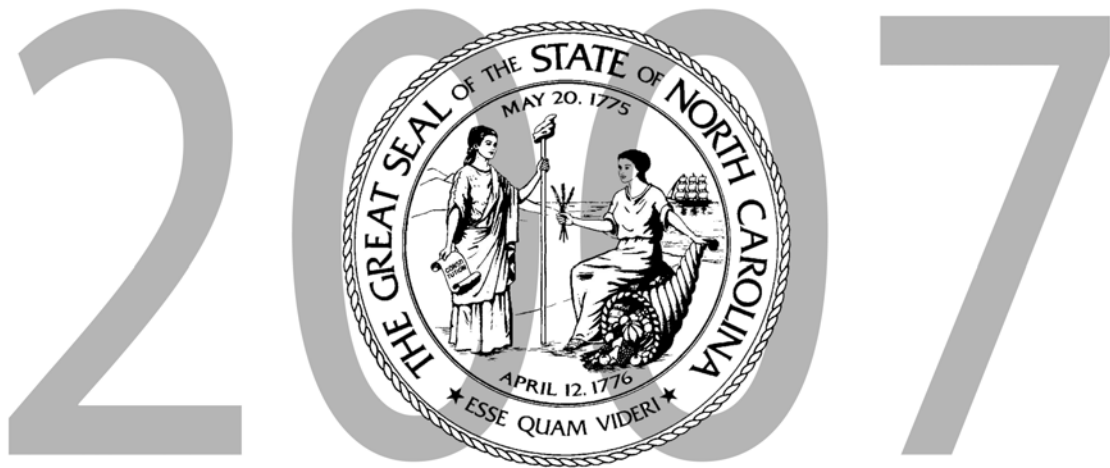


SUMMARIES OF SUBSTANTIVE RATIFIED LEGISLATION - 2007

SUMMARIES OF SUBSTANTIVE RATIFIED LEGISLATION



**2007 GENERAL ASSEMBLY
2007 REGULAR SESSION**

**RESEARCH DIVISION
N.C. GENERAL ASSEMBLY
NOVEMBER 2007**

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November 2007

To the Members of the 2007 Session of the 2007 General Assembly:

This publication contains summaries of all substantive legislation of general applicability and certain local legislation having general import from the 2007 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 2007 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, Susan Barham, Brenda Carter, Drupti Chauhan, Erika Churchill, Karen Cochrane-Brown, Judy Collier, Heather Fennell, Bill Gilkeson, George Givens, Kory Goldsmith, Trina Griffin, Tim Hovis, Jeff Hudson, Denise Huntley, Shirley Iorio, Sara Kamprath, Mariah Matheson, Theresa Matula, Kara McCraw, 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. Dan Etefagh, of the Bill Drafting Division and Martha Walston, of the Fiscal Research Division also contributed to this document. Howard Alan Pell is chief editor of this year's publication, and Brad Krehely is co-editor. Lucy Anders, of the Research Division also helped edit this document. The specific staff members contributing to each subject area are listed directly below the chapter heading for that area. Staff members' initials appear after their names and after each summary they contributed. If you would like further information regarding any legislation in the various summaries, please contact the Research Division Office at (919) 733-2578.

This document is also available on the World Wide Web. Go to the General Assembly's homepage at <http://www.ncleg.net>. Click on "Legislative Publications," then "Research Division," then "Summaries of Substantive Ratified Legislation." 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), Barbara Riley (BR)

Enacted Legislation

Agriculture

Adopt State Collard Festival

S.L. 2007-28 ([HB 406](#)). See **State Government**.

Facilitate Distribution of E-Blend Fuel

S.L. 2007-82 ([SB 567](#)). See **Transportation**.

Limit Liability at Agricultural Fairs

S.L. 2007-171 ([HB 590](#)) expands the definition of agritourism activity for purposes of limited civil liability. The term includes any activity involving an animal exhibition at an agricultural fair licensed by the Commissioner of Agriculture. The General Statutes provide a limitation on civil liability for agritourism professionals engaged in the business of providing agritourism activities. In addition to the expansion of the definition by the act, agritourism activities are defined as any activity on a farm or ranch that allows the general public, for recreational, educational, or entertainment purposes, to view or enjoy rural activities including farming, ranching, historic attractions/activities, pick your own activities, and others.

If a warning is posted, consistent with the requirements of the Article, an agritourism professional will not be held liable for the injury or death of a participant resulting from the inherent risks of participating in agritourism activities. The limitation on liability does not apply if the agritourism professional does either of the following:

- Acts negligently or with willful or wanton disregard for the safety of the participant and that act is the proximate cause of the injury.
- Knew, or should have known, of any of the following and did not make that danger known to the participant:
 - A dangerous condition on the land, facilities, or equipment used in the activity.
 - The dangerous propensity of a particular animal.

This act became effective July 4, 2007, and applies to causes of action arising on or after that date. (EC)

Registration and Length Exemptions

S.L. 2007-194 ([SB 738](#)). See **Transportation**.

University of North Carolina/Agricultural Extension Employee Status

S.L. 2007-195 ([HB 847](#)). See **Labor and Employment**.

Streamlined Sales Tax Changes

S.L. 2007-244, Sec. 4 ([HB 257](#), Sec. 4) revises the sales tax exemption for items sold for use in commercial fishing to insert references to holders of a commercial fishing license, a commercial shellfish license, and the operator of a for-hire boat. The reference to the operator of a for-hire boat is an addition to the statute, but reflects the administrative practice of including this group in the commercial fishing group.

This section became effective October 1, 2007. (EC)

See **Finance** for the summary of the remaining sections of the act.

University Cancer Research Fund

S.L. 2007-323, Sec. 6.23 ([HB 1473](#), Sec. 6.23). See **Finance**.

Study Structure/Management Agriculture Research Stations and Farms

S.L. 2007-323, Sec. 11.4 ([HB 1473](#), Sec. 11.4). See **State Government**.

Study Equine Industry in North Carolina

S.L. 2007-323, Sec. 13.14A(b) and (c), ([HB 1473](#), Sec. 13.14A(b) and (c) provides that, of the funds appropriated to the Rural Economic Development Center, \$500,000 shall be transferred to the Agricultural Advancement Consortium to assess the numbers, composition, and value of the equine industry in North Carolina. The Agricultural Advancement Consortium also is directed to develop a plan to maximize the impact of the equine industry in the State.

The section became effective July 1, 2007. (BR)

Poultry Products Inspection Act Penalties

S.L. 2007-361 ([HB 589](#)) amends G.S. 106-549.59 by adding a new subsection providing for a \$5,000 civil penalty for violations of the poultry products inspection laws.

The act became effective October 1, 2007, and applies to penalties assessed on or after that date. (BR)

Amend Plant Protection and Conservation Act

S.L. 2007-456 ([HB 862](#)) allows the North Carolina Plant Conservation Board to establish fees for the permits it is authorized to issue, including the permit to harvest ginseng. The act also increases the penalty for violations of the Plant Protection and Conservation Act from a Class 3 misdemeanor to a Class 2 misdemeanor, and deletes the fine provisions. The act also authorizes the agent of the Department of Agriculture and Consumer Services to the list of individuals who may inspect pertinent papers and records related to the Plant Protection and Conservation Act. The previous law included only the Commissioner, or any employee of the Department.

This act becomes effective December 1, 2007, and applies to offenses committed on or after that date. (EC)

Enact Waterfront Access Study Committee Recommendations

S.L. 2007-485 ([SB 646](#)) increases certain boat numbering fees that are held in the Wildlife Resource Commission's Boating and Waterway Account. The act increased the fee for numbering a boat from \$10 to \$15 for a 1-year period, and increased the fee for a 3-year period from \$25 to \$40. The act also directs the Division of Emergency Management to study ways to facilitate construction and repair of water dependent structures in regulated flood zones.

This act became effective August 2, 2007. (EC)

See **Finance, Environment and Natural Resources**, and **Transportation** for additional information on this act.

Property Tax and Present Use Value Changes and Studies

S.L. 2007-497 ([HB 1499](#)). See **Finance**.

Exemption for Baler Twine from Sales Tax

S.L. 2007-500 ([HB 487](#)). See **Finance**.

Economic Development Modifications

S.L. 2007-515 ([HB 1595](#)). See **Local Government**.

Swine Farm Environmental Performance Standards

S.L. 2007-523 ([SB 1465](#)). See **Environment and Natural Resources**.

State Food Festival

S.L. 2007-533 ([HB 433](#)). See **State Government**.

Clarify/Extend Animal Waste Management Provisions

S.L. 2007-536 ([HB 810](#)). See **Environment and Natural Resources**.

Migrant Housing Health/Safety

S.L. 2007-548 ([SB 1466](#)). See **Labor and Employment**.

Animals

Allow Earthdog Trials

S.L. 2007-180 ([SB 1424](#)). See **Criminal Law and Procedure**.

Clarify Dog Fighting and Baiting Law

S.L. 2007-181 ([SB 21](#)). See **Criminal Law and Procedure**.

Increase Penalty/Starvation of Animals

S.L. 2007-211 ([HB 995](#)). See **Criminal Law and Procedure**.

Spay/Neuter Funding

S.L. 2007-487 ([SB 684](#)) repeals the provisions for the sale of a special edition rabies tag. The proceeds from sales of the tag have been used to fund the Spay/Neuter Account in the Department of Health and Human Services. The act also amends the amount that may be charged for a rabies tag by 20¢, in addition to the actual cost of the tag, links, and rivets. The additional 20¢ per tag will be credited to the Spay/Neuter Account. The 20¢ portion of the fee is not be imposed for tags provided to persons who operate facilities devoted primarily to the training or boarding of hunting dogs, or who own and vaccinate 10 or more dogs per year.

The act also provides that if the funds generated by the rabies tag fee are less than \$47,500 in any fiscal year, the difference between \$47,500 and the amount actually generated may be used to fund rabies education and prevention programs. A county may not receive funds from the Spay/Neuter Account, unless the county requires proof of rabies vaccination at the time of the procedure or requires rabies vaccination at the time of the procedure.

This act becomes effective January 1, 2008. (BR)

Wildlife

Reciprocity of Disabled Hunting Licenses

S.L. 2007-2 ([SB 50](#)) directs the Wildlife Resources Commission to investigate the potential for agreements with other jurisdictions for reciprocal hunting and fishing licenses for the disabled.

This act became effective March 22, 2007. (BR)

Waiver of Enforcement/No-Wake Zones

S.L. 2007-46 ([SB 361](#)) allows the Wildlife Resources Commission to temporarily and conditionally waive the enforcement of a no-wake zone on the request of a local government that encompasses or abuts the no-wake zone, if the Commission determines that public safety and welfare will not be significantly compromised by the waiver.

This act became effective May 16, 2007. (BR)

Prohibit Baiting of Bears

S.L. 2007-96 ([SB 1246](#)) prohibits placing processed food products as bait in any area of the State where the Wildlife Resources Commission has established an open season for taking black bear. Processed food products are defined as a food substance or flavoring that has been modified from its raw components by the addition of ingredients, or by treatment to change its chemical composition or form, or to enhance aroma or taste. Examples would include substances modified by sugar, honey, oil, salt, or peanut butter. The term also includes sugary products such as candies, pastries, and sugar blocks. The act does not prohibit the lawful disposal of solid

waste or the legitimate feeding of livestock, domestic animals, and birds. The prohibition also does not apply to the release of dogs near a food source that is not a processed food product. Violation of the act is a Class 2 misdemeanor.

This act became effective October 1, 2007. (BR)

Brunswick Menhaden Restrictions

S.L. 2007-320 ([HB 1017](#)). See **Environment and Natural Resources**.

Amend Wildlife Resources Management Laws

S.L. 2007-401 ([SB 1464](#)) makes a number of changes to the State's wildlife management laws. The changes include:

Authorizing the Wildlife Resources Commission to adopt rules governing the exercise of emergency powers by the Executive Director of the Commission, when the Commission determines that such powers are necessary to respond to a wildlife disease that threatens irreparable injury to wildlife or the public. The emergency powers that may be authorized by adopted rules include:

- Providing for an open season for taking beaver with a bow and arrow.
- Providing a number of changes in the statutes governing the taking of deer, including a provision allowing the Executive Director to issue a landholder or landholder's agent a special license and a number of antlerless and antlered deer tags sufficient to accommodate the landholder's deer population management objectives, or to correct any deer population imbalance that may occur on the property.
- Specifying that persons hunting deer during a deer firearms season must wear hunter orange.
- Prohibiting the intentional feeding of alligators outside of captivity.
- Authorizing the Commission to allow the use of electronic calls in taking migratory birds.
- Directing the Commission to study issues related to the retrieval of wildlife wounded by hunters. The report is to be submitted to the 2008 General Assembly, the Chairs of the House Wildlife Resources Committee, and the Senate Agriculture and Natural Resources Committee no later than May 1, 2008.

