must include all of the following:

- A facilities inventory.
- Criteria for evaluating capital needs.
- A six-year needs estimate.
- A six-year plan.
- Specific recommendations for capital projects during the budget year(s).

Article 9 (Special Funds and Fee Reports). - This article does the following:

- Permits the Department of Health and Human Services to accept donated funds from public and private sources for use in the Medicaid program.
- Establishes a special trust fund in the Office of State Budget and Management to meet the mental health, developmental disabilities, and substance abuse services needs of the State.
- Creates a special fund to be known as the Settlement Reserve fund which must be credited portions of the payments due the State under the Master Settlement Agreement. The Settlement Reserve Fund must include a Health Trust Account and a Tobacco Trust Account, from which transfers must be made to the Health and Wellness Trust Fund and the Tobacco Trust Fund.
- Requires the Office of State Budget and Management to prepare an annual report containing comprehensive information about fees charged and collected by State agencies.

Article 10 (Penalties). - This article establishes five criminal offenses. Four are punishable as Class 1 misdemeanors and one is punishable as a Class A1 misdemeanor. Those punishable as Class 1 misdemeanors must be committed knowingly and willfully to be criminal offenses and are as follows:

- Withdraw funds from the State Treasury for any purpose not authorized by an act of appropriation.

- Approve any fraudulent, erroneous, or otherwise invalid claim or bill to be paid from an appropriation.
- Make a written statement, give a certificate, issue a report, or utter a document required by Chapter 143C, any portion of which is false.
- Fail or refuse to perform a duty imposed by this Chapter.

The offense punishable as a Class A1 misdemeanor is making a false statement in violation of G.S. 143C-6-14(c). Under G.S. 143C-6-14(c) a non-State entity that is to receive a grant must file a written statement under oath that the grantee does not have any overdue tax debts before grant funds may be disbursed.

In addition to any criminal penalty imposed, this act also provides that a person convicted of one of these criminal offenses must: (i) forfeit his or her employment and, if the person is an elected State official may be impeached; and (ii) may be sued in a civil action for damages suffered by the State as a result of the criminal violation.

The act also makes numerous technical and conforming amendments.

This act becomes effective July 1, 2007, and applies to the budget for the 2007-2009 fiscal biennium and each subsequent biennium. (TG) (EJ)

Purchase and Contract

Procurement Preference/North Carolina Firms

S.L. 2006-210 ([SB 522](#)) provides that North Carolina architectural, engineering, surveying, and construction management firms must be given a preference in the award of contracts over nonresident firms in the same manner and to the same extent that a preference is granted in awarding contracts for these services by the other state to its resident firms. A North Carolina resident firm is one that has paid unemployment taxes or income taxes in North Carolina and whose principal place of business is located in this State.

This act became effective August 8, 2006. (BR)

Miscellaneous

Notary Public Corrections

S.L. 2006-59 ([HB 1432](#)) and S.L. 2006-199 ([SB 1375](#)). See **Property, Trusts, and Estates**.

Memorial Day Program in the Schools

S.L. 2006-75 ([HB 836](#)). See **Education**.

Liability Protection for State Medical Assistant Teams

S.L. 2006-81 ([HB 2195](#)). See **Health and Human Services**.

Butner Water/Sewer System Transfer/Public Safety

S.L. 2006-159 ([SB 491](#)) transfers the assets of the Butner water and sewer system to the South Granville Water and Sewer Authority on January 1, 2007. The act also provides that Butner

Public Safety is the equivalent of a municipal police department for purposes of cooperation between law enforcement agencies and assistance to State law enforcement agencies.

This act became effective July 23, 2006. (GSP)

Eminent Domain Restrictions

S.L. 2006-224 ([HB 1965](#)). See **Property, Trusts, and Estates**.

Landfill Moratorium and Studies

S.L. 2006-244 ([SB 353](#)). See **Environment and Natural Resources**.

Validate State Law Enforcement of Immigration Laws

S.L. 2006-259, Sec. 24 ([SB 1523](#), Sec. 24) amends G.S. 128-1.1 to allow State and local sworn law enforcement officers to act as federal law enforcement officers for immigration law purposes without violating the dual office holding restrictions under the State Constitution. State and local law enforcement officers are authorized to enforce federal immigration law if the State or the employing local law enforcement agency has entered into a Memorandum of Understanding with the federal government.

This section is retroactively effective to January 1, 2006. Actions taken between January 1, 2006 and August 23, 2006, when this section became law, must be considered as if this section had been in effect and are in all respects validated and confirmed and no office must be considered to have been vacated. (DH)

Clarify 2010 Census Redistricting Data Program

S.L. 2006-264, Sec. 75.5 ([SB 602](#), Sec. 75.5) rewrites the 2005 legislation in which the General Assembly declared its intention to participate in the 2010 Census Redistricting Data Program. The 2005 legislation rewrote G.S. 163-132.1, which is the statute concerning the 2000 Census Redistricting Data Program, to apply to the 2010 program, and repealed parts relating to details of the 2000 program that appeared to be outdated. This section, however, leaves the statute concerning the 2000 program unchanged and creates a separate statute for the 2010 program. The two approaches do the same thing, but the second is designed to avoid any unintended consequences of repealing the old statute.

This section became effective August 27, 2006. (BG)

For a complete list of the studies and reports authorized by the 2006 Session of the 2005 General Assembly, please refer to the Appendix contained in this publication.

Chapter 23

Transportation

Giles S. Perry (GSP), Brenda Carter (BC)

Enacted Legislation

Department of Transportation

Department of Transportation to Provide Weigh-In-Motion Information to State Highway Patrol

S.L. 2006-66, Sec. 21.5 ([SB 1741](#), Sec. 21.5) requires the Department of Transportation (Department) to provide the State Highway Patrol with real-time access to data from all weigh-in-motion sites by October 1, 2006. Specifically, the Department is required to do the following:

- Install wireless access points at each site to allow the State Highway Patrol to station troopers at or near the weigh-in-motion site, capture data on a computer with software and technology capable of receiving the real-time data as it is captured by the weigh-in-motion site, and then take appropriate enforcement action.
- Provide periodic summaries of collected data to assist in monitoring overweight vehicle travel volumes, habits, routes, and date and time information.
- Acquire any necessary software to allow the State Highway Patrol to interface with the existing systems at all weigh-in-motion sites throughout the State.
- Provide access to any new facilities constructed on Department rights-of-way that collect, monitor, seize, or capture any data related to violations of weight, length, or height restrictions.

The State Highway Patrol is to report the effectiveness of the access to the weigh-in-motion sites and the collected data to the Joint Legislative Transportation Oversight Committee by October 1, 2006.

This section became effective July 1, 2006. (BC)

Department of Transportation to Maintain Weigh Stations

S.L. 2006-66, Sec. 21.8 ([SB 1741](#), Sec. 21.8) relieves the Department of Crime Control and Public Safety of the responsibility of maintaining permanent weigh stations. The section provides that the Department of Crime Control and Public Safety will continue to equip and operate the permanent weigh stations, but the Department of Transportation will be responsible for the maintenance and upkeep of those weigh stations.

This section became effective July 1, 2006. (BC)

Department of Transportation Performance-Based Maintenance Contract Bonds

S.L. 2006-67 ([HB 1834](#)) authorizes the Department of Transportation to modify the bonding requirements for two performance-based contracts for routine maintenance and operations authorized by a 2005 budget provision.

This act became effective July 1, 2006. (GSP)

Department of Transportation Contract Provision Changes

S.L. 2006-68 ([HB 1835](#)) amends current law governing the use of alternate contract provisions in Department of Transportation contracts. The Department is authorized by federal law to use alternative contract provisions for differing site conditions, suspensions of work ordered by the engineer, or significant changes in the character of the work, if the alternative contract provisions are required by State law. This act modifies the State law requirement to use alternate contract provisions in two ways: by correcting a federal code reference, and by changing the source of the alternative contract provisions to provisions developed by the Department and approved by the Board of Transportation.

This act became effective July 1, 2006. (GSP)

Various Transportation/Motor Vehicle Law Changes

S.L. 2006-135 ([HB 1399](#)) does the following: specifies that the weight exception for wood residuals applies to material originating from sites with or without scales; exempts from registration all trailers transporting vegetables, fruits, greenhouse, and nursery plants and flowers, and Christmas trees; authorizes the Department of Transportation to enter into interlocal agreements with units of local government to expedite transportation projects currently programmed in the Transportation Improvement Plan; and requires the Department to report to the Joint Legislative Transportation Oversight Committee by December 1, 2006, on any agreements executed with units of local government pursuant to this act.

This act became effective July 19, 2006. (GSP)

Department of Transportation Lease Property Near Holden Beach Bridge

S.L. 2006-157 ([HB 2868](#)) authorizes the Department of Transportation to lease to another party a portion of the airspace under and adjacent to the mainland side of the Holden Beach Bridge in Brunswick County. Terms of the lease will be negotiated between the two parties.

This act became effective July 23, 2006. (BC)

Department of Transportation Agreements/No Sticker Fee

S.L. 2006-230 ([HB 749](#)) authorizes the Department of Transportation (Department) to enter into partnership agreements with the North Carolina Turnpike Authority, private entities, and authorized political subdivisions to finance, by tolls or other financing methods authorized by law, the cost of acquiring, constructing, equipping, maintaining, and operating highways and bridges, if approved by the Board of Transportation.

The act also provides that placement of a replacement vehicle inspection sticker on a replacement windshield by a registered windshield replacement business is not subject to the inspection sticker fee.

The provisions of this act concerning Department partnership agreements became effective August 1, 2006. The provisions of this act concerning replacement sticker fees become effective July 1, 2007. (GSP)

Department of Transportation Airspace Encroachment/City of Rocky Mount

S.L. 2006-236 ([HB 643](#)) authorizes the Department of Transportation to permit private use and encroachment of the airspace above State Road 1250, also known as Springfield Road, in the City of Rocky Mount, for the purpose of constructing a material conveyance system.

This act became effective August 13, 2006. (GSP)

Amend Transportation Corridor Map Act

S.L. 2006-237 ([HB 859](#)) authorizes the adoption or amendment of a transportation corridor official map by the Wilmington Urban Area Metropolitan Planning Organization for any project within its urbanized boundary and identified in the list of projects contained in G.S. 136-179.

This act became effective August 13, 2006. (GSP)

Department of Transportation Secondary Road Formula Change

S.L. 2006-258 ([HB 1825](#)) delays implementation of the revised Department of Transportation secondary road fund distribution formula to July 1, 2007; authorizes the Department, beginning July 1, 2007, to pave secondary roads on a reduced right-of-way, if the applicable Division Engineer determines it can be done safely; requires the Department, beginning in the 2006-2007 fiscal year and until the 2009-2010 fiscal year, to set aside up to \$5 million to pay for the paving of any unpaved secondary road that had been previously determined to be ineligible for paving; and directs the Joint Legislative Transportation Oversight Committee to study the cost of paving and maintenance of paved and unpaved secondary roads in different geographic areas of the State, and report its findings by March 1, 2007.

The portions of this act delaying the secondary road formula and authorizing paving on a reduced right-of-way become effective July 1, 2007. The remainder of this act became effective August 23, 2006. (GSP)

General Contractor License Exceptions/Department of Transportation

S.L. 2006-261 ([HB 1827](#)). See **State Government**.

Drivers Licenses

Protect Children/Sex Offender Law Changes

S.L. 2006-247, Sec. 19 ([HB 1896](#), Sec. 19). See **Criminal Law and Procedure**.

Eight-Year Drivers License Renewal

S.L. 2006-257 ([HB 267](#)) makes changes to the law concerning the duration and renewal of drivers licenses. A full provisional license issued to a person under the age of 18 will expire on the person's 21st birthday. A drivers license issued to a person at least 18 but less than 54 years old will expire 8 years after the date of issuance. A drivers license issued to a person at least 54

years old will expire 5 years after the date of issuance. A drivers license issued to a person who holds a visa of limited duration will be issued for the duration of the visa only. The act provides that an applicant for a drivers license will be issued a 20-day driving certificate; the drivers license will then be sent by mail to the applicant's residence address.

Provisions concerning the duration and renewal of licenses become effective January 1, 2007. The provision concerning issuance of a temporary driving certificate and the subsequent mailing of the drivers license becomes effective July 1, 2008. (BC)

Drivers License Change - No Individual Taxpayer Identification Number

S.L. 2006-264, Sec. 35.2 ([SB 602](#), Sec. 35.2) amends the drivers license laws of the State. Prior law required that persons applying for an identification card, learners permit, or drivers license provide a valid Social Security number, or, if the applicant did not have a Social Security number, a valid individual taxpayer identification number (ITIN) issued by the Internal Revenue Service. This section eliminates the option of providing an ITIN, and therefore requires all applicants to provide a valid Social Security number with the exception of persons who are lawfully present in the United States under a valid visa of limited duration. In addition, this section requires a drivers license issued to a person lawfully present in the United States on a visa of limited duration to expire no later than the expiration of the applicant's lawful presence in the United States.