The provisions of the act directing the Commission to study issues relating to the retrieval of wounded wildlife became effective August 21, 2007. The remainder of the act became effective October 1, 2007, and applies to acts committed on or after that date. (BR)

Mountain Heritage Trout Waters Program

S.L. 2007-408 ([SB 1303](#)) creates a new Mountain Heritage Trout Waters 3-Day Fishing License with a fee of \$10. The holder of the three-day license is not required to hold a hook and line license. The act also defines the term "mountain heritage trout waters," as those waters that have been designated as public mountain trout waters by the Wildlife Resources Commission that run through, or are adjacent to, a city and have been designated as mountain heritage trout waters. The Commission is directed to adopt rules to implement a Mountain Heritage Trout Waters Program to promote trout fishing as a heritage tourism activity, to develop criteria for participation in the program by cities, and to prepare a management plan for mountain heritage trout waters. A city that meets the program participation criteria shall be designated a Mountain Heritage Trout City.

Section 2 of the act establishing the Mountain Heritage Trout Waters 3-Day Fishing License became effective July 1, 2007. The remainder of the act became effective August 21, 2007. (BR)

Allow Cyclists to Use Public Lands

S.L. 2007-449 ([SB 1383](#)). See **Transportation**.

For a complete list of the studies and reports authorized by the 2007 Session of the 2007 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

Modify Hours of Sale for Permittees Authorized to Engage in In-Stand Sales

S.L. 2007-323, Sec. 6.25 ([HB 1473](#), Sec. 6.25) modifies the hours of sale for a permittee who is authorized to sell malt beverages in the seating areas of stadiums, ballparks, and other similar public places with a seating capacity of 60,000 or more during professional sporting events, in municipalities with a population greater than 450,000. Sales and consumption of alcoholic beverages on the premises of a permittee who meets these requirements may begin at 11:00 a.m. on Sunday, which is one hour earlier than otherwise permitted by State law.

This section became effective July 1, 2007. (BC)

Alcoholic Beverage Control Election-Cities in Two Counties

S.L. 2007-386 ([SB 661](#)) amends the Alcoholic Beverage Control election laws to provide an additional ground upon which a city located in two or more counties may hold a mixed beverages election. The act permits a city located in two or more counties to hold a mixed beverages election without having an ABC store election, if a least one municipality in any of the counties in which the city is located operates an ABC store.

This act became effective July 1, 2007. (BC)

Alcoholic Beverage Control Law Changes

S.L. 2007-402 ([HB 267](#)) makes unincorporated municipalities subject to a statute that allows the issuance of off-premises malt beverage and unfortified wine permits, after an election allowing the sale of mixed beverages. The act also authorizes an unfortified winery permit holder to allow winemaking on premises, subject to the appropriate Alcoholic Beverage Control (ABC) permit, whereby individual customers who are 21 years old or older may purchase ingredients and rent the equipment, time, and space to make unfortified wine for personal use in limited amounts.

The act amends the law concerning the requirement for certain ABC permittees to recycle beverage containers beginning January 1, 2008. It clarifies that failure to comply with the recycling requirements will not be grounds for revocation of an ABC permit. The act requires each applicant and each person renewing an on-premises malt beverage permit, on-premises unfortified wine permit, on-premises fortified wine permit, or a mixed beverages permit to prepare and submit with the application or renewal, a plan for the collection and recycling of all recyclable beverage containers of all beverages to be sold at retail on the premises. A permittee who is not able to find a recycler for its beverage containers by January 1, 2008, may apply to the Alcoholic Beverage Control Commission for a one-year stay of the requirement to implement a recycling program.

This act became effective August 21, 2007. (BC)

Drivers License Revocation for Alcoholic Beverage Control Violation

S.L. 2007-537 ([HB 1277](#)). See **Transportation**.

For a complete list of the studies and reports authorized by the 2007 Session of the 2007 General Assembly, please refer to the Appendix contained in this publication.

Chapter 3
Business and Commerce

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

Enacted Legislation

Amend Bank and Trust Company Assessments

S.L. 2007-55 ([SB 658](#)) changes the cumulative assessments charged to State-chartered banks and trust companies to pay for the operation of the Office of the Commissioner of Banks. The act increases the assessments on smaller banks and decreases the assessments on larger banks. The act also increases the base assessment rate charged to State trust companies from \$6,000 to \$10,000.

This act became effective May 23, 2007, and applies to assessments made on or after that date. (WR)

Electronic Signatures/Public Agencies

S.L. 2007-119 ([SB 211](#)). See **State Government**.

Alcohol Inhalers Illegal

S.L. 2007-134 ([SB 125](#)). See **Criminal Law and Procedure**.

Streamline Telecommunications Promotions

S.L. 2007-157 ([SB 680](#)). See **Utilities**.

Residential Mortgage Fraud Act

S.L. 2007-163 ([HB 817](#)). See **Consumer Protection**.

Identify Loan Originator on Deed of Trust

S.L. 2007-176 ([HB 313](#)). See **Property, Trusts, and Estates**.

Rental Car Fee Reform

S.L. 2007-235 ([SB 1118](#)). See **Consumer Protection**.

Streamlined Sales Tax Changes

S.L. 2007-244 ([HB 257](#)). See **Finance**.

Prescription Orders/Electronic Image

S.L. 2007-248 ([HB 1369](#)) allows a pharmacist-manager of a pharmacy with a capable computer system to maintain prescription orders by capturing electronic images of the orders. It also allows health care providers to keep electronic records of consents to treatment and authorizations to disclose medical information.

North Carolina law provides that every pharmacist-manager of a pharmacy is required to maintain, for a minimum of three years, the original of every prescription order and refill compounded or dispensed at the pharmacy. This act allows the use of electronic images of prescription orders and refills to comply with those maintenance requirements, if the pharmacy's computer system is "capable." A computer system is deemed capable if it can provide information required by the Board within 48 hours of the request. The act also deletes the requirement that a pharmacist write his or her signature on the face of a prescription for a controlled substance, when it is dispensed, since an electronic record would not allow for a handwritten signature.

Current law also allows health care providers to maintain medical records in electronic format, without maintaining separate paper copies. However, prior to this act, if a consent to treatment, or an authorization to disclose medical information was in a paper writing, it was required to be preserved in that format. This act eliminates that requirement and allows those forms to be kept in electronic format, along with other medical records.

This act became effective July 20, 2007. (WGR)

Duty to Report Child Porn

S.L. 2007-263 ([HB 27](#)) provides that any film processor, or computer technician, who views an image of a minor, or a person who reasonably appears to be a minor, engaging in sexual activity must report the name of the person requesting the development of the film, or the person in possession of the computer, to the National Center for Missing and Exploited Children, or the appropriate local law enforcement officer. A processor of photographic images means any person who, for compensation: (1) develops exposed photographic film into negatives, slides, or prints; (2) makes prints from negatives, slides, digital images, or video; or (3) develops, processes, transfers, edits, or enhances video or digital images. A computer technician means any person who repairs, installs, or otherwise services any computer or computer network, or system for compensation.

The requirement may be satisfied if the processor of photographic images, or the computer technician, reports the required information to a person designated by the employer. That person must then report the required information to the appropriate authority. The act creates civil and criminal immunity for a person, or employer, who acts in good faith when making a report.

This act became effective September 1, 2007. (KG)

Correction Enterprises

S.L. 2007-280 ([HB 648](#)). See **Courts, Justice and Corrections**.

Contracts with Automatic Renewal Clauses

S.L. 2007-288 ([SB 527](#)). See **Consumer Protection**.

Motorcycle Manufacturer Plates

S.L. 2007-291 ([HB 135](#)). See **Transportation**.

Revise Life and Health Insurance Laws

S.L. 2007-298 ([HB 731](#)). See **Insurance**.

Increase Criminal Penalty/Theft of Metals

S.L. 2007-301 ([HB 367](#)). See **Criminal Law and Procedure**.

Limit Liability of Liquid Petroleum Gas Dealer/Certain Others

S.L. 2007-302 ([HB 1536](#)) provides that liquid petroleum gas (LPG) dealers and their employees, agents, and subcontractors will not be held liable for civil damages caused by improper installation, repair, or use by others, if the dealer did not know of, and consent to, the action.

Current law regulates liquefied petroleum gases, and sets forth a code of safety for the handling of liquid petroleum gas. The Department of Agriculture and Consumer Services are responsible for enforcing the code. The Commissioner of Agriculture may assess civil penalties, in amounts ranging from \$100 to \$500, for violations. A violation of the Article carries a Class 1 misdemeanor criminal penalty. A dealer is defined as someone in the business of selling LPG or installing, servicing, repairing, adjusting, connecting, or disconnecting containers, equipment, or appliances that use LPG. The Article limits the liability of persons who provide assistance in an emergency or accident.

This act provides that a liquid petroleum gas dealer, or the dealer's agent, employee, or subcontractor, is not liable for civil damages for an injury caused by one or more of the following:

- The installation, alteration, modification, or repair of LPG equipment, or an LPG appliance, by another person, if the LPG dealer, etc., did not know of, and consent to, the installation, alteration, modification, or repair.
- The use of LPG equipment, or an LPG appliance, by another person in a manner or for a purpose for which it was not intended, if the LPG dealer, etc., did not know of and consent to its being used in the manner or for the purpose for which it was not intended.
- The installation of LPG equipment, or an LPG appliance, by another person in a manner not in accordance with the instructions of the manufacturer or in a manner not in accordance with the rules of Article 5 of Chapter 119, if the LPG dealer did not know of and consent to its being installed in that manner.

Nothing in the new statute alters an LPG dealer's duty to exercise reasonable care.

This act became effective October 1, 2007, and applies to acts or omissions occurring on or after that date. (SR)

North Carolina Green Business Fund

S.L. 2007-323, Sec. 13.2 ([HB 1473](#), Sec. 13.2) creates the North Carolina Green Business Fund as a special revenue fund to promote small businesses that develop and expand the biofuel industry, the green building industry, clean technology, and renewable energy products and businesses. The fund is to be administered by the Department of Commerce.

The Department of Commerce is to make grants to private businesses of less than 100 employees, nonprofit organizations, local governments, and State agencies to encourage the

expansion of small to medium sized businesses with less than 100 employees to grow a green economy in the State. The funds are to be used for the following purposes:

- Maximize development, production, distribution, retail infrastructure, and consumer purchases of biofuels in the State, including the development of biofuels workforce.
- Development of the green building industry in the State through the development and growth of a market for environmentally conscious, and energy efficient, green building processes, including:
 - The installation, certification, or distribution of green building materials.
 - Energy audits.
 - Marketing and sales of green building technology in the State.
 - The development of a workforce for green building processes.
- Attract and leverage private-sector investments and entrepreneurial growth in environmentally conscious clean technology and renewable energy products and businesses, including the development of workforces in these industries.

Guidelines for awarding grants under this act are exempt from the rulemaking requirements of the Administrative Procedures Act.

This section became effective July 1, 2007. (WR)

Use of State Executive Aircraft

S.L. 2007-323, Sec. 13.3 ([HB 1473](#), Sec. 13.3) states that the use of an executive aircraft by the Department of Commerce for economic development purposes must take precedence over all other uses. If an executive aircraft is not in use for such purposes, priority of use must be given to the Governor, the Council of State, and other State officials traveling on State business, respectively. The Department of Commerce is directed to review annually the rates charged for the use of executive aircraft and adjust the rates, if necessary. This section also establishes a rate to be charged, if an executive aircraft is used to attend an event related to collegiate athletics.

This section became effective July 1, 2007. (DH)

Report on Business Courts

S.L. 2007-323, Sec. 14.7 ([HB 1473](#), Sec. 14.7). See **Courts, Justice, and Corrections**.

State Health Plan Changes

S.L. 2007-323, Sec. 28.22A ([HB 1473](#), Sec. 28.22A). See **Insurance**.

Privilege Tax on Software Publishers' Machinery and Equipment

S.L. 2007-323, Sec. 31.7 ([HB 1473](#), Sec. 31.7). See **Finance**.

Modify Tax Credit for Constructing Renewable Fuel Facilities

S.L. 2007-323, Sec. 31.9 ([HB 1473](#), Sec. 31.9). See **Finance**.

Expand Sales and Use Tax Refund for Certain Aircraft Manufacturers

S.L. 2007-323, Sec. 31.10 ([HB 1473](#), Sec. 31.10). See **Finance**.

Local Option County Taxes

S.L. 2007-323, Sec. 31.17 ([HB 1473](#), Sec. 31.17). See **Finance**.

Sales Tax Refund-Research Supplies

S.L. 2007-323, Sec. 31.20 ([HB 1473](#), Sec. 31.20). See **Finance**.

Datacenter Sales Tax Exemption

S.L. 2007-323, Sec. 31.22 ([HB 1473](#), Sec. 31.22). See **Finance**.

Tax Incentive for Railroad Intermodal Facility

S.L. 2007-323, Sec. 31.23 ([HB 1473](#), Sec. 31.23). See **Finance**.

Amend Tax Incentive for Railroad Intermodal Facility

S.L. 2007-345, Sec. 14.7 ([HB 714](#), Sec. 14.7). See **Finance**.

Protect Homeowners/Reduce Foreclosure

S.L. 2007-351 ([HB 1374](#)) makes several changes to the law to protect borrowers in mortgage transactions, including:

- Amends the Civil Procedure law, with regard to the statute of limitations, to recover penalties for usury by including actions for the financing of usurious points, fees, or other charges. The two-year period would accrue with each payment made and accepted on the loan.
- Amends the law governing the grounds upon which a North Carolina court can exercise personal jurisdiction over a nonresident defendant in a claim related to local real property. The act authorizes jurisdiction if the loan was made to a North Carolina borrower for primarily family or household purposes, and was secured by real property located within the State on which there is, or will be located, a 1-4 family unit dwelling.
- Amends the Interest law to provide that any person who acquires the right to receive payments on a loan made in the State, to a resident of the State, and secured by property in the State, is deemed to have consented to the exercise of jurisdiction by the courts of the State for any claim related to the loan.
- Amends the law relating to foreclosure under power of sale by adding several items to the list of information that must be provided to the debtor with the notice of hearing, including:
 - Whether the borrower made requests to the servicer for information in the prior two years, and whether the servicer complied with such requests.

- That the debtor need not appear at the hearing, if he or she does not intend to contest the default, but that failure to appear does not affect the right to pay the debt and prevent the sale.
 - That the trustee is a neutral party and cannot advocate for the creditor or the debtor.
 - That the debtor can apply to the court to stop the sale, on legal or equitable grounds, prior to the time the rights of the parties to the sale become fixed.
 - That the debtor has the right to appear at the hearing and contest the allegations in the notice, and the grounds the clerk must find to authorize the foreclosure.
 - That if the debtor fails to appear, the trustee will seek an order to sell the property being foreclosed.
 - That the debtor has the right to legal advice, and how the debtor may obtain free legal advice.
- Creates a new Article entitled "Mortgage Debt Collection and Servicing." The new Article applies to (i) home loans that are secured by real property and used by the individual borrower as a dwelling, (ii) to servicers, defined as a person responsible for receiving scheduled periodic payments from a borrower under the terms of a loan, and making payments as required by the terms of the loan. The definition of servicer does not include an attorney who accepts payments related to loan closings, defaults, foreclosures, or settlement of disputes related to a loan.
 - The act restricts the amount and conditions under which fees may be assessed by a servicer. It also establishes the obligations of the servicer with regard to handling escrow funds. The servicer must maintain records of written requests for information made by the borrower regarding disputes or errors in the borrower's account, and provide responses within 10 business days. The borrower is entitled to one statement in a six-month period. Thereafter, a charge for additional statements, of no more than \$25.00, may be assessed.
 - The borrower also is entitled to receive a copy of the original note and a statement of the full payment history within 25 business days of making the request. After receiving 1 statement in a 6-month period, the borrower may be charged \$50.00 for additional copies.
 - In addition to any equitable or legal remedies that may be available, a borrower injured by a violation of this Article, the Commissioner of Banks, the Attorney General, or a party to the loan, may sue for actual damages and attorney's fees. If a party to the loan sues, the borrower must notify the servicer in writing of the error or dispute that forms the basis of the claim at least 30 days before commencing the action. A servicer will not be in violation of the Article, if the servicer shows that the violation was unintentional and the servicer corrects the error and compensates the borrower within 30 days of discovery or notice of the error and prior to commencement of an action.

Sections 4 and 5 of this act become effective April 1, 2008. The remainder of the act became effective August 16, 2007. (KCB)

Protect Consumers - Covered Loans

S.L. 2007-352 ([HB 1817](#)). See **Consumer Protection**.

North Carolina Foreclosure/Landlord Tenant Laws

S.L. 2007-353 ([HB 947](#)). See **Local Government and Property, Trusts, and Estates**.

Use of Senate Seals and Coat of Arms

S.L. 2007-354 ([SB 371](#)) prohibits anyone, unless directed by the Senate or the Senate Principal Clerk, to knowingly use, manufacture, reproduce, sell, or purchase for resale any part of or likeness to any seal or coat of arms of the Senate, except for the manufacture or sale of the article for the official use of the State. A violation of this act is a Class 2 misdemeanor. The Attorney General may seek an injunction for violations of this act.

This act became effective August 17, 2007. (DH)

Prohibit Gift Card Maintenance Fees

S.L. 2007-363 ([SB 1517](#)). See **Consumer Protection**.

Retainage Payments/Construction Contracts

S.L. 2007-365 ([SB 1245](#)). See **State Government**.

Sales Tax Exemption for Baked Goods

S.L. 2007-368 ([SB 1240](#)). See **Finance**.

Business Entity Clarifications

S.L. 2007-385 ([SB 576](#)) amends the Business Corporation Act to clarify various amendments made in 2005 regarding mergers. This act clarifies that a committee of a board of directors is prohibited from authorizing or approving the corporation's reacquisition of shares, except according to a formula or method prescribed by the board of directors. The act also substitutes the term "plan of merger" for the term "articles of merger" throughout the Business Corporation Act.

This act became effective August 19, 2007. (HF)

Increase Hold for Items Bought by Pawnbroker

S.L. 2007-415 ([SB 806](#)) prohibits pawnbrokers from selling, exchanging, bartering, or removing for the pawnshop any goods that were purchased before the earlier of 7 days after the pawn ticket information is electronically reported to law enforcement, or 30 days after the transaction. Currently, a pawnbroker must hold the goods for only 48 hours after the transaction in which the property is purchased by the pawnbroker.

The act also authorizes the establishment of procedures for reporting pawn ticket records electronically, by allowing the report to be made to the sheriff or the chief of police, by transmission over the Internet or by a facsimile transmission, in a manner approved by the sheriff or chief of police.

This act became effective October 1, 2007, and applies to goods taken by a pawnbroker in pledge, pawn, or purchase on or after that date. (KCB)

Extend Qualified Business Venture Tax Credit

S.L. 2007-422 ([HB 1598](#)). See **Finance**.

Quarterly Escrow Deposits/Affiliated Tobacco Dealers

S.L. 2007-435 ([HB 1460](#)). See **Finance**.

Small Business Contractor Act

S.L. 2007-441 ([HB 1181](#)) creates the North Carolina Small Business Contractor Authority (Authority). The purpose of the Authority is to foster economic development and the creation of jobs by providing financial assistance to financially responsible small businesses that are unable to obtain adequate financing and bonding assistance in connection with contracts.

The Authority is governed by a board consisting of 11 members: 8 appointed by the General Assembly, 4 each upon the recommendation of the President Pro Tempore of the Senate and the Speaker of the House of Representatives, and 3 appointed by the Governor. The members shall serve four-year terms, and there is no prohibition against serving successive terms.

The Authority has the power to accept grants and loans, employ staff, acquire and manage property, develop applications for guaranty agreements, fix and determine fees, adopt administrative rules, and report quarterly to the Joint Legislative Commission on Governmental Operations. The Authority may not pledge the full faith and credit of the State.

In order to qualify for assistance from the Authority, a small business concern must meet certain federally established standards for businesses of similar size and industry. The applicant also must have a reputation for financial responsibility, be a resident of North Carolina, and demonstrate to the satisfaction of the Authority that the applicant has been unable to obtain adequate financing or bonding on reasonable terms through an authorized company.

The act also creates two funds: The Small Business Contract Financing Fund (Financing Fund) and the Small Business Surety Bond Fund (Bond Fund). These are both special revenue funds. The Financing Fund may be used by the Authority to guarantee a loan made to an applicant, or as the actual loan to an applicant. The Bond Fund may be used to guarantee a surety for losses incurred under a bid bond, payment bond, or performance bond on an applicant's contract. The total amount of guarantees issued and bonds executed by the Authority may not exceed 90% of the amount of money in the Surety Bond Fund.

It is a Class 2 misdemeanor to knowingly make or cause any false statement or report to be made in any application or document submitted to an Authority.

This act becomes effective January 1, 2008, and applies to offenses committed or causes of action arising on or after that date. (KG)

Fire-Safe Cigarette Act

S.L. 2007-451 ([HB 1785](#)) enacts a new Article in the General Statutes, the Fire-Safety Standard and Firefighter Protection Act, to adopt a cigarette fire-safety standard for cigarettes sold in the State.

Definitions. – The act includes the following definitions:

- "Cigarette" means any roll for smoking, whether made wholly or in part, of tobacco or any other substance, irrespective of size or shape, and whether or not such tobacco or substance is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, other than leaf tobacco.
- "Manufacturer" is any of the following:
 - Any entity which manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced anywhere that such manufacturer intends to be sold in this State, including cigarettes intended to be sold in the United States through an importer.

- The first purchaser anywhere that intends to resell, in the United States, cigarettes manufactured anywhere that the original manufacturer does not intend to be sold in the United States.
- Any entity that becomes a successor of these entities.

Test Method and Performance Standard. – Test methods and performance standards for cigarettes are governed by the act. No cigarette may be sold in the State, unless it is tested in accordance with the act, meets the performance standards of the act, is accompanied by a written certification filed with the Commissioner of Insurance by the manufacturer and marked, as required under the act. Testing must meet the following requirements or standards:

- Testing must be done in accordance with the American Society of Testing and Materials (ASTM) "Standard Test Method for Measuring the Ignition Strength of Cigarettes."
- Testing must be conducted using 10 layers of filter paper.
- No more than 25% of cigarettes may exhibit full-length burns.
- Performance standards must be applied only to a complete test trial (consists of 40 replicate tests).
- Written certifications of testing filed by manufacturers shall be based upon testing by laboratories accredited by the International Organization for Standardization (ISO) or comparable standard required by the Commissioner of Insurance (Commissioner).

No additional testing is required if testing is completed in accordance with the act. A manufacturer of a cigarette that cannot be tested in accordance with the act shall propose a test method to the Commissioner for approval. No local government may pass any ordinance changing the performance standard set forth in the act. The Commissioner must review the effectiveness of this section and report every three years to the General Assembly, including any recommendations to improve the act.

Certification. – The act addresses certification of a cigarette's performance standard. Each manufacturer is required to submit to the Commissioner a written certification, attesting that the cigarette has been tested and meets the performance standards required under the act. A cigarette must be recertified every 3 years, and the manufacturer must pay to the Commissioner a fee of \$250.00 for each certification form.

If a manufacturer makes any change to a cigarette certified under the act that is likely to affect the cigarette's compliance with ignition propensity standards required under the act, the cigarette may not be sold until the manufacturer retests the cigarette under the act.

Cigarettes certified under the act must be marked in 8-point approved type, or larger, to indicate compliance. Cigarettes sold or offered for sale that do not comply with the performance standard are subject to forfeiture.

Penalties and Enforcement. – Penalties for violations of the act include:

- Manufacturers, distributors, agents, or any other persons who sell, or offer to sell, cigarettes in violation of the testing requirements are subject to a civil penalty not to exceed \$100 per pack, up to a maximum penalty of \$100,000 per 30-day period.
- Retail dealers who knowingly sell, or offer to sell, cigarettes in violation of the act shall be subject to a civil penalty not to exceed \$100 per pack, up to a maximum penalty of \$25,000 during a 30-day period.
- Businesses engaged in the manufacture of cigarettes that knowingly make a false certification are subject to a civil penalty of \$75,000, not to exceed \$250,000 for each false certification.
- Any person violating any other provision of the act is subject to a civil penalty, not to exceed \$1,000 for a first offense, and \$5,000 for each subsequent violation.

The Commissioner or Attorney General may file an action for a violation of the act including injunctive relief, recovery of costs, or damages incurred by the State.

The act does not apply to cigarettes sold out of state.

Preemption. – The act does not apply if a federal reduced cigarette ignition propensity standard that preempts the act is enacted, but implementation of the federal standard does not affect any liability for forfeiture or penalties accrued prior to enactment of the federal law.

Other Provisions. – In a provision unrelated to the Fire-Safety and Firefighter Protection Act, the act clarifies stockholder requirements for a behavioral health professional corporation.

The Fire-Safety Standard and Firefighter Protection Act becomes effective January 1, 2010. The remainder of the act became effective August 24, 2007. The act does not apply to cigarettes sold on or after January 1, 2010, if the dealer can establish that taxes were paid on the cigarettes prior to that date. (TH)

Dealer Motor Vehicle Inspection/Records/Motor Vehicle Registration

S.L. 2007-481 ([SB 1147](#)). See **Transportation**.

Bond License Plate Agent/Online Vehicle Registration

S.L. 2007-488 ([SB 1457](#)). See **Transportation**.