This section became effective August 27, 2006. (GSP)

License Plates/Vehicle Registration

Various Special Plates

S.L. 2006-209 ([SB 1373](#)) authorizes the Division of Motor Vehicles (DMV) to issue one free registration plate to recipients of a Legion of Valor award. Legion of Valor awards include the Congressional Medal of Honor, the Distinguished Service Cross, the Navy Cross, or the Air Force Cross. The act authorizes the DMV to issue an International Association of Fire Fighters special plate to a surviving spouse. The DMV may issue a Retired Highway Patrol plate to a surviving spouse who applies for the plate within a specified period. The act increases the fee for a Breast Cancer Awareness special plate and provides that \$10 of the fee will be transferred to support services for the early detection of breast cancer.

The act also authorizes the DMV to issue a number of new special registration plates, including the following: Carolina's Aviation Museum, Emergency Medical Technician, Fox Hunting, Gold Star, Greyhound Friends of North Carolina, Kappa Alpha Psi Fraternity, Leukemia & Lymphoma Society, Lung Cancer Research, North Carolina Children's Promise, Prince Hall Mason, Support Our Troops, and the United States Equine Rescue League. The Division must receive 300 or more applications for a special plate before the plate may be developed. The act specifies the additional fee amount for each special plate, and provides for the distribution of those funds.

This act became effective August 8, 2006. The additional fee for the Breast Cancer Awareness special plate becomes effective January 1, 2007, and applies to plates issued or renewed after that date. (BC)

Vehicle Registration Restoration Fee and Penalty for Insurance Lapse Waived for Deployed Armed Forces

S.L. 2006-264, Sec. 38 ([SB 602](#), Sec. 38) provides that monetary penalties and restoration fees for vehicle registrations revoked for lapses in insurance coverage are waived,

and no insurance points may be assessed, for any person who, at the time of notification of the lapse in insurance coverage, was deployed as a member of the United States Armed Forces for 45 or more days. In addition, this section provides an affirmative defense to any criminal charge based on failure to return a registration card or plate as a result of a lapse, if the person qualifies for waiver under this section; provides for re-registration without a fee from the Division of Motor Vehicles; and provides that upon notice of revocation, a service member may transfer registration to a specified family member.

This section became effective August 27, 2006. (GSP)

Motor Vehicle Law

Seat Belt Use Enhancements

S.L. 2006-140 ([SB 774](#)), with limited exceptions, requires all occupants of a motor vehicle manufactured with seat belts to wear a seat belt when the vehicle is in forward motion. This includes commercial vehicle drivers and back seat passengers 16 years of age or older, who were not previously required to wear a seat belt. Specified exceptions continue: persons with certain medical conditions; rural letter carriers and others who make frequent stops while not driving over 20 mph; and certain agricultural property-carrying vehicles. Except for the driver and front seat passengers, occupants of a motor home will not be required to wear seat belts. Any driver or front seat passenger who fails to wear a seat belt as required still will be subject to a fine of \$25 and court costs in the sum of \$50. Rear seat passengers who fail to wear a seat belt as required will pay a fine of \$10 and no court costs.

This act becomes effective December 1, 2006, and applies to offenses committed on or after that date. From December 1, 2006, to June 30, 2007, law enforcement agencies must issue warnings only with respect to seat belt violations by rear seat passengers. (BC)

No Prayer for Judgment/Bus Stop Arm Violation

S.L. 2006-160 ([HB 2880](#)). See **Courts, Justice, and Corrections**.

Cell Phone Use by Drivers under 18 Prohibited

S.L. 2006-177 ([SB 1289](#)) prohibits a person under the age of 18 from using a mobile telephone while operating a motor vehicle on a public street, highway, or public vehicular area. The prohibition does not apply to a stationary vehicle. The prohibition extends to both handheld and hands-free phones, as well as other technology associated with a mobile telephone such as emails, games, or digital cameras associated with the phone. The prohibition does not extend to the use of a mobile telephone to call:

- the parent, legal guardian, or spouse of the motor vehicle operator, or
- any of the following in an emergency situation: a 911 operator; a hospital, doctor's office, or health clinic; an ambulance service; a fire department; or a law enforcement agency.

A violation is an infraction for which the driver would be assessed a fine of \$25. The driver will not have to pay court costs and will not be assessed insurance or drivers license points. A person with a Level 1 or Level 2 limited provisional license will remain for an additional 6 months at his or her current level of graduated license.

This act becomes effective December 1, 2006, and applies to offenses committed on or after that date. (BC)

Lapse in Liability Insurance

S.L. 2006-213 ([SB 881](#)). See **Insurance**.

Governor's Driving While Impaired Task Force Recommendations

S.L. 2006-253 ([HB 1048](#)). See **Criminal Law and Procedure**.

All Terrain Vehicle Use by Supplier of Retail Electric Service While Engaged in Power Line Inspection

S.L. 2006-259, Sec. 10 ([SB 1523](#), Sec. 10). See **Labor and Employment**.

Toll Roads

Repeal Toll Bridge Authority

S.L. 2006-228 ([SB 1381](#)): repeals the North Carolina Bridge Authority; repeals the authorization for the Department of Transportation to issue a private pilot toll project license; authorizes conversion of a segment of I-540 under construction in Wake and Durham Counties to a toll facility, if approved by the local Metropolitan Planning Organization or Rural Planning Organization; requires toll revenue from the converted segment to be used for funding or financing of the right-of-way acquisition, construction, expansion, operations, maintenance, and Turnpike Authority administration costs associated with the converted segment of I-540 or a contiguous toll facility; authorizes the Turnpike Authority to construct six specific toll projects; and grants authority to the Turnpike Authority and its contractors to enter property for surveys related to its projects.

This act became effective August 10, 2006. (GSP)

Other

Motor Fuels Tax Cap

S.L. 2006-66, Sec. 24.3 ([SB 1741](#), Sec. 24.3). See **Finance**.

Revenue Laws Technical and Motor Fuel Tax Changes

S.L. 2006-162 ([HB 1963](#)). See **Finance**.

State Energy Use Planning/Energy Assistance

S.L. 2006-206, Part I ([SB 2051](#), Part I). See **Environment and Natural Resources**.

Safe Transportation for School Students

S.L. 2006-208 ([HB 1155](#)). See **Education**.

Studies

Legislative Research Commission

Legislative Research Commission Red Light Camera Study

S.L. 2006-189, Sec. 2 ([SB 1442](#), Sec. 2) authorizes the Legislative Research Commission to study the impact of the various decisions of the North Carolina courts on the definition of "clear proceeds" as it relates to the funding and operation of traffic control photographic systems by cities and towns in the State. It also authorizes the Commission to recommend to the General Assembly statutory changes that define clear proceeds in a manner that allows their use for the continued operation of these traffic control systems.

This section became effective August 3, 2006. (GSP)

Various Legislative Research Commission Studies on Transportation Related Issues

S.L. 2006-248, Sec. 2.1(2) ([HB 1723](#), Sec. 2.1(2)) authorizes the Legislative Research Commission to study: a ban on cell phone use while driving; exemptions from safety and emissions inspections; and the environmental review, permitting, and mitigation process in the construction or expansion of State highways.

This section became effective August 16, 2006. (GSP)

New/Independent Studies/Commissions

Joint Legislative Commission on Expanding Rail Service

S.L. 2006-248, Part XLIX ([HB 1723](#), Part XLIX) creates the 16-member Joint Legislative Commission on Expanding Rail Service (Commission). The Commission must study matters related to expanding rail service in North Carolina, including:

- The cost and benefits of expanding and upgrading rail service in the State, including the effect the expanded service would have on economic development.
- The feasibility, cost, and benefits of establishing commuter rail service in the State to transport workers to cities from outlying areas, including the effect the commuter service would have on increasing the economic opportunities of those who live in the outlying areas.
- The cost and benefits of expanding passenger rail service to the western and eastern areas of the State, including the effect the expanded service would have on tourism.
- Ways to preserve unused or abandoned rail corridors for future rail needs.
- Spurring economic development and tourism through further development of short line railroads.

The Commission is directed to make a final report of its findings and recommendations to the 2007 General Assembly. Upon the filing of its final report, the Commission will terminate.

This part became effective August 16, 2006. (GSP)

Referrals to Existing Commissions/Committees

Various Joint Legislative Transportation Oversight Committee Studies

S.L. 2006-248, Part IV ([HB 1723](#), Part IV) authorizes the Joint Legislative Transportation Oversight Committee to study utility relocation, nonbetterments, and dedicated funding sources for public transit.

This part became effective August 16, 2006. (GSP)

Joint Environmental Review Commission-Joint Legislative Transportation Oversight Committee Study

S.L. 2006-248, Sec. 16 ([HB 1723](#), Sec. 16). See **Environment and Natural Resources**.

Joint Legislative Transportation Oversight Committee Study Cost of Paving and Maintenance of Secondary Roads

S.L. 2006-258, Sec. 5 ([HB 1825](#), Sec. 5) directs the Joint Legislative Transportation Oversight Committee to study the cost of paving and maintenance of paved and unpaved secondary roads in different geographic areas of the State and report its findings by March 1, 2007.

This section became effective August 23, 2006. (GSP)

Referrals to Departments, Agencies, Etc.

Voice Interoperability Plan for Emergency Responders Radio Program Report

S.L. 2006-66, Sec. 21.9 ([SB 1741](#), Sec. 21.9) directs the Criminal Justice Information Network to prepare a cost allocation plan for the continued construction and operation or the leasing of the VIPER (Voice Interoperability Plan for Emergency Responders) radio system. This section requires the Network to submit its report to the Joint Legislative Transportation Oversight Committee, the Chairs of both the Appropriations Subcommittees for Transportation and Justice and Public Safety, and the Fiscal Research Division by October 1, 2006.

This section became effective July 10, 2006. (GSP)

Division of Motor Vehicles Study

S.L. 2006-248, Sec. 11 ([HB 1723](#), Sec. 11) directs the Division of Motor Vehicles of the Department of Transportation to study a method to implement a voluntary disability designation on drivers licenses, State-issued identification cards, and vehicle registrations. The Division is required to report to the General Assembly, no later than June 1, 2007, on the method developed and the schedule for implementation of the designation.

This section became effective August 16, 2006. (GSP)

For a complete list of the studies and reports authorized by the 2006 Session of the 2005 General Assembly, please refer to the Appendix contained in this publication.

Chapter 24 Utilities

Kory Goldsmith (KG), Steve Rose (SR)

Enacted Legislation

Streamlined Sales Tax Definitions/Sales Tax Payments

S.L. 2006-33 ([HB 1915](#)). See **Finance**.

Reduce Sales Tax on Electricity Sold to Manufactures

S.L. 2006-66, Sec. 24.19 ([SB 1741](#), Sec. 24.19). See **Finance**.

Video Service Competition Act

S.L. 2006-151 ([HB 2047](#)). See **Finance**.

Butner Water/Sewer System Transfer/Public Safety

S.L. 2006-159 ([SB 491](#)). See **State Government**.

Water/Utilities Savings in Government Facilities

S.L. 2006-190 ([SB 402](#)) expands the types of utilities that are subject to the conservation methods authorized for State facilities. In addition to energy, the act adds water and other utilities. It also increases, from \$50 million to \$100 million, the aggregate total principal amount payable by the State on guaranteed energy savings contracts and extends the maximum length of a financing contract from 12 to 20 years. It also directs that when a State facility or State-assisted facility of 20,000 gross square feet or more replaces its heating, ventilation, or air conditioning equipment, it must conduct a life-cycle cost analysis of the replacement equipment if the replacement is financed with a guaranteed energy savings contract or is financed using repair and renovation funds.

This act became effective August 3, 2006, and applies to contracts entered into or renewed on or after that date. (SR)

Amend Sanitary District Authority

S.L. 2006-214 ([HB 2164](#)). See **Environment and Natural Resources**.

Studies

Joint Legislative Utility Review Committee Studies

S.L. 2006-248, Part VI, Secs. 6.1 through 6.2 ([HB 1723](#), Part VI, Secs. 6.1 through 6.2) direct the Joint Legislative Utility Review Committee to study the following topics and make recommendations to the 2007 General Assembly:

- Mechanisms for increased accountability for the collection and spending of 911 charges by local governments.
 - Modification of what constitutes an authorized expenditure from a local Emergency Telephone System Fund.
 - Whether to adopt a statewide uniform 911 charge.
 - Whether to create a State Emergency Telephone Fund and a formula for distributing those moneys to local governments.
 - Whether to designate the Community College System as the preferred provider of training for public safety answering point staff.
 - Any other issues related to the Article the Committee determines are relevant.
- This section became effective August 16, 2006. (KG)

For a complete list of the studies and reports authorized by the 2006 Session of the 2005 General Assembly, please refer to the Appendix contained in this publication.