Scrap Vehicle Purchase/Parts-Record

S.L. 2007-505 ([SB 1364](#)) requires secondary metals recyclers and salvage yards to maintain records when purchasing vehicles without a certificate of title for scrap, and amends the junked motor vehicle law for the City of Monroe.

Scrap Vehicle Purchase. – This act allows secondary metals recyclers and salvage yards to purchase motor vehicles without a certificate of title for scrap or parts only, if (i) the motor vehicle is 10 model years old or older, and (ii) the secondary metals recyclers and salvage yards comply with record keeping requirements. Law enforcement may inspect the required records and all motor vehicles in the possession of the scrap metals recycler, or salvage yard, when such operations are open for business. The penalty for violation of this provision is a Class 1 misdemeanor for a first offense, and a Class I felony for second and subsequent offenses. Any motor vehicle, or other tools used to transport another motor vehicle, illegally sold under this provision may be seized by law enforcement and is subject to forfeiture. Local governments are preempted from enacting local laws or ordinances that regulate the sale of motor vehicles to secondary metals recyclers or salvage yards.

The City of Monroe. – This act amends the law to change the definition of "junked motor vehicles," as it applies in the City of Monroe, to include vehicles that appear to be worth less than \$500.

The sections of this act regarding the purchase of vehicles for scrap metal becomes effective December 1, 2007, and applies to offenses committed and motor vehicles purchased on or after that date. The section of this act regarding the City of Monroe became effective August 30, 2007. (HF)

Clarify Motor Vehicle Franchise Laws/Dealer Termination

S.L. 2007-513 ([SB 1351](#)) made the following changes to the motor vehicle franchise laws:

Installment Sales. – The act requires retail installment sales to be evidenced by one or more written instruments (previously had to be one instrument), and requires that the written statement delivered to the buyer that describes the details of the sale be signed by the buyer.

Notice of Objection/Transfer of Dealership. – Current law prohibits a franchisor from unreasonably refusing to approve a transfer of ownership of a dealership, transfer of a franchise, change in the executive management or principal operator of a dealership, or relocation of a dealership. When refusing to approve, the act requires the franchisor to provide detailed factual and legal bases in the franchisor's notice of objection, and limits those bases to those specifically listed in the act. It also provides for additional time for the franchisor to provide notice of objection, if the franchisor requests additional information, to complete its review of a proposed change.

Rights of Successor of Deceased Dealership Owner. – The act clarifies that a designated successor of a deceased or incapacitated owner or operator of a dealership succeeds to all of the rights and obligations of the owner or operator under either the existing franchise or any other successor, renewal, or replacement franchise.

Manufacturer's Opinion on Viability of Franchise. – The act deletes language stating that a manufacturer does not owe a duty to a purchaser of a motor vehicle franchise to disclose its opinion that the franchise is not viable, or is not consistent with the manufacturer's distribution or marketing forecast or plans.

Full Compensation for Warranty Work. – The act clarifies that a manufacturer must fully compensate its dealers for warranty parts and service, and may not attempt to recover those costs from the dealer through other charges or surcharges.

Denial of Claims for Reimbursement for Warranty Work. – The act clarifies that a dealer's claim for reimbursement for warranty parts and services may not be denied by the manufacturer based solely on a failure to comply with the manufacturer's claim documentation procedures. The dealer also must have failed to comply with the same procedure within the previous 12 months and received a written warning from the manufacturer of the failure.

Procedures for Dealer Claims. – The act clarifies that a manufacturer must have reasonable written procedures for substantiating a dealer's claim for sales incentives, service incentives, rebates, or other forms of incentive compensation.

Civil Actions. – The act allows only motor vehicle dealers and parties to a franchise as parties who may bring a civil action for violation of the Manufacturers Licensing Law.

Dealer Eligibility to Purchase Program Vehicles. – The act prohibits a manufacturer from considering the performance of its franchised dealers relating to sale of new motor vehicles to determine the following with regard to program, certified, or other used vehicles:

- The dealer's eligibility to purchase vehicles from the manufacturer.
- The volume, type, or models the dealer is eligible to purchase from the manufacturer.
- The price of vehicles the dealer is eligible to purchase from the manufacturer.
- Availability of discounts, credits, rebates, or sales incentives the dealer is eligible to receive from the manufacturer for purchase of vehicles.

Access to Customer Information. – The act prohibits a manufacturer from accessing customer or prospect information maintained by a dealer for purposes of soliciting the customer on behalf of, or directing the customer to, another dealer. The prohibition does not apply to:

- Customers that request a reference to another dealership.
- Customers that move more than 60 miles from the dealership where the information was accessed.
- Customer information that was originally provided to the dealership by the manufacturer.
- Situations where the dealer has agreed to give the manufacturer access to the information in a separate, written instrument.

Truck Dealer Cost Reimbursement. – The act requires manufacturers of vehicles with a gross vehicle weight rating of 16,000 pounds or more to compensate dealers (at a rate of \$600 per vehicle registered in the State) for the cost of special tools, equipment, and training for which the dealers are liable, when the manufacturer sells a portion of its vehicles to converters and other non-dealer retailers.

Compensation of Dealers/Franchise Termination due to Industry Reorganization. – Current law prohibits a manufacturer from terminating a franchise with a licensed new motor vehicle dealer, unless certain requirements are met regarding notice, determination of good cause for termination, and payment of compensation to the dealer. This act adds the following new provisions to the law dealing with termination of a franchise that results from a change in ownership, or control of all or part of the business of a manufacturer, termination of all or part of the business operations of a manufacturer, or discontinuance of the sale of the product line, or a change in distribution system by the manufacturer:

- The manufacturer has to notify the dealer of the termination not less than 180 days prior to the effective date of the termination.
- The manufacturer is liable to the dealer for an amount at least equivalent to the fair market value of the franchise on one of the following dates, whichever provides the highest amount:
 - The date the franchisor announces the action resulting in termination.
 - The date the action resulting in termination first became general knowledge.
 - The day 12 months prior to the date the notice of termination is issued.
- Payment is due within 90 days of the effective date of the termination. However, if the termination is due to a change in distributors, the manufacturer may avoid payment if the new distributor offers the dealer a franchise with acceptable terms.
- A franchise continues in full force and operation, notwithstanding a change in the system of distribution of motor vehicles offered for sale under the franchise. Upon the occurrence of the change, the Division is required to deny a manufacturer's application for a license or license renewal, unless the applicant offers each dealer who is a party to the franchise a new franchise agreement containing substantially the same provisions, or assumes the obligations of the previous franchise agreement.

Applicability. – The act is applicable to all franchises and agreements existing at the time of its ratification, and to all future franchises and agreements.

This act became effective August 30, 2007. However, nothing in the act applies to any administrative proceeding pending before the Commissioner of Motor Vehicles, or any case pending in a court on or before that date. (WGR)

Wireless Telecommunications Facilities

S.L. 2007-526 ([SB 831](#)). See **Local Government**.

Industrial Machinery - Building Code

S.L. 2007-529 ([SB 490](#)) amends the State Building Code (Code), to provide that the Code does not apply to the regulation of the design, construction, location, installation, or operation of industrial machinery. However, if, during the building code inspection process, an electrical inspector has any concerns about the electrical safety of a piece of machinery, the inspector may refer the concern to the Occupational Safety and Health Division of the North Carolina Department of Labor. The inspector may not withhold a certificate of occupancy or mandate third-party testing of the machinery based solely on this concern.

"Industrial machinery" is defined as equipment and machinery used in a system of operations for the explicit purpose of producing, and does not include equipment permanently attached to or a component part of a building and related to building services such as ventilation, heating and cooling, plumbing, fire suppression or prevention, and general electrical transmission.

This act became effective August 31, 2007. (TH)

Amend Dry-Cleaning Solvent Cleanup Act

S.L. 2007-530 ([SB 1362](#)). See **Environment and Natural Resources**.

Amend Funeral Service Practice/Other Related Laws

S.L. 2007-531 ([SB 1435](#)). See **Occupational Boards and Licensing**.

Deceptive Advertising of Business Location

S.L. 2007-545 ([SB 514](#)) makes it an unfair and deceptive trade practice for a person who is in the business of supplying a perishable product to advertise that the business is located in a certain geographic location, when the business is actually located elsewhere, unless the advertisement contains the actual municipality and state of the location of the business.

This act became effective October 1, 2007, and applies to advertising printed or published on or after that date. (WR)

Job Maintenance and Capital Development Fund

S.L. 2007-552 (Extra Session) ([HB 4](#) (Extra Session)) creates a fund in the Department of Commerce (Department) to be used to encourage businesses to maintain high-paying jobs and make capital investments in the State.

Under the act, in order to be eligible for a grant a company must:

- Invest, or intend to invest, at least \$200 million of private funds within a 6-year period in improvements to real property and additions to tangible personal property to be used in the business in the State.
- Employ, or maintain employment of, at least 2,000 full-time employees in the State.
- Be located in a Tier One county at the time the application is made.
- Meet a wage standard equal to 140% of the average weekly wage for the county.
- Provide health insurance to all full-time employees, have no serious OSHA violations within the past three years, and have no serious environmental law violations within the past three years.

Under the act, the Economic Investment Committee must recommend the grants to the Department. The Department may enter into up to 5 grants, with the maximum individual grant being up to \$4 million per year, with a maximum of cumulative grants of no more than \$60 million. The amount of each grant must be determined after consideration of the amount of sales and use taxes paid on machinery and equipment, sales and use taxes paid on building materials related to expansion, taxes paid on electricity, natural gas and other fuels, additional income or franchise tax paid, worker training expenses incurred, and State permitting fees paid.

The Department must report quarterly to the Joint Legislative Committee on Governmental Operations on grants awarded under this act.

The act directs the Joint Select Committee on Economic Development Incentives to compile a report containing a comprehensive listing of all economic development incentives provided in the State, and to report to the 2009 General Assembly.

This act became effective July 1, 2007. (WR)

Job Maintenance and Capital Development Fund

[HB 1761](#) – Vetoed August 30, 2007. See **Vetoed Legislation**.

Studies

Study Equine Industry in North Carolina

S.L. 2007-323, Sec. 13.14A ([HB 1473](#), Sec. 13.14A) directs the sum of \$500,000, of the funds appropriated to the Rural Economic Development Center, Inc., for the 2007-2008 fiscal year, to be allocated to the Agricultural Advancement Consortium for:

- Assessing the numbers, composition, and value of the equine industry in North Carolina.
- Analyzing the direct and indirect impact of the industry on the State's economy.
- Developing a comprehensive plan to maximize the economic opportunities presented by the equine industry.

The assessment of the industry must provide data on both a statewide and countywide basis. The Consortium may contract with other agencies of State government, constituent institutions of the University of North Carolina, and private consultants to conduct the assessment and plan development. It must complete its work within 12 months of the funds becoming available. A report containing the results of the assessment of the equine industry and its plan for maximizing the economic impact of the industry must be filed with the Chairs of the Joint Legislative Commission on Governmental Operations, and the Chairs of the Senate and House of Representatives Appropriations Committees.

This section became effective July 1, 2007. (DH)

Authorize Minority Disparity Study

S.L. 2007-345, Sec. 9.2 ([HB 714](#), Sec. 9.2) authorizes the Department of Administration to conduct a study of the relevant evidence of the effects of race-based and gender-based discrimination upon the utilization of minority-owned and women-owned business enterprises in contracts for planning, design, preconstruction, construction, maintenance, renovation, or repairs of State building projects, including local government units, or other public or private entities, that receive State funding. The Director of the Budget is authorized, within funds available in any State agency, to use up to \$1.5 million for the study authorized under this section.

This section became effective July 1, 2007. (HF)

For a complete list of the studies and reports authorized by the 2007 Session of the 2007 General Assembly, please refer to the Appendix contained in this publication.

Chapter 4 Children and Families

Drupti Chauhan (DC), Erika Churchill (EC), Shirley Iorio (SI), Wendy Graf Ray (WGR)

Enacted Legislation

Child Restraint Systems/Federal Compliance

S.L. 2007-6 ([HB 61](#)). See **Transportation**.

Domestic Violence Victims/Security

S.L. 2007-15 ([HB 46](#)) requires the North Carolina Council for Women/Domestic Violence Commission to consider, in cooperation with the North Carolina Coalition Against Domestic Violence, whether State-funded agencies that operate domestic violence shelters should adopt safety guidelines as a criterion for receipt of State funds. The Council is required to report to the Joint Legislative Committee on Domestic Violence no later than May 1, 2008, on the review results. The act also requires clerks of Superior Court, where practical and if requested by a domestic violence victim, to make a secure area available to the victim to await the hearing of the victim's case.

This act became effective April 12, 2007. (WGR)

Schools Provide Information on Cervical Cancer

S.L. 2007-59 ([SB 260](#)). See **Education**.

Domestic Violence Victims/Add Protections

S.L. 2007-116 ([SB 30](#)). See **Courts, Justice, and Corrections** and **Criminal Law and Procedure**.

Amend Family Resource Center Grant Program Laws

S.L. 2007-130 ([HB 696](#)) changes the purpose of the Family Resource Center Grant Program from providing grants to establish family resource centers to implementing family support programs that are research-based and have been evaluated for effectiveness. Additionally, the act extends the age range for services from birth through elementary school age children, to children from birth through 17 years of age. The act also specifies that the grants prevent child abuse and neglect by implementing program models that have been evaluated and found to improve outcomes for children and families.

This act became effective June 27, 2007. (EC)

Remove Barriers to Interstate Adoption

S.L. 2007-151 ([HB 865](#)) amends North Carolina statutes pertaining to termination of parental rights and adoption to make it easier for nonresidents to adopt children in this State.

Adoption conditioned upon termination of parental rights. – In North Carolina, the biological parents' rights are not required to be terminated before an adoption can take

place. It is enough that the biological parent has consented to an adoption, or relinquished the child to an agency for adoption. The decree of adoption has the effect of terminating the biological parents' rights. However, some other states do require that the biological parents' rights be terminated before an adoption can take place. This act authorizes North Carolina courts to terminate parental rights when all of the following conditions are met:

- The child has been relinquished for adoption or directly placed with a prospective adoptive parent.
- The relinquishment or consent to adoption has become irrevocable.
- Termination of parental rights is a condition precedent to adoption in the jurisdiction where the adoption will take place.
- The parent does not contest the termination.

Jurisdiction over adoption proceedings. – Currently, a prospective adoptive parent is required to live in North Carolina for at least six months prior to filing an adoption petition, with the exception that a prospective adoptive parent who has moved to North Carolina may file a petition to adopt a child who has lived in North Carolina for six months or from birth. In addition, a North Carolina court may not exercise jurisdiction over an adoption proceeding if another state is exercising jurisdiction, so long as the other jurisdiction is acting in conformity with the Uniform Child-Custody Jurisdiction and Enforcement Act at the time the petition is filed. This act deletes the requirement that a prospective adoptive parent reside in North Carolina before filing a petition to adopt. A North Carolina court will have jurisdiction under any of the following circumstances:

- The child has lived in North Carolina for six months or from birth.
- The prospective adoptive parent has lived in North Carolina for at least six months.
- A North Carolina child-placing agency or department of social services has legal custody of the child.

The act also allows a North Carolina court to exercise jurisdiction when another state was already exercising jurisdiction at the time the adoption petition is filed if, within 60 days after the date the petition is filed, the other court dismisses its proceeding or releases jurisdiction.

This act became effective October 1, 2007, and applies to motions in the cause, or petitions filed on or after that date. (WGR)

Expand Reach of Courts/Termination of Parental Rights

S.L. 2007-152 ([HB 866](#)) expands the jurisdiction of North Carolina courts, by giving to courts that have jurisdiction to make a child-custody determination the jurisdiction to terminate the parental rights of any parent, irrespective of the parent's state of residence.

Under current law, district courts have exclusive original jurisdiction to hear and determine any petition or motion relating to termination of parental rights to any juvenile who resides in, is found in, or is in the legal or actual custody of a county department of social services or licensed child-placing agency in the district. Before exercising jurisdiction, the court must find that it has jurisdiction to make a child-custody determination under the provisions of the law dealing with initial child-custody jurisdiction, jurisdiction to modify determination, or temporary emergency jurisdiction. The law grants North Carolina courts temporary emergency jurisdiction if the child is present in this State and the child has been abandoned, or it is necessary in an emergency to protect the child because the child, or a sibling, or parent of the child is subjected to or threatened with mistreatment or abuse. Custody determinations made by courts establishing jurisdiction under this section are primarily intended to be temporary orders, designed to protect the child until the State that has jurisdiction enters an order.

This act expands the jurisdiction of North Carolina district courts hearing petitions or motions to terminate parental rights to any juvenile in the custody of a county department of social services or licensed child-placing agency. The act gives courts having jurisdiction to make a child-custody determination the jurisdiction to terminate the parental rights of any parent,

irrespective of the parent's state of residence. The act requires that, before a court may exercise jurisdiction regarding the parental rights of a nonresident parent, the court must find:

- That it has jurisdiction to make a child-custody determination under the initial child-custody jurisdiction provisions or the jurisdiction to modify determination provisions, without regard to the temporary emergency jurisdiction provisions.
- That proper process was served on the nonresident parent.

This act became effective October 1, 2007, and applies to motions in the cause or petitions filed on or after that date. (WGR)

Every Child Ready to Learn

S.L. 2007-173 ([HB 150](#)). See **Education**.

Custody/Visitation/Military Orders

S.L. 2007-175 ([HB 1634](#)). See **Military, Veterans', and Indian Affairs**.

Assault Disabled Person/Institutional Setting

S.L. 2007-188 ([HB 554](#)). See **Criminal Law and Procedure**.

Violate Order/Possess Deadly Weapon Felony

S.L. 2007-190 ([HB 47](#)). See **Criminal Law and Procedure**.

Study Safety Restraints on School Buses

S.L. 2007-191 ([SB 812](#)). See **Transportation**.

Access to Information for Adult Adoptees

S.L. 2007-262 ([HB 445](#)) authorizes a child-placing agency or a county department of social services to act as a confidential intermediary between an adult adoptee or an adult lineal descendant of a deceased adoptee and a biological parent of the adoptee. These agencies may share nonidentifying birth family health information. With written consent of both parties, the agencies may facilitate contact or share identifying information between the parties. The act also allows a child-placing agency or a county department of social services to act as a confidential intermediary for the adoptive parents of a minor adoptee, in order to obtain nonidentifying birth family health information. A confidential intermediary is authorized to charge a reasonable fee for services, so long as the fee is pursuant to a written agreement signed by the individual to be charged. The Division of Social Services is required to establish guidelines for confidential intermediary services.

The act also defines "adult" as an individual who has attained the age of 21 years for the purposes of the adoption records confidentiality and disclosure statutes.

This act becomes effective January 1, 2008. (DC)

Duty to Report Child Porn

S.L. 2007-263 ([HB 27](#)). See **Business and Commerce**.

Amend Child Welfare Laws/Comply with Federal Laws

S.L. 2007-276 ([HB 698](#)). See **Health and Human Services**.

"More at Four" Program and Office of School Readiness

S.L. 2007-323, Sec. 7.24 ([HB 1473](#), Sec. 7.24). See **Education**.

Collaboration Among Departments on School-Based Child and Family Team Initiative

S.L. 2007-323, Sec. 10.9 ([HB 1473](#), Sec. 10.9) establishes the School-Based Child and Family Team Initiative to identify and coordinate appropriate community services and supports for children at risk of school failure or out-of-home placement, in order to address the physical, social, legal, emotional, and developmental factors that affect academic performance. This section also establishes the North Carolina Child and Family Leadership Council to review and advise the Governor in the development of the Initiative, and to ensure the active participation and collaboration in the Initiative by all State agencies and their local counterparts providing services to children in participating counties. The Department of Health and Human Services, the Department of Juvenile Justice and Delinquency Prevention, the Administrative Office of the Courts, and the Department of Public Instruction are directed to ensure collaboration in the development and implementation of the Initiative.

This section became effective July 1, 2007. (WGR)

Comprehensive Treatment Services Program

S.L. 2007-323, Sec. 10.10 (a)-(h) ([HB 1473](#), Sec. 10.10 (a)-(h)). See **Health and Human Services**.

Changes to the Legislative Study Commission on Children and Youth

S.L. 2007-323, Secs. 10.10(i) and (j) ([HB 1473](#), Secs. 10.10(i) and (j)) make changes to the duties and membership of the Legislative Study Commission on Children and Youth (Commission) and create a new Task Force on the Coordination of Children's Services (Task Force).

These sections give the Commission the duty to determine the adequacy and appropriateness of services to children and youth served by the Mental Health, Developmental Disabilities, and Substance Abuse Services system. These sections also make changes to the membership of the Commission.

The sections also create the Task Force. The purpose of the Task Force is to study and recommend changes to the Commission, the Governor, and the General Assembly to improve collaboration and coordination among agencies that provide services to children, youth, and families with multiple service needs. The Task Force must report at least annually to the Commission and on April 1 of each year to the House Appropriations Subcommittee on Health and Human Services; the Senate Appropriations Committee on Health and Human Services; the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services; and the Fiscal Research Division.

These sections became effective July 1, 2007. (WGR)

Child Care Subsidy Rates

S.L. 2007-323, Sec. 10.15 ([HB 1473](#), Sec. 10.15) sets out eligibility requirements and payment rates for subsidized child care services in North Carolina.

This section became effective July 1, 2007. (WGR)

North Carolina Partnership for Children Personnel Record Protection

S.L. 2007-323, Sec. 10.19B ([HB 1473](#), Sec. 10.19B). See **Labor and Employment**.

Child Support Program/Enhanced Standards

S.L. 2007-323, Sec. 10.28 ([HB 1473](#), Sec. 10.28) requires the Department of Health and Human Services to develop and implement performance standards for all State and county child support enforcement offices in North Carolina. The standards must include all of the following:

- Cost per collection.
- Consumer satisfaction.
- Paternity establishments.
- Administrative costs.
- Orders established.
- Collections on arrearages.
- Location of absent parents.
- Other related performance measures.

This section also requires the Department to monitor the performance of each office and implement a system of reporting that allows offices to review their performance and the performance of other offices. The Department must publish an annual performance report, including statewide and local office performance. The Department is required to report on its progress to the Senate Appropriations Committee on Health and Human Services, the House Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division by May 1 of each even-numbered year beginning in 2008.

This section became effective July 1, 2007. (WGR)

Intensive Family Preservation Services Funding and Performance Enhancements

S.L. 2007-323, Sec. 10.33 ([HB 1473](#), Sec. 10.33) directs the Intensive Family Preservation Services (IFPS) Program to provide intensive services to children and families in cases of abuse, neglect, and dependency where a child is at imminent risk of removal from the home, and in cases of abuse where a child is not at imminent risk of removal. The IFPS must ensure the application of standardized assessment criteria for determining imminent risk and out-of-home placement. The Department of Health and Human Services must require that any program or entity that receives funding for the purpose of IFPS provide information and data that allows for all of the following:

- An established follow-up system with at least six months of follow-up services.
- Detailed information on specific interventions applied.
- Cost-benefit data.
- Data on long-term benefits obtained by tracking families through the process.
- The number of families remaining intact and associated interventions.

- The number and percentage by race of children receiving services, compared to the ratio of their distribution in the general population, involved with Child Protective Services.

The Department is required to report on the IFPS Program each even-numbered year beginning in 2008 to the House 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, 2007. (WGR)

Annual Evaluation of Tarheel Challenge Program

S.L. 2007-323, Sec. 16.1 ([HB 1473](#), Sec. 16.1). See **Courts, Justice, and Corrections**.

Adoption Tax Credit

S.L. 2007-323, Sec. 31.6 ([HB 1473](#), Sec. 31.6). See **Finance**.

Homebound Instruction for Disabled Students

S.L. 2007-425 ([HB 14](#)). See **Education**.

Homebound Instruction Standards

S.L. 2007-429 ([HB 20](#)). See **Education**.

Child Support Collection Fee/Non-Temporary Assistance for Needy Families (TANF)

S.L. 2007-460 ([HB 825](#)). See **Health and Human Services**.

Require Disclosure/Sex Offenders/Child Custody

S.L. 2007-462 ([HB 1328](#)). See **Civil Law and Procedure**.

For a complete list of the studies and reports authorized by the 2007 Session of the 2007 General Assembly, please refer to the Appendix contained in this publication.

Chapter 5

Civil Law and Procedure

Brenda Carter (BC), Karen Cochrane-Brown (KCB), Bill Gilkeson (BG), Kory Goldsmith (KG),
Trina Griffin (TG), Tim Hovis (TH), Howard Alan Pell (HAP), Wendy Graf Ray (WGR),
Walker Reagan (WR), Steve Rose (SR), Susan Sitze (SS)

Enacted Legislation

Residential Mortgage Fraud Act

S.L. 2007-163 ([HB 817](#)). See **Consumer Protection**.

Limit Liability at Agricultural Fairs

S.L. 2007-171 ([HB 590](#)). See **Animals and Wildlife**.

Motor Vehicle Chop Shop Act

S.L. 2007-178 ([HB 1354](#)). See **Criminal Law and Procedure**.

Violate Order/Possess Deadly Weapon Felony

S.L. 2007-190 ([HB 47](#)). See **Criminal Law and Procedure**.