Chapter 25
Vetoed Legislation

Jennifer McGinnis (JLM)

Access to State Facilities

([SB 542](#)) would have mandated access to State facilities, and State employees, for employee associations with more than 40,000 members for the purposes of membership recruitment, member consultation, and certain products such as insurance products sold by the associations.

On August 21, 2006, Governor Michael F. Easley vetoed the bill. The Governor stated the following regarding his veto:

"The floor of 40,000 members is substantially higher than other statutory requirements for minimum memberships of employee associations. This and other qualifications in the legislation would therefore have the practical effect of giving exclusive access to State facilities to only one employee association of the many who currently represent the interests of public employees. Such a prohibition is patently unfair and jeopardizes employee rights to free association.

By enumerating the right of certain associations to have access to State facilities and employees to sell products offered on the commercial market, the legislation would also give an unfair competitive advantage to insurers affiliated with these particular employee associations. This provision, at the very least, gives an appearance of endorsement of these products by the State of North Carolina, which is inaccurate and therefore not acceptable.

I have signed an executive order directing all State entities under my control and encouraging all other governmental entities to provide the reasonable access that this legislation attempts to afford employee associations if they meet current statutory requirements for payroll withholding.

Since Executive Order 105 satisfies the core legislative intent of providing access among employees and their employee associations, while ensuring fairness, this legislation is not necessary." (JLM)

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APPENDIX

STUDIES AND REPORTS AUTHORIZED BY 2006
SESSION

**Legislative Study Commissions
and Committees**

STUDIES & REPORTS DIRECTED OR AUTHORIZED BY THE 2006 NC GENERAL ASSEMBLY

BOARD, COMMISSION, COMMITTEE OR DEPARTMENT- ISSUES	REPORTING DATE	STATUTORY AUTHORITY
<p><u>Administration, Department of</u></p> <ul style="list-style-type: none"> ✓ Old Revenue Building Redesign Study ✓ State Facilities Master Plan 	<p>Shall report to the Joint Legislative Commission on Governmental Operations by November 1, 2006</p> <p>Shall report the plan to the Joint Legislative Oversight Committee on Capital Improvements by October 1, 2007</p>	<p>S.L. 2006-66 § 17.4.</p> <p>S.L. 2006-66 § 23.10.(c).</p>
<p><u>Administrative Hearings, Office of</u></p> <ul style="list-style-type: none"> ✓ Children With Special Needs, Mediation Conferences of (In cooperation with the Department of Education's Division of Exceptional Children) 	<p>Shall report to the House Select Committee on the Education of Students With Disabilities by November 15, 2006</p>	<p>S.L. 2006-69 § 6.(b).</p>
<p><u>Administrative Office of the Courts</u></p> <ul style="list-style-type: none"> ✓ Representation in Family Law and Civil Court (In cooperation with the Equal Access to Justice Commission, North Carolina Bar Association, North Carolina Legal Services Planning Council, Legal Aid of North Carolina, Inc., North Carolina Justice Center, and Pisgah Legal Services, Inc.) ✓ Self-Serve Centers (In cooperation with the North Carolina Bar Association, the North Carolina Legal Services Planning Council, Legal Aid of North Carolina, Inc., the North Carolina Justice Center and Pisgah Legal Services) 	<p>Shall report to the Joint Appropriations Subcommittee on Justice and Public Safety by December 31, 2007</p> <p>Shall report to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by December 31, 2007</p>	<p>S.L. 2006-187 § 10.</p> <p>S.L. 2006-248 § 35.</p>
<p><u>Advanced Vehicle Research Center</u></p> <ul style="list-style-type: none"> ✓ Budget Report, Detailed 	<p>Shall provide to the Office of state Budget and Management. Information will be provided by written request to the Chairmen of the Joint Legislative Commission on Governmental Operations, the Chairmen of the House Appropriations Subcommittee on Environment Health and Natural Resources, and the Chairmen of the Senate Appropriations Committee on Natural and Economic Resources</p>	<p>S.L. 2006-66 § 12.5.</p>

<p><u>Advanced Vehicle Research Center - CONTINUED</u></p> <ul style="list-style-type: none"> ✓ Financial Statement and IRS Form 990, Annual ✓ Report of Activities and Expenditures 	<p>Shall provide to the Governor, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division within 30 days of statement issuance</p> <p>Shall report to the Governor, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division by April 20, 2007</p>	<p>S.L. 2006-66 § 12.5.</p> <p>S.L. 2006-66 § 12.5.</p>
<p><u>Agriculture and Consumer Services, North Carolina Department of</u></p> <ul style="list-style-type: none"> ✓ Agribusiness Funds Report (In cooperation with Department of Commerce) ✓ Dairy Stabilization and Growth Program 	<p>Shall report to the House Appropriations Committee on Environment, Health, and Natural Resources, the Senate Appropriations Committee on Natural and Economic Resources and the Fiscal Research Division by May 1, 2007</p> <p>Shall report annually to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Natural and Economic Resources by March 31 of each year</p>	<p>S.L. 2006-66 § 12.7.(d).</p> <p>S.L. 2006-139 § 2.</p>
<p><u>Attorney General, Office of</u></p> <ul style="list-style-type: none"> ✓ Cable Service Complaints ✓ Consumer Protection Division Staffing Due to Number of Complaints by the Impact of Consumer Choice in Video Programming Services 	<p>Shall report to the Revenue Laws Study Committee by April 1 of each year beginning April 1, 2008</p> <p>Shall report to the Fiscal Research Division by April 1, 2007</p>	<p>S.L. 2006-151 § 18.</p> <p>S.L. 2006-151 § 17.</p>
<p><u>Bar Association, North Carolina</u></p> <ul style="list-style-type: none"> ✓ Self-Serve Centers (In cooperation with the Administrative Office of the Courts, the North Carolina Legal Services Planning Council, Legal Aid of North Carolina, Inc., the North Carolina Justice Center and Pisgah Legal Services) 	<p>Shall report to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by December 31, 2007</p>	<p>S.L. 2006-248 § 35.</p>

<p><u>Bar Association, North Carolina - CONTINUED</u></p> <ul style="list-style-type: none"> ✓ Representation in Family Law and Civil Court (In cooperation with the Administrative Office of the Courts, the Equal Access to Justice Commission, North Carolina Legal Services Planning Council, Legal Aid of North Carolina, Inc., North Carolina Justice Center, and Pisgah Legal Services, Inc.) ✓ Self-Serve Centers (In cooperation with the Administrative Office of the Courts, the North Carolina Legal Services Planning Council, Legal Aid of North Carolina, Inc., the North Carolina Justice Center and Pisgah Legal Services) 	<p>Shall report to the Joint Appropriations Subcommittee on Justice and Public Safety by December 31, 2007</p> <p>Shall report to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by December 31, 2007</p>	<p>S.L. 2006-187 § 10.</p> <p>S.L. 2006-248 § 35.</p>
<p><u>Business Certification Task Forces, Historically Underutilized</u></p> <p style="text-align: center;">CREATED</p> <ul style="list-style-type: none"> ✓ Report of Findings and Recommendations 	<p>Shall report to the Secretary of the Department of Administration before November 1, 2007</p>	<p>S.L. 2006-248 § 25.6.</p>
<p><u>Capital Improvements, Joint Legislative Committee on</u></p> <ul style="list-style-type: none"> ✓ Energy and Water Conservation in State-Owned Facilities, Improve 	<p>Shall report to the 2007 General Assembly by February 1, 2007</p>	<p>S.L. 2006-206 § 4.1.</p>
<p><u>Correction, Department of</u></p> <ul style="list-style-type: none"> ✓ Sex Offenders, Mental Health Treatment for Incarcerated 	<p>Shall submit a preliminary report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services by January 15, 2007 and a final report to the Joint Legislative Oversight Committee and the 2007 General Assembly by October 1, 2007</p>	<p>S.L. 2006-247 § 18.</p>
<p><u>Corrections, Crime Control, and Juvenile Justice Oversight Committee, Joint Legislative</u></p> <ul style="list-style-type: none"> ✓ Expungement for Non-Violent Felons 	<p>May report to the 2007 General Assembly upon its convening</p>	<p>S.L. 2006-248 § 54.</p>

<p><u>Council of Government</u></p> <ul style="list-style-type: none"> ✓ Report of Activities and Expenditures 	<p>Shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division by January 15, 2007 and quarterly thereafter</p>	<p>S.L. 2006-66 § 12.4.</p>
<p><u>Council of Women, North Carolina</u></p> <ul style="list-style-type: none"> ✓ Feasibility of Combining Funding Sources, Examine (In cooperation with the Domestic Violence Commission) 	<p>Shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on General Government and the Joint Legislative Commission on Governmental Operations by February 1, 2007</p>	<p>S.L. 2006-66 § 17.1.</p>
<p><u>Courts Commission, North Carolina</u></p> <ul style="list-style-type: none"> ✓ Organization of the General Court of Justice into Districts and Divisions, Study the 	<p>Shall report to the 2007 General Assembly</p>	<p>S.L. 2006-248 § 31.</p>
<p><u>Crime Control and Public Safety, Department of</u></p> <ul style="list-style-type: none"> ✓ Gang Violence, Grants to Prevent 	<p>Shall report to the Chairs of the Senate and the House of Representatives Appropriations Committees and the Chairs of the Senate and of the House of Representatives Appropriations Subcommittees on Justice and Public Safety by April 1, 2007</p>	<p>S.L. 2006-66 § 16A.1.(b).</p>
<p><u>Criminal Justice Information Network (CJIN)</u></p> <ul style="list-style-type: none"> ✓ Viper Radio Program 	<p>Shall report to the Legislative Transportation Oversight Committee, the Chairs of the Senate and House of Representatives Appropriations Subcommittees for Transportation and Justice and Public Safety and the Fiscal Research Division by October 1, 2006</p>	<p>S.L. 2006-66 § 21.9.</p>
<p><u>Cultural Resources, Department of</u></p> <ul style="list-style-type: none"> ✓ Cultural Sharing and Caring Program ✓ Graveyard of the Atlantic Museum 	<p>Shall report to the Joint Legislative Commission on Governmental Operations by November 1, 2006</p> <p>Shall report to the 2007 General Assembly upon it convening</p>	<p>S.L. 2006-66 § 17A.1.</p> <p>S.L. 2006-248 § 23.</p>

<p><u>Day Care and Related Programs, Study Commission on</u></p> <p style="text-align: center;">CREATED</p> <ul style="list-style-type: none"> ✓ Report of Findings and Recommendations 	<p>Shall report to the 2007 General Assembly by December 31, 2006</p>	<p>S.L. 2006-248 § 56.5.</p>
<p><u>Division TEACCH</u></p> <ul style="list-style-type: none"> ✓ Public School Personnel Communication Concerning Disabilities, Study of (In cooperation with the North Carolina Justice Academy and the State Board of Education) 	<p>Shall report to the 2007 General Assembly Upon its convening</p>	<p>S.L. 2006-248 § 51.</p>
<p><u>Domestic Violence Commission</u></p> <ul style="list-style-type: none"> ✓ Feasibility of Combining Funding Sources, Examine (In cooperation with the North Carolina Council for Women) 	<p>Shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on General Government and the Joint Legislative Commission on Governmental Operations by February 1, 2007</p>	<p>S.L. 2006-66 § 17.1.</p>
<p><u>Dorothea Dix Hospital Property Study Commission</u></p> <ul style="list-style-type: none"> ✓ Land Use Review and Recommendations ✓ State Facilities Master Plan/Dix Complimentary Uses 	<p>Consultant shall report to the Commission by November 1, 2006. The Commission shall report its recommendations upon the convening of the 2007 Regular Session of the 2007 General Assembly</p> <p>Shall report to the 2007 General Assembly by January 31, 2007</p>	<p>S.L. 2006-66 § 23.10.(d).</p> <p>S.L. 2006-248 § 21.</p>
<p><u>E-NC Authority</u></p> <ul style="list-style-type: none"> ✓ Program Development and Evaluation of Programs of Funds Appropriated to the Department of Commerce ✓ Program Development and Evaluation of Programs of Funds Appropriated to the Rural Economic Development Center, Inc. 	<p>Shall report to the Joint Legislative Commission on Governmental Operations by September 30, 2006 and quarterly thereafter</p> <p>Shall report to the Joint Legislative Commission on Governmental Operations by January 31, 2006 and quarterly thereafter</p>	<p>S.L. 2006-66 § 12.3.(c).</p> <p>S.L. 2006-66 § 12.3.(b).</p>

<p><u>Economic Development Infrastructure, Study Commission on</u></p> <p style="text-align: center;">CREATED</p> <p>✓ Report of Findings and Recommendations</p>	<p>Shall report to 2007 General Assembly upon its convening</p>	<p>S.L. 2006-248 § 27.8.</p>
<p><u>Economic Investment Committee</u></p> <p style="text-align: center;">CREATED</p> <p>✓ Job Development Investment Grant Program</p>	<p>Shall report to the Senate Finance Committee, the House of Representatives Finance Committee, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Division no later than March 1 annually</p>	<p>S.L. 2006-168 § 1.4.</p>
<p><u>Education, State Board of</u></p> <p>✓ ABC's of Public Education, Funds to Implement Incentive Award Structure for Extraordinary Performance</p> <p>✓ ABC's of Public Education; Funds to Implement Restructuring of Assistance Program</p> <p>✓ Children With Disabilities</p> <p>✓ Children With Special Needs, Mediation Conferences of (In cooperation with the Division of Exceptional Children and the Office of Administrative Hearings)</p> <p>✓ Math and Science Teachers Pilot Program Report, Salary Supplement for</p> <p>✓ Public School Personnel Communication Concerning Disabilities, Study of (In cooperation with Division TEACCH and the North Carolina Justice Academy)</p> <p>✓ School Psychologists with National Certification Study, The Compensation of</p>	<p>Shall provide a preliminary report on its findings and recommendations to the Joint Legislative Education Oversight Committee by December 15, 2006</p> <p>Shall report to the Joint Legislative Education Oversight Committee and the Joint Legislative Commission on Governmental Operations by January 15 2007</p> <p>Shall report annually to the Joint Legislative Education Oversight Committee by October 15 of each year. The report may be filed electronically</p> <p>Shall report to the House Select Committee on the Education of Students With Disabilities by November 15, 2006</p> <p>Shall report to the Joint Legislative Education Oversight Committee on the design of the pilot program prior to implementation and shall report on the implementation of the pilot program by January 15, 2007</p> <p>Shall report to the 2007 General Assembly upon its convening</p> <p>Shall report the results to the Joint Legislative Education Oversight Committee prior to January 15, 2007</p>	<p>S.L. 2006-66 § 7.6.(c).</p> <p>S.L. 2006-66 § 7.6.(b).</p> <p>S.L. 2006-66 § 2.</p> <p>S.L. 2006-69 § 6.(b).</p> <p>S.L. 2006-66 § 7.21.(d).</p> <p>S.L. 2006-66 § 7.22.</p> <p>S.L. 2006-248 § 51.</p>

<u>Education Oversight Committee, Joint Legislative</u>		
✓ Child Nutrition Services	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 5.4.
✓ Children With Special Needs, Class Size Funding Formula for	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 5.5.
✓ Civics Education	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 5.12.
✓ Community College Tuition, Reciprocity	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 5.17.
✓ Compulsory School Attendance, Raising the	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 5.3.
✓ Corporal Punishment Policies	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 5.9.
✓ Disadvantaged Students, Joint Education Leadership Team for	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 5.14.
✓ Education Districts, Changes in	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 5.2.
✓ Education Facility Financing	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 5.15.
✓ High School Graduation/Drop Out Rate	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 5.22.
✓ Local School Construction Financing	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 5.18.
✓ Lottery Winnings/Community College Equipment, Tax on	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 5.20.
✓ Sales Tax Exemption for Local School Units	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 5.21.
✓ School Admission/Assignment, Information Requirements for	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 5.13.
✓ School Counselors, Policy Delineating the Job Description and Performance Criteria for	Shall report to the Joint Legislative Education Oversight Committee by November 1, 2007	S.L. 2006-571 § 2.
✓ School Psychologists	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 5.16.
✓ Sound Basic Education	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 5.23.
✓ Student Mobility on Academic Performance, Impact of	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 5.7.
✓ Suspended Students, Appropriate Education for	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 5.8.
✓ Teacher Assistant Salary Schedule	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 5.19.

<p><u>Education Oversight Committee, Joint Legislative - CONTINUED</u></p> <ul style="list-style-type: none"> ✓ Targeting Educational Programs and Resources, Strategies for ✓ Track Students Through Education ✓ Workforce Preparation in the Public Schools 	<p>May report to the 2007 General Assembly upon its convening</p> <p>May report to the 2007 General Assembly upon its convening</p> <p>May report to the 2007 General Assembly upon its convening</p>	<p>S.L. 2006-248 § 5.10.</p> <p>S.L. 2006-248 § 5.6.</p> <p>S.L. 2006-248 § 5.11.</p>
<p><u>Environment and Natural Resources, Department of</u></p> <ul style="list-style-type: none"> ✓ Animal Waste Management Systems Technical Specialists ✓ Cabin Lake State Park, Proposed ✓ Dangerous Animals, Study Inherently ✓ Environmental Permit Applications ✓ Grassroots Science Program ✓ Mitigation of Flooding in Certain Areas ✓ Reducing Emissions of Oxides of Nitrogen, Particulate Matter, and Greenhouse Gasses from Motor Vehicles, Study of Costs and Benefits of ✓ Resident Inspectors Program 	<p>Shall report to the Environmental Review Commission by November 15, 2006</p> <p>Shall report to the Environmental Review Commission by January 15, 2007</p> <p>Shall report to the 2007 General Assembly upon its convening</p> <p>Shall report to the Environmental Review Commission and the Fiscal Research Division annually by March 1</p> <p>Shall report to the Fiscal Research Division the operating budget for the 2004-2005 fiscal year, the operating budget for the 2005-2006 fiscal year, and total museum attendance during the 2005 calendar year by March 1, 2006.</p> <p>Shall report to the Fiscal Research Division the operating budget for the 2005-2006 fiscal year, the operating budget for the 2006-2007 fiscal year, and total museum attendance during the 2006 calendar year by March 1, 2007</p> <p>Shall report in consultation with the Fiscal Research Division to the Appropriations Subcommittees on Natural and Economic Resources in both the Senate and the House of Representatives by January 15, 2007</p> <p>Shall report to the 2007 General Assembly</p> <p>Division of Air Quality shall submit an interim report by January 15, 2007 and shall submit a final report by April 1, 2007 to the Environmental Review Commission and the Legislative Commission on Global Climate Change</p> <p>Shall report annually to the Environmental Review Commission by October 1</p>	<p>S.L. 2006-38 § 2.</p> <p>S.L. 2006-138 § 3.</p> <p>S.L. 2006-248 § 32.2.</p> <p>S.L. 2006-79 § 14.</p> <p>S.L. 2006-66 § 12.5.(a).</p> <p>S.L. 2006-66 § 11.3.(a).</p> <p>S.L. 2006-66 § 11.3.(c).</p> <p>S.L. 2006-248 § 30.</p> <p>S.L. 2006-248 § 43.</p> <p>S.L. 2006-79 § 16.</p>

<p><u>Environment and Natural Resources, Department of - CONTINUED</u></p> <ul style="list-style-type: none"> ✓ Wastewater System, Issuance of Improvement Permits to On-Site ✓ Water Resources Development Project Funds 	<p>Shall report its findings in an annual interim report to the Environmental Review Commission by October 1 and a final report by October 1, 2011</p> <p>Shall report semi-annually to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management</p>	<p>S.L. 2006-136 § 3.</p> <p>S.L. 2006-66 § 23.2.(c).</p>
<p><u>Environmental Justice, Joint Select Committee on</u></p> <p style="text-align: center;">CREATED</p> <ul style="list-style-type: none"> ✓ Audit of Findings and Recommendations 	<p>Shall report to the 2007 General Assembly and the Environmental Review Commission by February 1, 2007</p>	<p>S.L. 2006-244 § 5.(k).</p>
<p><u>Environmental Management Commission</u></p> <ul style="list-style-type: none"> ✓ Emissions Reduction Report 	<p>Shall report to the General Assembly and the Environmental Review Commission annually beginning September 1, 2007</p>	<p>S.L. 2006-79 § 12.</p>
<p><u>Environmental Review Commission</u></p> <ul style="list-style-type: none"> ✓ Ecological Enhancement Program and the Clean Water Management Trust Fund (In cooperation with the Joint Legislative Transportation Oversight Committee) ✓ Mercury Reduction and Education ✓ Mobile Home, Abandoned ✓ Nutrient Offset Payment Program ✓ Solid Waste Issues 	<p>Shall report to the 2007 General Assembly</p> <p>May report to the 2007 General Assembly upon its convening</p> <p>May report to the 2007 General Assembly upon its convening</p> <p>Shall report to the 2007 General Assembly upon its convening</p> <p>Shall report to the 2007 General Assembly upon its convening</p>	<p>S.L. 2006-248 § 16.</p> <p>S.L. 2006-248 § 8.2.</p> <p>S.L. 2006-248 § 8.3.</p> <p>S.L. 2006-215 § 3.</p> <p>S.L. 2006-244 § 4.(c).</p>
<p><u>Fayetteville, City of</u></p> <ul style="list-style-type: none"> ✓ Civilian Traffic Investigators 	<p>Shall report to the Senate Committee on Appropriations on Justice and Public Safety and the House of Representatives Appropriations Subcommittee on Justice and Public Safety by December 31, 2007</p>	<p>S.L. 2006-100 § 10.</p>

<p><u>Fiscal Modernization Study Commission, State and Local</u> [Includes Medicaid State/County Funding Ratios]</p> <p style="text-align: center;">CREATED</p> <ul style="list-style-type: none"> ✓ Report of Findings and Recommendations 	<p>Shall report to the 2007 General Assembly by May 1, 2007</p>	<p>S.L. 2006-248 § 47.5.</p>
<p><u>General Statutes Commission</u></p> <ul style="list-style-type: none"> ✓ Notary Public Law Changes 	<p>Shall report to the 2007 or 2009 General Assembly</p>	<p>S.L. 2006-59 § 32.</p>
<p><u>Global Climate Change, Commission on</u></p> <ul style="list-style-type: none"> ✓ Report of Findings and Recommendations 	<p>Shall make an interim report to the 2007 General Assembly and the Environmental Review Commission by January 15, 2007 and a final report by April 15, 2008</p>	<p>S.L. 2006-73 § 1.</p>
<p><u>Government Performance Audit Committee</u></p> <p style="text-align: center;">CREATED</p> <ul style="list-style-type: none"> ✓ Audit of Findings and Recommendations 	<p>Shall be reported by February 1, 2008</p>	<p>S.L. 2006-248 § 46.2.</p>
<p><u>Governor, Office of</u></p> <ul style="list-style-type: none"> ✓ Litter Enforcement, Prevention and Removal ✓ State Emergency Response Account Report 	<p>Shall report annually to the Environmental Review Commission, the Joint Legislative Transportation Oversight Committee, and the Senate and House of Representatives Appropriations Subcommittees on Natural and Economic Resources by March 1</p> <p>Shall report to the Joint Legislative Commission on Governmental Operations and to the Chairs of the Appropriations Committees of the Senate and the House of Representatives no later than 30 days after making an expenditure</p>	<p>S.L. 2006-79 § 15.</p> <p>S.L. 2006-66 § 6.5.(b).</p>

<p><u>Governor's Crime Commission</u></p> <ul style="list-style-type: none"> ✓ State Funds Used as Federal Matching Funds (In cooperation with the Department of Juvenile Justice and Delinquency Prevention and the Office of State Budget and Management) 	<p>Shall report to the Chairs of the Senate and House of Representatives Appropriations Committees and the Joint Legislative Commission on Governmental Operations prior to allocations of Federal Funds</p>	<p>S.L. 2006-66 § 15.2.</p>
<p><u>Growth Strategies Oversight Committee, Joint Legislative</u></p> <ul style="list-style-type: none"> ✓ Municipal Public Enterprises, Extraterritorial Operations of 	<p>Shall report to the 2007 General Assembly by January 16, 2007</p>	<p>S.L. 2006-248 § 9.1.</p>
<p><u>Harriet's House</u></p> <ul style="list-style-type: none"> ✓ Report of Activities and Expenditures 	<p>Shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by February 1 of each year</p>	<p>S.L. 2006-66 § 16.4.</p>
<p><u>Health Insurance Accessibility, Joint Legislative Commission on</u></p> <p style="text-align: center;">CREATED</p> <ul style="list-style-type: none"> ✓ Report of Findings and Recommendations 	<p>Shall report to the 2007 General Assembly</p>	<p>S.L. 2006-248 § 20.5.</p>
<p><u>Health and Human Services, Department of</u></p> <ul style="list-style-type: none"> ✓ Aging Study Commission Progress Report (Reporting Date Changed) ✓ Child Care Funds Matching Requirement Findings and Recommendations 	<p>Shall report to the North Carolina Study Commission on Aging, the Senate Appropriations Committee on Health and Human Services and the House of Representatives Subcommittee on Health and Human Services by January 1, 2007</p> <p>Shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee for Health and Human Services, and the Fiscal Research Division by April 1, 2007</p>	<p>S.L. 2006-66 § 10.1.</p> <p>S.L. 2006-66 § 10.36.(b).</p>