Amend Civil No-Contact Order Laws

S.L. 2007-199 ([HB 1482](#)) amends two definitions pertaining to civil no-contact orders. In 2004, the General Assembly enacted statutes creating civil no-contact protective orders. Courts can issue these protective orders in situations where a person has been a victim of stalking or nonconsensual sexual conduct committed by a person with whom the victim is not in a domestic relationship. Under the Civil No-Contact Orders statutes, "unlawful conduct" is defined as the commission of one or more acts of (i) nonconsensual sexual conduct, including single incidences of nonconsensual sexual conduct, or (ii) stalking. The definition of unlawful conduct does not include acts of self-defense or defense of others.

The act clarifies the definition of "stalking" by reorganizing the sentence and amending the definition of "unlawful conduct" by stating that the acts have to be committed by a person of 16 years of age or older, in order to meet the definition of "unlawful conduct."

This act became effective July 8, 2007. (SR)

Civil Jury Selection/Equal Challenges

S.L. 2007-210 ([HB 244](#)) amends the law governing jurors in civil actions, to provide for equity between the parties with respect to juror challenges. The act authorizes the judge in a civil case to increase the number of challenges for plaintiffs with antagonistic interests, under the same circumstances that a judge may now increase the number of juror challenges for defendants with antagonistic interests. Prior to this act, the judge could apportion the eight peremptory challenges between or among defendants with antagonistic interests, or the judge

could increase the total number of challenges to allow up to six for each defendant. The act also authorizes the judge to increase the number of challenges for the opposing side, if the judge has increased the number of challenges for plaintiffs or defendants.

This act became effective October 1, 2007, and applies to actions called for trial on or after that date. (KCB)

Recovery of Costs in Civil Cases

S.L. 2007-212 ([HB 21](#)). See **Courts, Justice, and Corrections**.

Immunity/Veterinarians Reporting Animal Cruelty

S.L. 2007-232 ([HB 1359](#)) amends the law regarding cruelty to animals by adding a provision granting immunity for veterinarians reporting animal cruelty in violation of State law. The law provides that any veterinarian who (i) makes a report of animal cruelty, or (ii) participates in any investigation or testifies in a judicial proceeding that arises from a report of animal cruelty, is immune from civil or criminal liability and liability from professional disciplinary action or breach of any veterinarian-patient confidentiality, provided the veterinarian does not act in bad faith or with a malicious purpose. Failure to report animal cruelty would not be grounds for disciplinary action under the Veterinarian Practice Act.

This act became effective October 1, 2007. (TH)

Challenge to Administrative Subpoena

S.L. 2007-251 ([SB 1432](#)) amends the statutes dealing with proceedings before the Employment Security Commission (ESC) and the Property Tax Commission (PTC), by providing a procedure to quash a subpoena issued by one of those commissions.

Under the law prior to this act, the chairman, or any duly authorized representative or member of the ESC, was authorized to "issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence, in connection with a disputed claim or the administration of this Chapter." However, there was no procedure available for quashing a subpoena. Similarly, the PTC, a member of the PTC, or any employee of the Department of Revenue authorized by the PTC, had the authority to subpoena witnesses and documents, with no procedure available for quashing such a subpoena.

This act provides a procedure to quash a subpoena issued by the ESC or the PTC. The act allows those commissions to quash a subpoena upon a motion if, after a hearing, the commission finds any of the following concerning the subpoena:

- It requires production of evidence that does not relate to a matter in issue.
- It fails to describe with sufficient particularity the evidence required to be produced.
- It is subject to being quashed for any other reason sufficient in law.

A hearing on a motion to quash is required to be heard at least 10 days prior to the hearing for which the subpoena was issued, and the denial of a motion to quash is subject to immediate judicial review in the Superior Court in the county where the person subject to the subpoena resides.

This act became effective July 20, 2007. (WGR)

Mediation of Property Insurance Claims

S.L. 2007-300 ([HB 730](#)). See **Insurance**.

Limit Liability of Liquefied Petroleum Gas Dealer/Certain Others

S.L. 2007-302 ([HB 1536](#)). See **Business and Commerce**.

Industrial Commission Strategic Plan/Report

S.L. 2007-323, Sec. 13.4A ([HB 1473](#), Sec. 13.4A) directs the Industrial Commission to develop a strategic plan no later than April 1, 2008, for tracking compliance with the requirements for prompt payments of workers compensation benefits and to expeditiously resolve medical compensation disputes in workers compensation cases. The Industrial Commission also is directed to include in its annual report information concerning compliance with the prompt pay requirements of workers compensation benefits and the resolution of medical compensation disputes. A copy of the report is to be submitted to the Joint Legislative Commission on Governmental Operations by October 1 of each year.

This section became effective July 1, 2007. (WR)

Report on Business Courts

S.L. 2007-323, Sec. 14.7 ([HB 1473](#), Sec. 14.7). See **Courts, Justice, and Corrections**.

Protect Homeowners/Reduce Foreclosure

S.L. 2007-351 ([HB 1374](#)). See **Business and Commerce**.

North Carolina Foreclosure/Landlord Tenant Laws

S.L. 2007-353 ([HB 947](#)). See **Local Government and Property, Trusts, and Estates**.

Civil Trial Exhibits

S.L. 2007-407 ([SB 1117](#)) authorizes the trial judge in a civil case to permit the jury to take certain exhibits into the jury room, upon the jury's request and in the judge's discretion. The trial judge may, upon a deliberating jury's request and after giving the parties notice and an opportunity to be heard, direct that parts of requested testimony be read to the jury, or that the jury be permitted to reexamine requested evidence in open court. Upon a deliberating jury's request, the court may permit the jury to take any of the following into the jury room:

- Exhibits that have been passed to the jury.
- Photographs admitted into evidence, shown to the jury, and used by any witnesses in testimony before the jury.
- Any illustrative exhibits admitted into evidence and used by any witnesses in testimony before the jury.

Summaries of testimony, lists, or other similar documents prepared in the courtroom by any party may not be sent to the jury room with the jury, and depositions may be taken into the jury room only with the consent of the parties. In sending exhibits to the jury, the court must ensure that the evidentiary integrity of the exhibit is preserved.

This act became effective for trials commencing on or after October 1, 2007. (BC)

Tort Claims Limit Increased

S.L. 2007-452 ([HB 22](#)). See **State Government**.

Require Disclosure/Sex Offenders/Child Custody

S.L. 2007-462 ([HB 1328](#)) requires a person convicted of a sexually violent offense, who is seeking child custody ex parte, to disclose the conviction in the pleadings. An ex parte proceeding is one in which the respondent to the action has not been notified of the action, and has no opportunity to be heard prior to the court taking action. A court may not enter, ex parte, a temporary order for custody which changes the living arrangements of a child, or changes custody, unless the court finds either of the following:

- The child is exposed to a substantial risk of bodily injury, or sexual abuse.
- There is a substantial risk that the child may be abducted or removed from the State of North Carolina, for the purpose of evading the jurisdiction of North Carolina courts.

A "sexually violent offense" includes rape; first or second degree sexual offense; sexual battery; attempted rape or sexual offense; intercourse and sexual offense with certain victims; statutory rape or sexual offense of person who is 13-, 14-, or 15-years-old where the defendant is at least 6 years older; subjecting or maintaining a person for sexual servitude; incest; employing or permitting minor to assist in offenses against public morality and decency; felonious indecent exposure; first, second, or third degree sexual exploitation of a minor; promoting or participating in the prostitution of a minor; taking indecent liberties with children; solicitation of child by computer to commit an unlawful sex act. The term also includes a solicitation or conspiracy to commit any of these offenses, or aiding and abetting any of these offenses.

This act became effective October 1, 2007, and applies to actions and proceedings filed on or after that date. (HAP)

Reform Tax Appeals

S.L. 2007-491 ([SB 242](#)). See **Finance**.

Advance Directives/Health Care Power of Attorney

S.L. 2007-502 ([HB 634](#)). See **Health and Human Services**.

Scrap Vehicle Purchase/Parts-Records

S.L. 2007-505 ([SB 1364](#)). See **Business and Commerce**.

Amend Civil Procedure Rule 45

S.L. 2007-514 ([HB 316](#)) amends Rule 45 of the Rules of Civil Procedure to require that, when a subpoena is served directing a person to produce designated records, the party or attorney issuing the subpoena must, within five business days of receipt of the material, provide notice to all other parties of receipt of the material produced. The party or attorney issuing the subpoena also must, upon request, provide all other parties reasonable opportunity to inspect and copy the material produced at the expense of the inspecting party.

This act became effective October 1, 2007, and applies to actions filed on or after that date. (TG)

Arbitration/Negligent Health Care Claims

S.L. 2007-541 ([HB 1671](#)) creates a new Article in the General Statutes that provides for the voluntary arbitration of personal injury or wrongful death actions, based on negligence in the provision of health care. This act applies to any claim for personal injury or wrongful death damages, that is based on alleged negligence in the provision of health care by a health care provider.

Arbitration requirements. – The parties may elect, before or after the filing of an action, to file a stipulation with the court agreeing to submit to arbitration under this Article and must file a declaration with the court prior to the discovery scheduling conference, if an agreement is not reached. If the parties go to arbitration before the action is filed, the statute of limitations for filing the action is tolled.

Selection of arbitrator. – An arbitrator is selected by agreement of all the parties within 45 days of the stipulation. If an agreement is not reached, the arbitrator is selected from emergency superior court judges who agree to be on a list maintained by the Administrative Office of the Courts. The parties each strike names from the list until one last name remains. The fees and expenses of the arbitrator are paid equally by the parties.

Witnesses and discovery. – Each side is entitled to two experts on liability, two experts on damages, and one rebuttal expert. Each side is entitled to the following discovery:

- 25 interrogatories.
- 10 requests for admission.
- Whatever is allowable under court rules for requests for production of documents and for mental and physical examinations.
- Depositions of any party and any expert that the party expects to call as a witness, and five depositions per side for other witnesses, unless exceptional circumstances require otherwise.

An arbitrator may issue a subpoena for the attendance of a witness and the production of records.

Time Limits. – Within 45 days of stipulation to arbitration, the parties must submit a copy of all relevant medical records or a release for medical records. Within 120 days, the claimant must disclose to each defendant the name and curriculum vitae of expert witnesses (140 days for the defendant). Within 160 days, each party must disclose the name and curriculum vitae of rebuttal experts. Within 240 days, all discovery shall be completed, and within 270 days the arbitration hearing must begin.

Written decision. – Within 14 days after completion of the hearing, the arbitrator shall issue and sign a decision in writing. An award under this article may not exceed \$1 million.

Judgment by court. – After receiving notice of a hearing, the party may file a motion with the court for a judgment, at which time the court must issue a judgment unless the decision is modified, corrected, or vacated.

Appeal. – There is no right to a trial de novo on appeal. Appeals are limited to bases found in current law, including cases of fraud, refusal to postpone a hearing upon sufficient cause, or mathematical miscalculation.

This act becomes effective January 1, 2008, and applies to agreements to arbitrate entered into on or after that date. (BG)

For a complete list of the studies and reports authorized by the 2007 Session of the 2007 General Assembly, please refer to the Appendix contained in this publication.

Chapter 6

Constitution and Elections

Erika Churchill (EC), Bill Gilkeson (BG), Kara McCraw (KM)

Note: For legislation affecting voting, the legislation 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. The act cannot be implemented until Voting Rights Act approval is obtained.

Enacted Legislation

Archdale Elections

S.L. 2007-41 ([SB 22](#)) requires that regular municipal elections in the City of Archdale be conducted in even-numbered years, beginning in 2008. The act extends the terms of current elected officials to the new election schedule. The act also redefines the election wards of Archdale, so that the city will have six City Council members -- four elected from single-member districts and two elected by the city as a whole.

Archdale is a city of 9,014, according to the 2000 Census. It lies mostly in Randolph County, which is not subject to Section 5 of the Voting Rights Act, 42 U.S.C. 1971, but partly in Guilford County, which is covered by Section 5. The act is, therefore, subject to Section 5 preclearance.

The general law, enacted in 1971, is that municipal elections are held in odd-numbered years. Of more than 500 municipalities in North Carolina, none departed from that general law until 2006, when High Point's city elections were moved to even-numbered years. Archdale is the second city to follow suit.

This act became effective May 14, 2007. (BG)

Chapel Hill Campaign Finance Options

S.L. 2007-222 ([HB 483](#)) authorizes the Town of Chapel Hill to appropriate local funds for a voluntary public campaign financing program for local offices under certain conditions. The State Board of Elections must develop guidelines which meet the following criteria:

- Participating candidates must demonstrate public support and voluntarily accept strict fund-raising and spending limits.
- Requirements must be drawn to further the public purpose of free and fair elections, and must not discriminate for or against any candidate on the basis of race, creed, position on issues, status of incumbency or nonincumbency, or party affiliation.
- Public funds must be restricted to use for campaign purposes, based on guidelines drawn by the State Board of Elections.
- Unspent public funds must be returned to the local government.