<u>Health and Human Services, Department of - CONTINUED</u>		
✓ Cost of Dispensing a Medicaid Prescription, Survey of Pharmacy Providers Participating in the Medicaid Program to Determine the	Shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee for Health and Human Services, and the Fiscal Research Division by March 1, 2007	S.L. 2006-248 § 44.
✓ Cost to Pharmacists of Providing Services to Medicaid Recipients Enrolled in Medicare Part D, Study Strategies to offset the	Shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee for Health and Human Services, and the Fiscal Research Division by April 1, 2007	S.L. 2006-66 § 10.9D.
✓ Dental Administrative Services Study, Medicaid / Health Choice	Shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee for Health and Human Services, and the Fiscal Research Division by March 1, 2007	S.L. 2006-66 § 10.9A.
✓ Disabled Adults, Community Alternatives Program for [CAP/DA]	Shall submit an interim report by August 30, 2006 and a final report by August 30, 2007 to the North Carolina Study Commission on Aging	S.L. 2006-109 § 1.
✓ Eye Examinations, Comprehensive	Division of Public Health shall report to the Governor's Commission on Early Childhood Vision Care, Joint Legislative Health Care Oversight Committee, 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 by July 1, 2007	S.L. 2006-240 § 2.(c).
✓ Federal Block Grants, Positions Funded From	Shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services and the Fiscal Research Division by December 1, 2006	S.L. 2006-52 § 5.1.(e).
✓ First Commitment Pilot Program Evaluation, Extend Sunset	Secretary shall submit a report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services by July 1, 2006	S.L. 2006-66 § 10.27.
✓ Health Information Systems (HIS) Funds (In Cooperation with the Department of Public Health)	Shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee for Health and Human Services, and the Fiscal Research Division by March 1, 2007	S.L. 2006-66 § 10.13.(b).
✓ Inflationary Increases for Medicaid Providers	The Secretary of the Division of Health and Human Services shall consult with the Joint Legislative Commission on Governmental Operations and present the proposed allocation plan before submitting the plan to the Centers for Medicare/Medicaid Services (CMS)	S.L. 2006-66 § 10.3A.

<u>Health and Human Services, Department of – CONTINUED</u>		
✓ Institutional Bias Study Report, North Carolina	Shall report to the North Carolina Study Commission on Aging by October 15, 2006	S.L. 2006-110 § 1.
✓ Local Management Entities Area Authority and County Program Crisis Regions Report	Consultant and Department shall report quarterly to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Fiscal Research Division and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services regarding each LME's proposed and actual use of the funds appropriated. The reporting requirements under this subsection shall expire on July 1, 2008	S.L. 2006-66 § 10.26.(f).
✓ Long-Term Care Partnership Program, Public-Private	Shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee for Health and Human Services, and the Fiscal Research Division prior to submitting the program for federal approval of the necessary State Plan amendment	S.L. 2006-66 § 10.10.
✓ Medicaid County Share, One-Time Cap on	Shall report on a monthly basis to the Fiscal Research Division each county's portion of the nonfederal share of Medical Assistance payments	S.L. 2006-66 § 10.9E.(f).
✓ Medicaid Medical Policy Changes Report	Shall provide a quarterly report to the Office of State Budget and Management and the Fiscal Research Division itemizing all medical policy changes and total requirements of less than three million dollars (\$3,000,000)	S.L. 2006-66 § 10.3.(c)(4).
✓ Medicaid Program Changes Report	Shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee for Health and Human Services, the Joint Legislative Health Care Oversight Committee and the Fiscal Research Division at the time they are submitted to the Centers for Medicare and Medicaid Services (CMS) for approval	S.L. 2006-66 § 10.3.(h)(2).
✓ Medicaid Provider Rate Increases Study	Shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee for Health and Human Services, and the Fiscal Research Division by March 1, 2007	S.L. 2006-66 § 10.11.(b).
✓ Mental Health Service Report	Shall provide a quarterly status report to the Office of State Budget and Management and the Fiscal Research Division	S.L. 2006-66 § 10.3.(e)(29) e.3.
✓ No-Fault Compensation for Injuries to Elderly and Disabled Persons, Study (In cooperation with the Department of Insurance and the Commissioner of Insurance)	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 18.

<u>Health and Human Services, Department of – CONTINUED</u>		
✓ North Carolina Families Accessing Services Through Technology [NC FAST]	Shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division by January 1, 2007	S.L. 2006-108 § 1.(b)(c).
✓ Partners in Caregiving Study Recommendations	Shall report to the North Carolina Study Commission on Aging by July 30, 2006	S.L. 2006-108 § 1.(b)(c).
✓ Prescription Generic and Name Brand Drugs, Limitations on Quantity of	Shall report to the Joint Legislative Commission on Governmental Operations by May 1, 2006	S.L. 2006-66 § 10.3.(e) (28).
✓ Public Provider Interlocal Agreements	Shall report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services by December 1, 2009	S.L. 2006-142 § 4.(l).
✓ Rate-Setting Methodology for State-Funded Kidney Dialysis, Study of	May report its findings to the Senate and House of Representatives Appropriations Committee by May 1, 2007	S.L. 2006-248 § 36.
✓ Skilled Nursing Facilities, Study of Reimbursement (In cooperation with the Office of Internal Auditor, and Division of Medical Assistance)	Shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee for Health and Human Services, and the Fiscal Research Division by November 1, 2006	S.L. 2006-66 § 10.11.(c).
✓ System Performance Measures	Shall report to the General Assembly and the Joint Legislative Oversight Committee on Metal Health, Developmental Disabilities, and Substance Abuse Services by October 1, 2006 and bi-annually thereafter	S.L. 2006-142 § 2.(a).
✓ Tele-monitoring Equipment in Home Care Services, Pilot Program	Shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee for Health and Human Services, and the Fiscal Research Division by July 1, 2007	S.L. 2006-66 § 10.9C.
✓ Tele-monitoring Equipment in Home Care Services, Pilot Program	Shall report to the Study Commission on Aging by August 1, 2007	S.L. 2006-194 § 1.
✓ Ticket to Work Program	Shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee for Health and Human Services, and the Fiscal Research Division by March 1, 2007	S.L. 2006-66 § 10.9.(b).
✓ Work Central, Inc.	Shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services and the Fiscal Research Division by May 1, 2007	S.L. 2006-52 § 5.1.(n).

<p><u>Health Care Oversight Committee, Joint Legislative</u></p> <ul style="list-style-type: none"> ✓ Community Health Centers ✓ Geriatric Care Providers ✓ Hospital Systems ✓ Medical Cost Savings ✓ Nurse Practitioner Practice, Regulation of ✓ Occupational Therapy Licensure Revisions ✓ Prescription Drug Cost Management Office ✓ Rural Health Care Access and Needs ✓ Smoking in Public Places ✓ State Health Plan for The University of North Carolina, Alternatives to 	<p>May report to the 2007 General Assembly upon its convening</p> <p>May report to the 2007 General Assembly upon its convening</p> <p>May report to the 2007 General Assembly upon its convening</p> <p>May report to the 2007 General Assembly upon its convening</p> <p>May report to the 2007 General Assembly upon its convening</p> <p>May report to the 2007 General Assembly upon its convening</p> <p>May report to the 2007 General Assembly upon its convening</p> <p>May report to the 2007 General Assembly upon its convening</p> <p>May report to the 2007 General Assembly upon its convening</p> <p>May report to the 2007 General Assembly upon its convening</p> <p>May report to the 2007 General Assembly upon its convening</p>	<p>S.L. 2006-248 § 3.5.</p> <p>S.L. 2006-248 § 3.2.</p> <p>S.L. 2006-248 § 3.6.</p> <p>S.L. 2006-248 § 3.3.</p> <p>S.L. 2006-248 § 3.8.</p> <p>S.L. 2006-248 § 3.4.</p> <p>S.L. 2006-248 § 3.7.</p> <p>S.L. 2006-248 § 3.11.</p> <p>S.L. 2006-248 § 3.10.</p> <p>S.L. 2006-248 § 3.9.</p> <p>.</p>
<p><u>Human Relations Commission, North Carolina</u></p> <ul style="list-style-type: none"> ✓ State Fair Housing Act Study 	<p>May report to the 2007 General Assembly upon its convening</p>	<p>S.L. 2006-248 § 33.</p>
<p><u>Industrial Commission, North Carolina</u></p> <ul style="list-style-type: none"> ✓ No-Fault Compensation for Injuries to Elderly and Disabled Persons, Study (In cooperation with the Department of Insurance and the Department of Health and Human Services) 	<p>May report to the 2007 General Assembly upon its convening</p>	<p>S.L. 2006-248 § 18.</p>
<p><u>Insurance, Commissioner of</u></p> <ul style="list-style-type: none"> ✓ No-Fault Compensation for Injuries to Elderly and Disabled Persons, Study (In cooperation with the North Carolina Industrial Commission and the Department of Health and Human Services) 	<p>May report to the 2007 General Assembly upon its convening</p>	<p>S.L. 2006-248 § 18.</p>

<p><u>Indigent Defense Services</u></p> <ul style="list-style-type: none"> ✓ Department Review ✓ Expansion Funds ✓ State Matching Fund Grants 	<p>Shall report to the Chairs of the Senate and House or Representatives Appropriations Subcommittees on Justice and Public Safety by March 1, 2007</p> <p>Shall report to the Chairs of the Senate and House or Representatives Appropriations Subcommittees on Justice and Public Safety prior to using the funds</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 on grants to be matched using allotted funds</p>	<p>S.L. 2006-66 § 14.16.</p> <p>S.L. 2006-66 § 14.15.</p> <p>S.L. 2006-66 § 14.14.</p>
<p><u>Industrial Hemp, Study Commission on the Beneficial Uses of</u></p> <p style="text-align: center;">CREATED</p> <ul style="list-style-type: none"> ✓ Report of Findings and Recommendations 	<p>Shall report to the Environmental Review Commission and the 2007 General Assembly by December 1, 2006</p>	<p>S.L. 2006-248 § 55.5.</p>
<p><u>Information Technology, Legislative Study Commission on</u></p> <p style="text-align: center;">CREATED</p> <ul style="list-style-type: none"> ✓ Report of Findings and Recommendations 	<p>Shall report to the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Legislative Librarian by February 1, 2007</p>	<p>S.L. 2006-248 § 24.4.</p>
<p><u>Institute of Medicine, North Carolina</u></p> <ul style="list-style-type: none"> ✓ Kidney Disease Task Force, Chronic 	<p>Shall submit an interim report to the 2007 General Assembly upon its convening and a final report to the 2008 General Assembly upon its convening. The Task Force shall also report to the Chairs of the Senate Health Committee, the House of Representatives Health Committee, the House of Representatives Aging Committee and the Governor.</p>	<p>S.L. 2006-248 § 48.4.</p>

<p><u>Institute for the Economy and the Future of Western North Carolina University</u></p> <ul style="list-style-type: none"> ✓ Inland Ports, Report of Findings and Recommendations (In cooperation with the North Carolina Regional Economic Development Commission [AdvantageWest]) 	<p>Shall report to the 2007 General Assembly before May 1, 2007</p>	<p>S.L. 2006-248 § 29.</p>
<p><u>Insurance, Commissioner of</u></p> <ul style="list-style-type: none"> ✓ No-Fault Compensation for Injuries to Elderly and Disabled Persons, Study (In cooperation with the North Carolina Industrial Commission and the Department of Health and Human Services) 	<p>May report to the 2007 General Assembly upon its convening</p>	<p>S.L. 2006-248 § 18.</p>
<p><u>Internal Auditor, Office of</u></p> <ul style="list-style-type: none"> ✓ Skilled Nursing Facilities, Study of Reimbursement (In cooperation with the Division of Health and Human Services and Division of Medical Assistance) 	<p>Shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee for Health and Human Services, and the Fiscal Research Division by November 1, 2006</p>	<p>S.L. 2006-66 § 10.11.(c).</p>
<p><u>Judicial Department</u></p> <ul style="list-style-type: none"> ✓ Grant Funds ✓ Worthless Check Funds, Collection of 	<p>Shall report to the Joint Legislative Commission on Governmental Operations and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety</p> <p>Shall report to the Joint Legislative Commission on Governmental Operations and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety</p>	<p>S.L. 2006-66 § 14.2.</p> <p>S.L. 2006-66 § 14.1.</p>
<p><u>Juvenile Assessment Center</u></p> <ul style="list-style-type: none"> ✓ Report of Activities and Expenditures 	<p>Shall report to the Chairs of 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 April 1 of each year</p>	<p>S.L. 2006-66 § 15.1.</p>

<p><u>Juvenile Justice and Delinquency Prevention, Department of</u></p> <ul style="list-style-type: none"> ✓ Community Programs, Annual Evaluation of ✓ State Funds Used as Federal Matching Funds (In cooperation with the Office of State Budget and Management and the Governor's Crime Commission) ✓ Swannanoa Property / Adult Female Correctional Facility and Juvenile Youth Development Center, Proposal for (In cooperation with the Department of Correction) ✓ Youth Development Centers, Final Recommended Staffing Plan of ✓ Youth Development Centers, Implementation of the Treatment Staffing Model Report at ✓ Youth Development Centers, Staffing Model Report at 	<p>Shall report to the Joint Corrections, Crime Control, and Juvenile Justice Oversight Committee, the Chairs of the Senate and House of Representatives Appropriations Committee and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by March 1 of each year</p> <p>Shall report to the Chairs of the Senate and House of Representatives Appropriations Committees and the Joint Legislative Commission on Governmental Operations prior to allocations of Federal Funds</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 April 1, 2007</p> <p>Shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittee on Justice and Public Safety and to the Joint Corrections, Crime Control, and Juvenile Justice Oversight Committee by November 10, 2006</p> <p>Shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittee on Justice and Public Safety and to the Joint Corrections, Crime Control, and Juvenile Justice Oversight Committee by December 31, 2005 and quarterly thereafter during the 2005-2007 biennium</p> <p>Shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittee on Justice and Public Safety and to the Joint Corrections, Crime Control, and Juvenile Justice Oversight Committee by December 31, 2005 and quarterly thereafter during the 2005-2007 biennium</p>	<p>S.L. 2006-66 § 15.4.</p> <p>S.L. 2006-66 § 15.2.</p> <p>S.L. 2006-66 § 16.8.</p> <p>S.L. 2006-66 § 15.6.(a).</p> <p>S.L. 2006-66 § 15.6.(a).</p> <p>S.L. 2006-66 § 15.6.(a).</p>
<p><u>Land and Water Conservation Study Commission</u></p> <p style="text-align: center;">CREATED</p> <ul style="list-style-type: none"> ✓ Report of Findings and Recommendations 	<p>Shall submit a final report to the 2007 General Assembly on or before its convening</p>	<p>S.L. 2006-223 § 11.</p>

<p><u>Legal Aid of North Carolina, Inc.</u></p> <ul style="list-style-type: none"> ✓ Representation in Family Law and Civil Court (In cooperation with the Administrative Office of the Courts, the North Carolina Bar Association, the Equal Access to Justice Commission, North Carolina Legal Services Planning Council, North Carolina Justice Center and Pisgah Legal Services, Inc.) ✓ Self-Serve Centers (In cooperation with the Administrative Office of the Courts, the North Carolina Bar Association, North Carolina Legal Services Planning Council, the North Carolina Justice Center and Pisgah Legal Services) 	<p>Shall report to the Joint Appropriations Subcommittee on Justice and Public Safety by December 31, 2007</p> <p>Shall report to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by December 31, 2007</p>	<p>S.L. 2006-287 § 10.</p> <p>S.L. 2006-248 § 35.</p>
<p><u>Legislative Research Commission</u></p> <ul style="list-style-type: none"> ✓ Building Permits for On-Site Business Installation or Repair of Electrical Equipment, Requirements of Issuance of ✓ Chapter 24 Exemptions ✓ Consumer Credit Counseling ✓ Consumer Issues <ul style="list-style-type: none"> ▪ Credit Report Identity Theft ▪ Mortgage Payoffs ▪ Motor Vehicle Repair ▪ Personal Information Privacy ✓ Cost of Housing, Impact of Regulation on the ✓ Criminal Law Issues <ul style="list-style-type: none"> ▪ Consuming Alcohol and Drugs, Provisions and Penalties of G.S. 20-138.3: Driving by a Person Less Than 21 Years Old After ▪ Exclusionary Rule / Good Faith Exception ▪ Habitual Felon Statutes ▪ Minority Incarceration ▪ Racial Bias and the Death Penalty 	<p>May report to the 2007 General Assembly upon its convening</p> <p>May report to the 2007 General Assembly upon its convening</p> <p>May report to the 2007 General Assembly upon its convening</p> <p>May report to the 2007 General Assembly upon its convening</p> <p>May report to the 2007 General Assembly upon its convening</p> <p>May report to the 2007 General Assembly upon its convening</p>	<p>S.L. 2006-248 § 2.1.(p).</p> <p>S.L. 2006-248 § 2.1.(h).</p> <p>S.L. 2006-248 § 2.1.(d).</p> <p>S.L. 2006-248 § 2.1.(3).</p> <p>S.L. 2006-248 § 2.1.(b).</p> <p>S.L. 2006-248 § 2.1.(5).</p>

<u>Legislative Research Commission - CONTINUED</u>		
<ul style="list-style-type: none"> ✓ Deferred Compensation Program, Transferring the 	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 2.1.(c).
<ul style="list-style-type: none"> ✓ Drug Treatment Courts (In cooperation with the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services) 	May report to the 2007 General Assembly	S.L. 2006-187 § 8.
<ul style="list-style-type: none"> ✓ Government Regulatory Issues <ul style="list-style-type: none"> ▪ Banking Laws 	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 2.1.(1).
<ul style="list-style-type: none"> ✓ Health and Human Services Issues <ul style="list-style-type: none"> ▪ Medical Services for Persons in Local Confinement Facilities, Cost Control of ▪ Men's Health ▪ Naturopathic Registration ▪ Peanut Allergies and Restaurant Postings 	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 2.1.(8).
<ul style="list-style-type: none"> ✓ Insurance Issues <ul style="list-style-type: none"> ▪ High-Risk Insurance ▪ Small Business Health Insurance ▪ Sureties for Public Construction Contracts, Additional 	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 2.1.(4).
<ul style="list-style-type: none"> ✓ Labor, Employment, and Economic Development Issues <ul style="list-style-type: none"> ▪ Industrial Commission, Validity of Statistics Provided by ▪ Industrial Commission's Monitoring of Filing of Forms ▪ North Carolina National Guard Pension Fund ▪ Salaries of Non-Profit Directors and Executives ▪ Small Business Improvement ▪ UI claims / Shorten Employer Response Time ▪ Worker's Compensation Act, Amendments to ▪ Worker's Compensation Act, Employee Work Incentives Under ▪ Worker's Compensation Act, Increase Cap on Award for Loss of Organ Under the 	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 2.1.(7).

Legislative Research Commission - CONTINUED

- Worker's Compensation and Injuries to Extremities
- Worker's Compensation for Fraud, Loss of

✓ **Legislative Efficiency and Operations**

May report to the 2007 General Assembly upon its convening

S.L. 2006-248 § 2.1.(q).

✓ **Local Governmental Employees Retirement System**

May report to the 2007 General Assembly upon its convening

S.L. 2006-248 § 2.1.(9).

✓ **Other Issues**

May report to the 2007 General Assembly upon its convening

S.L. 2006-248 § 2.1.(g).

- Agency Internal Auditors
- Annexation
- Builder's Inventories from Property Tax Increases, Exempt
- Construction Indemnity Agreement Issues
- Costs of Civil Cases, Recovery of
- Credit Enhancement Services
- Equine Industry
- Erroneous Paternity Judgments
- Ethics Legislation on Local Elected Officials, Impact of
- General Contractor's License, Construction Cost Threshold Requirement for a
- Hepatitis
- Homestead Exemption
- Liabilities of General Contractors to Subcontractors
- Manufactured Homes and Good Faith Evictions
- Nanotechnology
- Public Building Contract Laws
- Public Partition Sales, Refusal Rights-Forced
- Real Estate Resale Dealers
- System of Care Common Identifiers
- Tax Policy Changes
- Tax Reevaluation
- Trafficking of Persons
- Unfit Dwellings
- Victim Restitution
- Video Conferencing
- West Regional Facilities Maintenance
- Wildlife Resources Commission, Membership of the

✓ **Pharmacy Benefits Manager Regulation**

May report to the 2007 General Assembly upon its convening

S.L. 2006-248 § 2.1.(6).

<u>Legislative Research Commission- CONTINUED</u>		
✓ Post-Adoption Contact	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 2.1.(m).
✓ Public Facilities Ordinances , Adequate	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 2.1.(k).
✓ Recycling Businesses , For-Profit	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 2.1.(l).
✓ Red Light Camera Clear Proceeds	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 2.1.(j).
✓ Sick Leave Bank and Family Leave	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 2.1.(n).
✓ State/Local Government Employee Issues <ul style="list-style-type: none"> ▪ Appeals Process, State Employee Mediation and Length of Backlog of ▪ Flexible Benefits Program Centralized Under OSP ▪ Severance Pay Changes ▪ Sick Leave Bank and Family Leave ▪ SPA Longevity Pay, Prospective Elimination of ▪ State Employee Demonstration Projects ▪ State Employee Grievances, Mediation of ▪ Teachers' and State Employees' Retirement System, Beneficiary Designation and Dependent Survivors of Members of the 	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 2.1.(f).
✓ State Purchasing and Contract System , Effectiveness of	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 2.1.(i)(o).
✓ Superior Court Discovery	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 2.1.(a).
✓ Traffic Control Systems , Funding and Operation of	May report to the General Assembly	S.L. 2006-189 § 2.
✓ Transportation Issues <ul style="list-style-type: none"> ▪ Ban Cell Phone Use While Driving ▪ Safety and Emission Inspections, Exemptions from State Highways; Environmental Review, Permitting, and Mitigation Process in the Construction and Expansion of 	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 2.1.(2).
✓ Undocumented Immigrants, Impact of	May report to the 2007 General Assembly upon its convening	S.L. 2006-248 § 2.1.(e).

<p><u>Local School Construction Financing Study</u></p> <p>✓ Report of Findings and Recommendations</p>	<p>Shall report to the 2007 General Assembly</p>	<p>S.L. 2006-248 § 41.2.</p>
<p><u>Lottery Oversight Committee</u></p> <p>CREATED</p> <p>✓ Report of Findings, Analysis and Recommendations</p>	<p>Shall report annually to the General Assembly by September 15 and may make interim reports regarding the expenditure of net lottery revenues</p>	<p>S.L. 2006-225 § 1(d).</p>
<p><u>Mandatory Cost-of-Living Increase for Retirees of the Teachers' and State Employees' Retirement System, House Select Study Commission on</u></p> <p>CREATED</p> <p>✓ Report of Findings and Recommendations</p>	<p>Shall submit a final report to the 2007 General Assembly on or before its convening</p>	<p>S.L. 2006-248 § 10.5.</p>
<p><u>Mediation Network of North Carolina</u></p> <p>✓ Report of Activities and Expenditures</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 Subcommittees on Justice and Public Safety by February 1 of each year</p>	<p>S.L. 2006-66 § 14.12.</p>
<p><u>Medical Assistance, Division of</u></p> <p>✓ Skilled Nursing Facilities, Study of Reimbursement (In cooperation with the Division of Health and Human Services and Office of Internal Auditor)</p>	<p>Shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee for Health and Human Services, and the Fiscal Research Division by November 1, 2006</p>	<p>S.L. 2006-66 § 10.11.(c).</p>