At least one public hearing must be held before adoption of the program, and the program must be approved by the State Board of Elections as meeting its guidelines. Notice of the program must be given to the county board of elections.

Funds paid pursuant to the program are not subject to contribution limitations or the prohibition on corporate contributions, but must be reported in all campaign reports required by law as if they were contributions.

A report analyzing the experience implementing the program must be prepared no later than six months after the second election in which money is appropriated for the public campaign financing program. The report must be presented to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division of the Legislative Services Office, and the committees in the House of Representatives and Senate to which election-related bills are primarily referred.

This act became effective July 16, 2007, and expires on July 1, 2012. (KM)

(Note: As this act affects only the Town of Chapel Hill in Orange County, it is not subject to preclearance.)

Registration and Voting at One-Stop Sites

S.L. 2007-253 ([HB 91](#)) allows eligible persons who have missed the standard 25-day registration deadline before an election, to register and vote in that election during the one-stop ("early voting") period. The one-stop period runs from the third Thursday before an election through the last Saturday before the election.

Generally, North Carolina voters may not vote in an election unless they have registered to vote 25 days before election day. In prior law, exceptions were as follows:

- For those persons who have become qualified after the deadline, by naturalization or restoration to citizenship after serving a felony sentence, they may register on election day only.
- For those persons who may register and vote by absentee ballot, because of their overseas or military status, they may register at any time prior to the election.

This act creates a process to allow any person who is qualified to vote to register in person and vote at a one-stop site, after the general close of voter registration. In order to register and vote, the person must do both of the following:

- Complete the standard voter registration form, including the attestation that the person is a U.S. citizen and resides at the address given. That attestation is signed under penalty of a Class I felony.
- Provide "proof of residence," which could be one of several valid documents that had the person's name and current residence address: a North Carolina driver's license, a photo identification (I.D.) from a government agency, a utility bill, bank statement, paycheck, government check, or other government document. (This is similar to the list of I.D.s that satisfy the Help America Vote Act (HAVA) federal I.D. requirement for certain first-time voters, except that the HAVA list allows any valid photo I.D., while the bill allows only a government-issued one.)

Once registered at the one-stop site, the person is entitled to vote then, or later at another one-stop site. The person will vote a retrievable ballot, just as other one-stop voters.

Within two business days after the person has registered at the one-stop site, the board of elections must proceed to verify the person's identity and address. The person's one-stop ballot must be counted, unless the board determines that the applicant is not qualified to vote.

A person already registered may update information on that person's voter records at the one-stop site during the one-stop voting period, except that that person cannot change party registration before a partisan primary.

The act requires the State Board of Elections to monitor the implementation of the act, and to report to the Joint Legislative Commission on Governmental Operations no later than March 1, 2009, on its findings regarding expanding the process to include same-day registration and voting on Election Day.

This act generally became effective when it was signed by the Governor on July 20, 2007. The bill contained a provision that governed its application to 2007 primaries and elections designed to avoid administrative complications, based on the timing of preclearance under Section 5 of the Voting Rights Act. Because the bill was precleared on August 16, 2007, it was

made effective with respect to registration and voting for any primary or election held on or after October 9, 2007. (BG)

Help America Vote Act (HAVA) Funds

S.L. 2007-323, Sec. 25.1 ([HB 1473](#), Sec. 25.1) directs the State Board of Elections on how to spend money in two accounts during the 2007-2008 and 2008-2009 fiscal years. Those two accounts result from federal grants under the Help American Vote Act of 2002 (HAVA). One of them is the Election Fund, the repository of federal grants under HAVA. The other is the Maintenance of Effort Reserve, consisting of funds the State must appropriate to continue to be eligible for federal HAVA funds.

This section became effective July 1, 2007. (BG)

Legal Expense Funds

S.L. 2007-349 ([HB 1737](#)) requires elected officers to create a legal expense fund, if the elected officer, or a group of individuals on the elected officer's behalf, receives a contribution from someone other than that elected officer's self, spouse, parents, brothers, or sisters, for either of the following purposes:

- To fund an existing legal action taken by or against the elected officer in that elected officer's capacity.
- To fund a potential legal action taken by or against an elected officer in that elected officer's official capacity.

No more than one legal expense fund may be created for the same legal action. Legal actions arising out of the same set of transactions and occurrences are treated as the same legal action under the act.

Each legal expense fund must appoint a treasurer, who must receive training by the State Board of Elections (Board) within three months of appointment, and at least once every four years thereafter. The treasurer must keep detailed accounts of contributions and expenditures.

The treasurer must file with the Board an organizational report which includes:

- The name, address, and purpose of the legal expense fund.
- The names, addresses, and relationships of elected officers, candidates, and political parties.
- The name and address of the custodian of books and accounts.
- A listing of all banks, safety deposit boxes, and other depositories used.
- Contact information of any assistant treasurers.
- Any other information requested by the Board.

The treasurer also must file a quarterly report with the Board. The quarterly report must include:

- Contributions. The treasurer must report the following information on contributions totaling more than \$50 in the quarter:
 - Name, mailing address, and principal occupation of each contributor.
 - The amount of the contribution.
 - The date the contribution was received.
- Expenditures. The treasurer must report all expenditures.
- Loans. The treasurer must report all proceeds from loans separately.

Contributions of more than \$50 must be made by noncash methods (check, draft, money order, credit card charge, debit, or other noncash method that is subject to written verification). Legal expense funds must not accept contributions from a corporation, labor union, insurance company, professional association, or business entity in excess of \$4,000 per calendar year.

Most violations of the act are punishable as a Class 1 misdemeanor. Signing a report knowing the information to be untrue is punishable as a Class I felony.

The act also makes conforming changes to the existing statutes to reflect the creation of the legal expense fund.

This act becomes effective January 1, 2008. (EC)

Candidate Felony Disclosure

S.L. 2007-369 ([SB 1218](#)) requires a candidate for elective office in North Carolina to file a disclosure statement, at the same time the candidate files a notice of candidacy, verifying whether or not the candidate has ever been convicted of a felony. The requirement applies to individuals who become candidates due to a vacancy among party nominees occurring after nomination and before the election, unaffiliated candidates nominated by petition, write-in candidates for partisan elections, candidates for new political parties, candidates for municipal elections, candidates for local school board elections, candidates for sanitary district boards, and any other candidates for election by the people. This requirement does not apply to candidates required to file Statements of Economic Interest, which also require disclosure of felony convictions.

The State Board of Elections must adapt the candidacy form to include the disclosure statement, and make clear that felony convictions dismissed as a result of reversal on appeal, a pardon of innocence, or which have been expunged do not have to be disclosed. Candidates who disclose a felony conviction must provide the name of the offense, date of conviction, date of restoration of citizenship rights, and county and state of conviction. Completing the form with knowledge the information is untrue is a Class I felony.

If a candidate fails to complete the required disclosure statement, the board of elections accepting the filing must notify the candidate of the omission, and inform the candidate that the statement must be completed within 48 hours. The candidate's filing is incomplete if the required disclosure statement is not completed within 48 hours after the notice, and the individual's name will not appear on the ballot, and votes for the individual will not be counted.

The form must be available as a public record in the office of the board of elections where the candidate files the notice of candidacy, and must contain an explanation that a prior felony conviction does not preclude holding elective office if the candidate's rights of citizenship have been restored.

This act becomes effective January 1, 2008. (KM)

Election Amendments

S.L. 2007-391 ([HB 1743](#)) is an omnibus bill that makes multiple changes to the election laws.

Clarifies the Provision for False Campaign Reports. – The act addresses an issue that arose in recent prosecutions. Previous law prohibiting a false statement on a campaign report classified the act as perjury. The State's perjury statute requires that the false statement has to have been made under an oath administered by an oath-administering official. The campaign report requires certification—it is not required to be under oath. A Superior Court judge commented that the legislature might want to address the disjuncture of statutes. The act provides that lying on the campaign report is a Class I felony, but it does not reference the perjury statute. Effective December 1, 2007, and applies to offenses committed on or after that date.

Increases Civil Penalties for Deceptive Late Filing. – Under prior law, the civil penalty for filing a campaign report late is \$250 a day, up to a maximum of \$10,000, for reports affecting statewide races, and \$50 a day, up to a maximum of \$500, for reports affecting only nonstatewide races. The act provides that if the board of elections determines, by clear and

convincing evidence, that the late filing constitutes a willful attempt to conceal contributions or expenditures, the board may assess a civil penalty up to 3 times the amount of the contributions or expenditures willfully attempted to be concealed. Effective when bill becomes law, and applies to offenses on or after that date.

Repeals \$3,000 Presumption for "Political Committee." – The act deletes a part of the definition of "political committee" that set a \$3,000 presumption for whether an organization had the "major purpose" of supporting or opposing candidates.

Earlier Distribution of Judicial Voter Guide. – The act allows the State Board of Elections to send out the Judicial Voter Guide two weeks earlier than currently. Prior law said the Guide could be distributed no earlier than 14 days, nor later than 7 days, before the beginning of the one-stop period. The act changes the earliest date to be 28 days before the one-stop period. The Guide contains information about candidates for Supreme Court and Court of Appeals.

Precinct Boundary Program Changes. – The act fleshes out the statute enacted in 2005 that provides that North Carolina will participate in the 2010 Census Redistricting Data Program. The purpose of the program is to have the State's precinct lines included on the official Census maps, so that Census data will be available by precinct. In past decades, the State has worked with county boards of elections to report precinct lines and attempted to get the Census Bureau to accept those lines as Census block boundaries. In the past, the Census has insisted that its block boundaries be on visible features or certain political boundaries. After that process, the General Assembly limited how county boards of elections could alter their precincts during the decade. This time, the Census Bureau has said it will accept any precinct line a State reports, regardless of the underlying feature. The act changes the past practice in two ways:

- Directs the Executive Secretary of the State Board of Elections to report precinct lines to the Census Bureau as they exist on a date certain (January 1, 2008). They will be reported as "Voting Tabulation Districts," the Census Bureau's term.
- Freezes those Voting Tabulation Districts, prohibiting counties from changing them. County boards of elections may still change their precincts, so long as they can report election results by the unchanged Voting Tabulation Districts. Currently, counties are required to report absentee and early votes by precinct. The bill empowers the State Board of Elections to set standards for county boards of elections in changing their precinct lines.

Allows Ballots to Be Combined. – The act clarifies that boards of elections may combine any ballot items on a single ballot.

Corrects Description of Multi-County Districts in Ballot Access Statute. – The act corrects a description of multi-county districts in the unaffiliated candidates' statute. The statute provides that a district office "compris[es] two or more counties," in the context of providing for how many signatures an unaffiliated candidate must collect to qualify in a multi-county district. The description leaves out districts that include parts of more than one county. The correction uses a reference to a statute that describes ballot items that are "in the jurisdiction of the State Board of Elections" for purposes of canvassing. For consistency, the section amends the write-in statute in the same way.

Establishes Misdemeanor Penalty for Breaching Ballot Secrecy. – The act establishes a Class 1 misdemeanor for anyone who has access to ballots revealing how an individual voted. Under prior law, such disclosure was prohibited, but not criminalized. Effective December 1, 2007, and applies to offenses committed on or after that date.

Clarifies No Write-In Space Unless Write-Ins Allowed. – The act clarifies that a board of elections is not required to provide a space for voters to write in a candidate, if the law does not allow write-in candidates in that race.

Corrects Date Reference in Certificate Statute. – The act provides that a certificate of election shall be issued on the 10th day after the final decision of the State Board in a protest, rather than 10 days after.

Extends Provision for Recasting Lost Votes. – In 2005, several thousand one-stop votes in Carteret County were lost due to an incorrectly set electronic voting system. The

General Assembly responded by providing that, where a known group of voters cast votes that are lost beyond retrieval, the State Board of Elections may allow those voters to recast their votes during a period of two weeks after the election. The act changes that provision in two ways:

- It includes not just voters whose votes are lost, but voters given the wrong ballot style.
- It provides that the recasting must be done during the 2 weeks after the State canvass—not during the 2 weeks after the election. The canvass occurs three weeks after Election Day. If there is no State canvass held after the election in question, the period for recasting votes will be two weeks after the county canvass, which will be seven days after the election.

Clarifies Buffer Zone Application. – The act clarifies that the buffer zone law that applies to Election Day polling places applies also to one-stop sites. The buffer zone law keeps an area around the Election Day polling place free from electioneering. It also provides that, generally, electioneering is permitted beyond that buffer zone.

Extends Political Activity Limits to for Board of Elections Employees. – Under a law that has been in effect for 10 years, a member of a State and county board of elections is prohibited from certain activities on behalf of candidates whose names are on the ballots the board supervises. Making contributions is not prohibited. The act extends the same prohibitions to the boards of elections' employees. The section also clarifies that the restrictions of the Article do not prohibit a board member or board employee from advising other government entities as to technical matters related to election administration or revision of electoral district boundaries. Effective January 1, 2008.