<p><u>Medical Board, North Carolina</u></p> <ul style="list-style-type: none"> ✓ Disciplinary Action by Health Care Institutions and Reports of Professional Liability Insurance Award Settlements ✓ Medical Acts for Nurse Practitioners and Clinical Pharmacist Practitioners, Joint Rules Governing the Practice of (in cooperation with the North Carolina Board of Nursing and the North Carolina Board of Pharmacy) 	<p>Shall report recommendations prior to the convening of the 2007 General Assembly</p> <p>Shall report to the Chairs of House of Representatives Committee on Health, the Senate Committee on Health Care, the House of Representatives Select Committee on Health Care and the House of Representatives Select Committee on Health Care's Subcommittee on Patient Safety, Quality and Accountability by September 1, 2006</p>	<p>S.L. 2006-144 § 10.(d).</p> <p>S.L. 2006-144 § 10.(c).</p>
<p><u>Mental Health, Developmental Disabilities, and Substance Abuse Services, Joint Legislative Oversight Committee</u></p> <ul style="list-style-type: none"> ✓ Arena and County Program Administration, Funding for ✓ Drug Treatment Courts (In cooperation with the Legislative Research Commission) ✓ Medicaid Waiver 1915(b) and Purchase Bed Days from State Psychiatric Hospitals ✓ Mental Health Parity 	<p>May report to the 2007 General Assembly upon its convening</p> <p>May report to the 2007 General Assembly</p> <p>Shall report to the 2007 General Assembly</p> <p>May report to the 2007 General Assembly upon its convening</p>	<p>S.L. 2006-248 § 14.3.</p> <p>S.L. 2006-187 § 8.</p> <p>S.L. 2006-32 § 3.</p> <p>S.L. 2006-248 § 14.2.</p>
<p><u>North Carolina Equal Access to Justice Commission</u></p> <ul style="list-style-type: none"> ✓ Representation in Family Law and Civil Court (In cooperation with the Administrative Office of the Courts, the North Carolina Bar Association, the North Carolina Legal Services Planning Council, North Carolina Justice Center, Legal Aid of North Carolina, Inc., and Pisgah Legal Services, Inc.) 	<p>Shall report to the Joint Appropriations Subcommittee on Justice and Public Safety by December 31, 2007</p>	<p>S.L. 2006-187 § 10.</p>
<p><u>North Carolina Justice Academy</u></p> <ul style="list-style-type: none"> ✓ Public School Personnel Communication Concerning Disabilities, Study of (In cooperation with Division TEACCH and the State Board of Education) 	<p>Shall report to the 2007 General Assembly Upon its convening</p>	<p>S.L. 2006-248 § 51.</p>

<p><u>North Carolina Justice Center</u></p> <ul style="list-style-type: none"> ✓ Representation in Family Law and Civil Court (In cooperation with the Administrative Office of the Courts, the North Carolina Bar Association, the Equal Access to Justice Commission, North Carolina Legal Services Planning Council, Legal Aid of North Carolina, Inc., and Pisgah Legal Services, Inc.) ✓ Self-Serve Centers (In cooperation with the Administrative Office of the Courts, the North Carolina Bar Association, North Carolina Legal Services Planning Council, Legal Aid of North Carolina, Inc., and Pisgah Legal Services) 	<p>Shall report to the Joint Appropriations Subcommittee on Justice and Public Safety by December 31, 2007</p> <p>Shall report to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by December 31, 2007</p>	<p>S.L. 2006-187 § 10.</p> <p>S.L. 2006-248 § 35.</p>
<p><u>North Carolina Legal Services Planning Council</u></p> <ul style="list-style-type: none"> ✓ Representation in Family Law and Civil Court (In cooperation with the Administrative Office of the Courts, the North Carolina Bar Association, the Equal Access to Justice Commission, North Carolina Justice Center Legal Aid of North Carolina, Inc. and Pisgah Legal Services, Inc.) ✓ Self-Serve Centers (In cooperation with the Administrative Office of the Courts, the North Carolina Bar Association, Legal Aid of North Carolina, Inc., the North Carolina Justice Center and Pisgah Legal Services) 	<p>Shall report to the Joint Appropriations Subcommittee on Justice and Public Safety by December 31, 2006</p> <p>Shall report to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by December 31, 2007</p>	<p>S.L. 2006-187 § 10.</p> <p>S.L. 2006-248 § 35.</p>
<p><u>North Carolina Regional Economic Development Commission [AdvantageWest]</u></p> <ul style="list-style-type: none"> ✓ Inland Ports, Report of Findings and Recommendations (In cooperation with the Institute for the Economy and the Future of Western North Carolina University) 	<p>Shall report to the 2007 General Assembly before May 1, 2007</p>	<p>S.L. 2006-248 § 29.</p>
<p><u>North Carolina Teachers' Forum</u></p> <ul style="list-style-type: none"> ✓ Report of Activities and Expenditures 	<p>Shall report to the Joint Legislative Education Oversight Committee annually by October 1 and the first report shall be due by October 1, 2006</p>	<p>S.L. 2006-66 § 7.19.(b).</p>

<p><u>Nursing, Board of</u></p> <ul style="list-style-type: none"> ✓ Medical Acts for Nurse Practitioners and Clinical Pharmacist Practitioners, Joint Rules Governing the Practice of (in cooperation with the North Carolina Medical Board and the North Carolina Board of Pharmacy) 	<p>Shall report to the Chairs of House of Representatives Committee on Health, the Senate Committee on Health Care, the House of Representatives Select Committee on Health Care and the House of Representatives Select Committee on Health Care's Subcommittee on Patient Safety, Quality and Accountability by September 1, 2006</p>	<p>S.L. 2006-144 § 10.(c).</p>
<p><u>Occupational Licensing Board</u></p> <ul style="list-style-type: none"> ✓ Occupational Licensing Board Annual Report 	<p>Each occupational board shall file an annual report to the Secretary of State, the Attorney General, and the Joint Legislative Administrative Procedure Oversight Committee by July 1, 2006</p>	<p>S.L. 2006-70 § 1.</p>
<p><u>Our Children's Place</u></p> <ul style="list-style-type: none"> ✓ Report of Activities and Expenditures 	<p>Shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by February 1, 2007</p>	<p>S.L. 2006-66 § 16.4.</p>
<p><u>Pharmacy, Board of</u></p> <ul style="list-style-type: none"> ✓ Medical Acts for Nurse Practitioners and Clinical Pharmacist Practitioners, Joint Rules Governing the Practice of (in cooperation with the North Carolina Medical Board and the North Carolina Board of Nursing) 	<p>Shall report to the Chairs of House of Representatives Committee on Health, the Senate Committee on Health Care, the House of Representatives Select Committee on Health Care and the House of Representatives Select Committee on Health Care's Subcommittee on Patient Safety, Quality and Accountability by September 1, 2006</p>	<p>S.L. 2006-144 § 10.(c).</p>
<p><u>Pisgah Legal Services</u></p> <ul style="list-style-type: none"> ✓ Representation in Family Law and Civil Court (In cooperation with the Administrative Office of the Courts, the North Carolina Bar Association, the Equal Access to Justice Commission, North Carolina Legal Services Planning Council, Legal Aid of North Carolina, Inc., and North Carolina Justice Center) 	<p>Shall report to the Joint Appropriations Subcommittee on Justice and Public Safety by December 31, 2007</p>	<p>S.L. 2006-187 § 10.</p>

<p><u>Pisgah Legal Services - CONTINUED</u></p> <ul style="list-style-type: none"> ✓ Self-Serve Centers (In cooperation with the Administrative Office of the Courts, the North Carolina Bar Association, North Carolina Legal Services Planning Council, Legal Aid of North Carolina, Inc., and the North Carolina Justice Center) 	<p>Shall report to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by December 31, 2007</p>	<p>S.L. 2006-248 § 35.</p>
<p><u>Post-Release Supervision and Parole Commission</u></p> <ul style="list-style-type: none"> ✓ Parole Eligibility Report 	<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 Committee and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by April 1, 2007</p>	<p>S.L. 2006-66 § 16.5.</p>
<p><u>Project Challenge North Carolina, Inc.</u></p> <ul style="list-style-type: none"> ✓ Report of Activities and Expenditures 	<p>Shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Juvenile Justice Oversight Committee by April 1 of each year</p>	<p>S.L. 2006-66 § 15.1.</p>
<p><u>Public Health, Division of</u></p> <ul style="list-style-type: none"> ✓ Early Intervention Service Report ✓ Health Information Systems (HIS) Funds (In cooperation with the Department of Health and Human Services) ✓ Preterm Births, Education on Prevention of 	<p>Shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee for Health and Human Services, and the Fiscal Research Division by February 1, 2007</p> <p>Shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee for Health and Human Services, and the Fiscal Research Division by March 1, 2007</p> <p>Shall evaluate the impact and report the outcomes of the evaluation with the Division of Medical Assistance, 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</p>	<p>S.L. 2006-66 § 10.15.</p> <p>S.L. 2006-66 § 10.13.(b).</p> <p>S.L. 2006-66 § 10.17.</p>

<p><u>Public Instruction, Department of</u></p> <ul style="list-style-type: none"> ✓ More at Four Program Report ✓ NC WISE Project Report 	<p>Shall report to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Education Oversight Committee, the Senate Appropriations Committee on Education, , the House of Representatives Appropriations Subcommittee on Education, and the Fiscal Research Division by February 1, 2007</p> <p>Shall report on a quarterly basis to the Joint Legislative Education Oversight Committee</p>	<p>S.L. 2006-66 § 7.18.(e).</p> <p>S.L. 2006-66 § 7.12.(b).</p>
<p><u>Public Instruction, Legislative Study Commission on the Budget of the Department of</u></p> <p style="text-align: center;">CREATED</p> <ul style="list-style-type: none"> ✓ Report of Findings and Recommendations 	<p>Shall report to the 2007 General Assembly upon its convening</p>	<p>S.L. 2006-248 § 50.5.</p>
<p><u>Rail Services Commission</u></p> <p style="text-align: center;">CREATED</p> <ul style="list-style-type: none"> ✓ Report of Findings and Recommendations 	<p>Shall report to the 2007 General Assembly</p>	<p>S.L. 2006-248 § 49.9.</p>
<p><u>Recovery of Costs in Civil Cases, House Task Force to Review and Resolve Conflict in North Carolina Law Over the</u></p> <p style="text-align: center;">CREATED</p> <ul style="list-style-type: none"> ✓ Report of Findings and Recommendations 	<p>Shall report to the Speaker of the House of Representatives by December 31, 2006</p>	<p>S.L. 2006-248 § 12.4.</p>
<p><u>Revenue, Department of</u></p> <ul style="list-style-type: none"> ✓ Activities, Semi-Annual Report on ✓ Taxpayer Assistance Call Center Report 	<p>Shall report to the Joint Legislative Commission on Governmental Operations and the Revenue Laws Study Committee by January 1 and July 1 of each year</p> <p>Shall report to the Joint Legislative Commission on Governmental Operations by January 1, 2007</p>	<p>S.L. 2006-66 § 19.3.(b).</p> <p>S.L. 2006-66 § 19.3.(b)(c).</p>

<p><u>Revenue, Department of - CONTINUED</u></p> <ul style="list-style-type: none"> ✓ Taxpayer Refunds, Annual Report of ✓ Video Service Providers, Impact of Consumer Choice of 	<p>The Secretary shall report to the Department of Public Instruction and the Fiscal Research Division by March 1 annually</p> <p>Shall report every two years to the General Assembly with its first report to the 2008 General Assembly</p>	<p>S.L. 2006-33 § 6.</p> <p>S.L. 2006-151 § 21.</p>
<p><u>Revenue Laws Study Committee</u></p> <ul style="list-style-type: none"> ✓ Administrative and Judicial Review of Tax Cases ✓ Cable Service Subscribers, Video Programming Services, and Deployment of Broadband Services ✓ Charitable Causes, Tax Refund Contributions to ✓ Finance Laws Studies ✓ Forestland, Sound Management Program for ✓ Housing Authority Tax Exemptions ✓ Income Tax Refund Contribution Election ✓ Intermodal Rail Facility ✓ Property Taxes ✓ Property Taxes, Present-Use Value System ✓ Prostate Cancer, Tax Refund Donation for ✓ Sales and Income Taxes ✓ State Business Taxation 	<p>May report to the 2007 General Assembly upon its convening</p> <p>Shall review the impact every two years and report to General Assembly with the first report submitted to the 2008 General Assembly</p> <p>May report to the 2007 General Assembly upon its convening</p> <p>Shall report to the 2007 General Assembly</p> <p>May report to the 2007 General Assembly upon its convening</p> <p>May report to the 2007 General Assembly upon its convening</p> <p>May report to the 2007 General Assembly upon its convening</p> <p>May report to the 2007 General Assembly upon its convening</p> <p>May report to the 2007 General Assembly upon its convening</p> <p>Shall report to the 2007 General Assembly</p> <p>May report to the 2007 General Assembly upon its convening</p> <p>May report to the 2007 General Assembly upon its convening</p> <p>May report to the 2007 General Assembly upon its convening</p>	<p>S.L. 2006-248 § 7.3.</p> <p>S.L. 2006-248 § 7.3.</p> <p>S.L. 2006-248 § 7.8.</p> <p>S.L. 2006-66 § 10.19A.</p> <p>S.L. 2006-248 § 7.5.</p> <p>S.L. 2006-248 § 7.7.</p> <p>S.L. 2006-248 § 7.9.</p> <p>S.L. 2006-248 § 7.10.</p> <p>S.L. 2006-248 § 7.2.</p> <p>S.L. 2006-106 § 9.</p> <p>S.L. 2006-248 § 7.6.</p> <p>S.L. 2006-248 § 7.4.</p> <p>S.L. 2006-248 § 7.11.</p>

<p><u>Rural Health and Community Care, Office of</u></p> <p>✓ Funds to Assist Rural Hospitals</p>	<p>Shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division by April 1, 2007</p>	<p>S.L. 2006-66 § 10.19A.</p>
<p><u>Seafood and Aquaculture, The Joint Legislative Commission on</u></p> <p>✓ Menhaden Study</p>	<p>May report to the Senate and House of Representatives Appropriations Committees by May 1, 2007</p>	<p>S.L. 2006-248 § 37.</p>
<p><u>Secretary of State, Office of the</u></p> <p>✓ Redacting Identifying Information</p>	<p>Shall report to the Senate and House Cochairs of the Joint Appropriations Subcommittee on General Government by February 1, 2007</p>	<p>S.L. 2006-173 § 9.</p>
<p><u>Sentencing and Policy Advisory Commission</u></p> <p>✓ Youthful Offenders Study</p>	<p>Shall report to the 2007 General Assembly by March 1, 2007</p>	<p>S.L. 2006-248 § 34.1.</p>
<p><u>Sex Offender Registration and Internet Crimes Against Children, Joint Legislative Study Commission on</u></p> <p style="text-align: center;">CREATED</p> <p>✓ Report of Findings and Recommendations</p>	<p>Shall report to the 2007 General Assembly upon its convening</p>	<p>S.L. 2006-248 § 53.7.</p>
<p><u>Smart Start and Child Care Funding Study</u></p> <p style="text-align: center;">CREATED</p> <p>✓ Report of Findings and Recommendations</p>	<p>Shall report to 2007 General Assembly upon its convening</p>	<p>S.L. 2006-248 § 26.6.</p>

<p><u>Soil and Water Conservation Commission</u></p> <ul style="list-style-type: none"> ✓ Community Conservation Program Advisory Committee 	<p>Shall report to the Environmental Review Commission and the Fiscal Research Division by January 31 of each year</p>	<p>S.L. 2006-78 § 1.</p>
<p><u>State and Local Fiscal Modernization Study Commission</u></p> <p style="text-align: center;">CREATED</p> <ul style="list-style-type: none"> ✓ Report of Findings and Recommendations 	<p>Shall report to the 2007 General Assembly by May 1, 2007</p>	<p>S.L. 2006-248 § 47.5.</p>
<p><u>State Boards, Commissions, and Councils, Study Commission on the Organization, Powers, Duties, Functions, Funding and Potential Consolidation or Elimination of</u></p> <p style="text-align: center;">CREATED</p> <ul style="list-style-type: none"> ✓ Report of Findings and Recommendations 	<p>Shall report to the 2007 General Assembly upon its convening</p>	<p>S.L. 2006-248 § 39.6.</p>
<p><u>State Budget and Management, Office of</u></p> <ul style="list-style-type: none"> ✓ Industry Training, Study of New and Expanding ✓ State Funds Used as Federal Matching Funds (In cooperation with the Department of Juvenile Justice and Delinquency Prevention and the Governor's Crime Commission) 	<p>Shall report to the Joint Legislative Education Oversight Committee by April 1, 2007</p> <p>Shall report to the Chairs of the Senate and House of Representatives Appropriations Committees and the Joint Legislative Commission on Governmental Operations prior to allocations of Federal Funds</p>	<p>S.L. 2006-66 § 8.7.</p> <p>S.L. 2006-66 § 15.2.</p>
<p><u>State Construction Inspections, Study Commission on</u></p> <p style="text-align: center;">CREATED</p> <ul style="list-style-type: none"> ✓ Report of Findings and Recommendations 	<p>Shall report to the 2007 General Assembly upon its convening</p>	<p>S.L. 2006-248 § 15.4.</p>

<p><u>State Disability Income Plan and Other Related Plans, Study Commission on</u></p> <p style="text-align: center;">CREATED</p> <ul style="list-style-type: none"> ✓ Report of Findings and Recommendations 	<p>Shall report to the 2007 General Assembly by January 1, 2007</p>	<p>S.L. 2006-248 § 17.8.</p>
<p><u>State Education Assistance Authority</u></p> <ul style="list-style-type: none"> ✓ Coaching Scholarship Loan Award Fund ✓ Future Teachers of America Scholarship Award Loan Fund ✓ Tuition and Contractual Grants for Teaching / Nursing Program 	<p>Shall report annually to the Joint Legislative Education Oversight Committee by December 1</p> <p>Shall report annually to the Joint Legislative Education Oversight Committee by December 1</p> <p>Shall report the information it has compiled and program findings in the Authority's annual Report to the Legislative Education Oversight Committee</p>	<p>S.L. 2006-95 § 2.5.</p> <p>S.L. 2006-95 § 2.4.</p> <p>S.L. 2006-66 § 9.13.(a).</p>
<p><u>State Elected and Appointed Officials Study Commission, Compensation of</u></p> <p style="text-align: center;">CREATED</p> <ul style="list-style-type: none"> ✓ Report of Findings and Recommendations 	<p>Shall report to the 2007 General Assembly upon its convening</p>	<p>S.L. 2006-248 § 22.6.</p>
<p><u>State Energy Office</u></p> <ul style="list-style-type: none"> ✓ Energy Emergency Plan and Crisis Assessment ✓ Needs Assessment Report 	<p>Shall report to the Joint Study Committee on Emergency Preparedness and Disaster Management Recovery by November 1, 2006</p> <p>Shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittee on General Government by February 1, 2007</p>	<p>S.L. 2006-221 § 18.</p> <p>S.L. 2006-66 § 17.2.</p>
<p><u>State Highway Patrol</u></p> <ul style="list-style-type: none"> ✓ Weigh-In-Motion Sites Collected Data Report 	<p>Shall report to the Joint Legislative Transportation Oversight Committee by October 1, 2006</p>	<p>S.L. 2006-66 § 21.5.(b).</p>

<p><u>State Personnel Act, Legislative Study Commission on</u></p> <p style="text-align: center;">CREATED</p> <p>✓ Report of Findings and Recommendations</p>	<p>May submit interim reports to the 2007 General Assembly and shall submit a final report by May 1, 2008</p>	<p>S.L. 2006-221 § 21A.(d).</p>
<p><u>State Personnel Statutes, Legislative Study Commission on</u></p> <p>✓ State Personnel Act, Issues Related to</p>	<p>May submit an interim report to the 2006 General Assembly and shall submit a final report to the 2007 General Assembly</p>	<p>S.L. 2006-248 § 42.</p>
<p><u>Summit House</u></p> <p>✓ Report of Activities and Expenditures</p>	<p>Shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by February 1 of each year</p>	<p>S.L. 2006-66 § 16.4.</p>
<p><u>Transportation, Department of</u></p> <p>✓ Voluntary Disability Designation on Drivers Licenses, State-Issued Identification Cards, and Vehicle Registration</p>	<p>Division of Motor Vehicles shall report to the 2007 General Assembly by June 1, 2007</p>	<p>S.L. 2006-248 § 11.</p>
<p><u>Transportation Oversight Committee, Joint Legislative</u></p> <p>✓ Ecological Enhancement Program and the Clean Water Management Trust Fund (In cooperation with the Environmental Review Commission)</p> <p>✓ Nonbetterments</p> <p>✓ Public Transit, Dedicated Funding Sources for</p> <p>✓ Secondary Roads, Maintenance and Paving of</p> <p>✓ Utility Relocation</p>	<p>Shall report to the 2007 General Assembly</p> <p>May report to the 2007 General Assembly upon its convening</p> <p>May report to the 2007 General Assembly upon its convening</p> <p>Shall report to the 2007 General Assembly</p> <p>May report to the 2007 General Assembly upon its convening</p>	<p>S.L. 2006-248 § 16.</p> <p>S.L. 2006-248 § 4.3.</p> <p>S.L. 2006-248 § 4.4.</p> <p>S.L. 2006-258 § 5.</p> <p>S.L. 2006-248 § 4.2.</p>

<p><u>Teaching Fellows Program</u></p> <p>✓ Report of Activities and Expenditures</p>	<p>Shall report to the Joint Legislative Education Oversight Committee by March 15, 2007</p>	<p>S.L. 2006-66 § 7.19.(b).</p>
<p><u>Twenty-First Century Revenue System Study Commission</u></p> <p>✓ Report of Findings and Recommendations</p>	<p>Shall report to the 2007 General Assembly by March 1, 2007</p>	<p>S.L. 2006-248 § 38.</p>
<p><u>University of North Carolina</u></p> <p>✓ UNC-NCCCS 2+2 E-Learning Initiative Report (In cooperation with the Community College Systems Office)</p>	<p>Shall report to the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, and the Fiscal Research Division by September 1, 2006</p>	<p>S.L. 2006-66 § 9.1.</p>
<p><u>University of North Carolina Board of Governors</u></p> <p>✓ Teacher Assistant Scholarship Fund</p>	<p>Shall report annually to the Joint Legislative Education Oversight Committee by December 1</p>	<p>S.L. 2006-95 § 2.3.</p>
<p><u>University of North Carolina Board of Governors Study Commission</u></p> <p style="text-align: center;">CREATED</p> <p>✓ Report of Findings and Recommendations</p>	<p>Shall report to the 2007 General Assembly</p>	<p>S.L. 2006-248 § 19.2.</p>
<p><u>University of North Carolina General Administration</u></p> <p>✓ Teacher Education Program Enrollment Plans Study</p>	<p>Shall report to the Office of State Budget and Management and the Joint Legislative Education Oversight Committee on each constituent institution's plan by December 30, 2006 and shall submit a progress report by March 31, 2007</p>	<p>S.L. 2006-66 § 9.2.</p>

<p><u>Utility Review Committee, Joint Legislative</u></p> <ul style="list-style-type: none"> ✓ Chapter 62A Article 1, Other Issues the Committee Determines Relevant to ✓ Community College System as Preferred Provider of Training for Public Safety Answering Point Staff, Whether to Designate the ✓ Gasoline, North Carolina Utilities Commission Regulating the Production and Distribution of ✓ Local Emergency Telephone System Fund, Modification of Authorized Expenditures from a ✓ 911 Charges by Local Governments, Mechanisms for Increased Accountability for the Collection and Spending of ✓ State Emergency Telephone Fund, Whether to Create and a Formula for Distributing Those Monies to Local Government ✓ Uniform 911 Charge, Whether to Adopt a Statewide 	<p>May report to the 2007 General Assembly upon its convening</p> <p>May report to the 2007 General Assembly upon its convening</p> <p>Shall report to the 2007 General Assembly by February 1, 2007</p> <p>May report to the 2007 General Assembly upon its convening</p> <p>May report to the 2007 General Assembly upon its convening</p> <p>May report to the 2007 General Assembly upon its convening</p> <p>May report to the 2007 General Assembly upon its convening</p>	<p>S.L. 2006-248 § 6.2.(6).</p> <p>S.L. 2006-248 § 6.2.(5).</p> <p>S.L. 2006-206 § 4A.2.</p> <p>S.L. 2006-248 § 6.2.(2).</p> <p>S.L. 2006-248 § 6.2.(1).</p> <p>S.L. 2006-248 § 6.2.(4).</p> <p>S.L. 2006-248 § 6.2.(3).</p>
<p><u>Virtual Public School System, North Carolina</u></p> <ul style="list-style-type: none"> ✓ Course Consolidation and Operations Plan for 2007-08 	<p>Shall report to the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, and the Fiscal Research Division no later than January 15, 2007</p>	<p>S.L. 2006-66 § 7.16.(b).</p>
<p><u>Waterfront Access Study Committee</u></p> <p style="text-align: center;">CREATED</p> <ul style="list-style-type: none"> ✓ Report of Findings and Recommendations 	<p>Shall report an interim report to the Joint Legislative Commission on Seafood and Aquaculture, the Marine Fisheries Commission and the Coastal Resources Commission by January 15, 2007 and a final report by April 15, 2007</p>	<p>S.L. 2006-248 § 45.5.</p>

<p><u>Wildlife Resources Commission, North Carolina</u></p> <p>✓ Allowing Hunting on Sundays: Findings and Recommendations</p>	<p>Shall report to the Joint Legislative Commission on Governmental Operations by March 15, 2007</p>	<p>S.L. 2006-248 § 13.4.</p>
<p><u>Women at Risk</u></p> <p>✓ Report of Activities and Expenditures</p>	<p>Shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by February 1 of each year</p>	<p>S.L. 2006-66 § 16.4.</p>
<p><u>Worker Retraining, Study Commission on</u></p> <p style="text-align: center;">CREATED</p> <p>✓ Report of Findings and Recommendations</p>	<p>Shall report to the 2007 General Assembly upon its convening</p>	<p>S.L. 2006-248 § 40.7.</p>

Compiled by Joseph Moore, Research Division, November 2006

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