Requires Map of Sanitary District. – The act requires that the county board of elections, which administers sanitary district elections, be provided with a map of the sanitary district.

Enacts Misdemeanors for Voter Registration Drive Abuses. – The act adds three new Class 2 misdemeanors for activities related to voter registration drives. The following are effective December 1, 2007, and apply to offenses occurring on or after that date:

- Changing the applicant's information on the form before delivering it to the elections board.
- Intimidating a person into marking a party affiliation, other than what the applicant desires.
- Offering an applicant a form with the party affiliation pre-marked, unless the voter has requested the pre-marking.

Enacts Felony for Aiding or Coercing Non-Citizen to Register. – The act makes it a Class I felony to instruct or coerce a person to register to vote, with knowledge that the person is not a citizen. Effective December 1, 2007, and applies to offenses committed on or after that date.

Conforms Reporting of Felony Convictions. – The prior statute required the clerks of court of the counties to report felony convictions to county boards of elections. The practice has become that the State Board of Elections makes this report. The act conforms the statute with the current practice.

Provides What Information on Voter Registration Form is Public Record. – The act provides that the voter's signature on a voter registration form, or an electronic image of it, may be viewed by the public, but not copied or traced except by election officials for election purposes. It also provides (consistent with federal law) that if the voter registers at a public assistance agency, the agency at which the voter registered is confidential and not a public record.

Allows Voter Registration Forms to be Corrected. – The law has been that if a person fails to check the U.S. citizenship box on the voter registration form, the voter must be notified of the omission and allowed to complete the form before casting a vote on Election Day. The act broadens that provision to allow the voter to correct anything on a voter registration

form until 5 p.m. on the day before the county canvass. If the form is incomplete on Election Day, the voter will be required to vote a provisional ballot.

Consequence of Non-Matching I.D. Numbers. – The law has required voter registration applicants to place on their voter registration forms their drivers' license number. If they do not have a drivers' license, then they must place the last four digits of their Social Security number on the form. If an applicant does not put either number on the form, the board of elections gives the voter a unique identifier, and the voter must then present a document showing identification at the first time they vote. The types of identification (I.D.) are specified in the law. The State law implements the federal requirements of the Help America Vote Act (HAVA). HAVA also requires that a State check the drivers' license number provided by the voter against the Division of Motor Vehicles database, and check the Social Security number against the Social Security database, in order to validate the numbers. State nor federal law does not clearly provide what consequences result if this process did not result in a match.

The act provides that, if a voter provides a driver's license or Social Security that does not match, the consequence is the same as if the voter had not put one of those numbers on the form. The voter will be required to show I.D. at the first time that the voter votes.

It also clarifies that this procedure applies to applicants who register by mail or any other method. It adds a requirement that county boards of elections are required to notify voter-registration applicants if the number they provide does not result in a match, attempt to resolve the discrepancies, initiate investigations or challenges where warranted, and notify voters of the requirement to present I.D. when voting. It also provides that the voters who registered at one-stop sites must present the I.D. required by the statute that allows such registration.

Requires Notice for Appointment of Runners and One-Stop Observers. – The act requires that if political parties appoint observers at one-stop sites, they must provide the county board of elections with a list of their observers before 10:00 a.m. on the 5th day before one-stop opens. If parties plan to use runners on Election Day, the section requires them to provide the board with a list of runners before 10:00 a.m. on the 5th day before the election. ("Runners" are people a party uses to pick up lists of voters at the polls, when the party doesn't use observers.)

Bans Photographing of Voters. – The act prohibits anyone from photographing, videotaping, or otherwise recording the image of a voter inside the voting enclosure, except with the permission of both the voter and the precinct's chief judge. If the voter is a candidate, only the voter's permission is required. This prohibition also applies to one-stop sites, but will not apply to cameras regularly used as security of the facility. The section also prohibits photographing, videotaping, or otherwise recording the image of a voted official ballot for any purpose not otherwise permitted under law.

Requires State Board to Be Responsible for Ballot Coding. – The act makes it the responsibility of the State Board of Elections to do ballot coding for all ballots in the State. The State Board may contract with a qualified vendor, or supervise trained county election staff, to produce the data necessary for election programming. Effective only if any funds necessary to implement the provision are appropriated. Section 25.1 of the 2007 Appropriation Act, S.L. 2007-323 ([HB 1473](#)) directed the State Board of Elections to use \$427,500 from the Maintenance of Effort Reserve to centralize ballot coding in North Carolina to provide oversight, ensure accuracy of election preparation, and reduce errors with ballot styles.

Requires County Boards to Comply With Printer Specifications and Software Warranties. – The act requires the county boards of elections to:

- Comply with all specifications of its voting system for ballot printers.
- Maintain software license and maintenance agreements necessary to keep its warranty valid.

Requires Programs for Ex-Offenders. – The act requires the State Board of Elections, the Department of Correction, and the Administrative Office of the Courts to develop and implement programs to educate individuals to register to vote when their citizenship is restored. At a minimum, the program must include written notice to the person whose citizenship

has been restored, informing the person that he or she may now register to vote, along with a voter registration form. The procedures should:

- Inform the person that the restoration of rights removes the person's disqualification from voting, but that in order to vote a person must register to vote.
- Provide an opportunity for the person to register to vote.

Effective October 1, 2007.

Provides Qualifications for Appointment to Office. – The State Constitution, Article VI, Section 6, states that every qualified voter who is 21 years old shall be eligible "for election by the people to office," except as disqualified by the Constitution. The State Constitution also provides, in Article VI, Section 8, that one of the general disqualifications for elective office is that the person is not qualified to vote for the office.

The Attorney General's Office has opined, in an informal and non-published letter opinion, that an appointee to an elective office does not have to live in the district if the General Assembly has not so provided by statute. The act:

- Amends State law to require that an appointee to a legislative vacancy must be qualified to vote in an election for the legislative seat, if the election were held on the date of appointment.
- Amends State law to provide that "no person is eligible for appointment to fill a vacancy in any elective office, whether State or local, unless that person would have been qualified to vote as an elector for that office if an election were to be held on the date of appointment."

The act states that the changes are intended to implement the provisions of Article VI, Sec. 8, of the Constitution, the provision that states the disqualifications for office. Effective August 19, 2007, and applicable only to appointments made on or after that date.

Amends Statute That Allows People to Vote in Primary If They Will Be Eligible to Vote in General Election. – State law had provided that people may vote in a primary if they will be qualified by age or residency to vote in the general election. The premise for the age provision was that it can be determined with certainty that a 17-year-old, assuming survival, will be 18 before the general election. The same certainty does not apply concerning where a person might reside at a future date. The act removes "residency" from the law.

Provides Voting Assistance for Nursing Home Residents. – It is a Class I felony for an owner, manager, director, employee, or other person, except a voter's near relative or verifiable legal guardian, to assist a nursing home or hospital patient in requesting, applying for, or voting an absentee ballot. The act provides that the county board of elections must provide multi-partisan teams of board members, employees, or volunteers to assist voters with absentee ballots. Those teams will go into nursing homes, with training and authorization from the county board of elections. The State Board of Elections will adopt procedures. Effective January 1, 2008.

Provides List Maintenance Deadline. – The act adds a requirement that all county boards of elections complete their list maintenance mailing program by April 15th of every odd-numbered year.

Provides for Listing of Presidential Candidates for Primary. – Under prior law, presidential candidates affiliated with a political party recognized in North Carolina, who had become eligible to receive federal presidential primary matching funds, were placed on the North Carolina presidential primary ballot. Individuals also could seek the nomination by filing petitions signed by 10,000 registered voters affiliated with the same political party as the person seeking the nomination.

The act eliminates the requirement that presidential primary candidates be eligible to receive federal matching funds, and instead requires that by the first Tuesday in February of a presidential election year, the chair of each political party must submit a list of presidential candidates to be placed on the primary ballot to the State Board. The list must include candidates recognized by the State and national news media, unless a candidate by affidavit withdraws from consideration. The State Board must publish the list of names.

Provides for One-Stop Voting Sites. – Currently, a county board of elections by unanimous vote can provide for one or more sites for one-stop voting. Other than the county board of elections office, such sites had to be in any building the board is entitled to demand and use as a voting place. These buildings are: any school or other State, county, or municipal building, or any other building supported or maintained, in whole or in part, by or through tax revenues.

The act eliminates the requirement that the board use only the buildings that are listed. Instead, it requires that the State Board disapprove any plan to use a one-stop site in a building the county board is not entitled to use, unless the State Board finds that other equally suitable sites were unavailable, and the use of sites will not unfairly take advantage of geographic, demographic, or partisan interest in that county. Effective January 1, 2008.

Eliminates Residency Exception for Reporting Identify of Contributor. – Prior law provided that a treasurer was not required to report the name, address, or principal occupation of any individual who contributes \$50 or less only if the contributor was a North Carolina resident. The act amends the law to provide that the identity of any individual contributor of \$50 or less is not reportable, regardless of where the contributor lives.

Creates Exception on Contribution Limit/Reimbursement of Contributions. – The act creates an exception, under certain reimbursement conditions, to the \$4000 contribution limit. A candidate or political committee may accept such a contribution, knowing that the contribution will be reimbursed, if all of the following are met:

- Contributing entity submits sufficient information of contribution for reimbursement with 45 days of the contribution.
- Candidate or political committee makes a reimbursement to the contributing entity within seven days of sufficient information.
- Candidate or political committee indicates in the Treasurer's statement of receipts and expenditures that the good, service, or other item resulting in reimbursement, was an expenditure and notes if the contribution was by credit card.
- The contribution does not exceed \$1000.

Contributions that are not submitted for reimbursement, or are not reimbursed, will be treated as contributions for purposes of the act.

Permits Civil Penalties for Expenditures. – The act permits the State Board to impose civil penalties for unlawful expenditures in the same manner as for illegal contributions.

Requires Reporting of Municipal Elections. – The act requires the results of all elections held under Article 23 (Municipal Election Procedure) to be reported to the State Board within 30 days of the certification of the election.*

Except as otherwise provided, this act became effective on August 19, 2007. (BG)

Replacing Officials Called to Active Duty

S.L. 2007-432 ([HB 671](#)). See **Military, Veterans', and Indian Affairs**.

Strengthen Judicial Fund

S.L. 2007-510 ([HB 1828](#)) makes several changes to the Judicial Public Campaign Act. The act does all of the following:

- Amends the rescue funds provision of the Public Campaign Fund that provides funding for candidates for the North Carolina Supreme Court and Court of Appeals. "Rescue" funds, funds given to certified candidates when spending in opposition to their candidacy exceeds the program spending limit, are renamed as "matching" funds.

- Revises the formula for measuring the matching funds to be issued to a candidate to account for combinations of independent expenditures and other third party spending, plus spending of public funds by a publicly funded candidate.
- Expands the trigger for matching funds to include electioneering communications in determining availability of matching funds to publicly funded candidates. For matching funds purposes, the time period in which a communication is an electioneering communication is the period beginning 30 days before absentee ballots are available for a primary and 60 days before absentee ballots are available for a general election.

The State Board must award matching funds, as a result of electioneering communications only, if it finds that the communication is susceptible of no reasonable interpretation, other than as an appeal to vote for or against a specific candidate. The State Board is prohibited from considering evidence of intent external to the electioneering communication itself in its determination. If matching funds are justified, the State Board of Elections will determine which candidate, if any, is entitled to receive matching funds as a result of electioneering communications, according to a procedure designed to give every candidate an opportunity to be fairly heard. The State Board of Elections must calculate the amount of matching funds in cases of multi-candidate communications, in proportion to the cost of the communications that pertains to that candidate.

This act became effective August 30, 2007. (KM)

Voter-Owned Elections Pilot

S.L. 2007-540 ([HB 1517](#)) established public financing of campaigns for the Council of State offices of Superintendent of Public Instruction, Insurance Commissioner, and Auditor. The public financing system is voluntary and is structured similar to the North Carolina Judicial Public Campaign Fund. Funding for the pilot is a direct appropriation totaling \$4.85 million from the General Fund for the next two fiscal years. In summary, the system works as follows:

- Opting in and Qualifying. – Candidates could decide whether to opt in during the qualifying period, which would run from September 1 of the year before through the day of the primary. Before opting in, the candidates may raise and spend toward their campaign the same way other candidates can, without foreclosing their eligibility to opt in, but after August 1 of the year before, they are limited to \$20,000 in conventional fundraising and spending. After the candidate declares that candidate's intent to participate, the candidate then has to qualify to participate, by raising qualifying contributions in individual contributions from at least 750 voters in the State of between \$10 and \$200 before the primary.
- Fundraising and Spending While Qualifying. – During the qualifying period, a candidate can accept only qualifying contributions, contributions under \$10 from North Carolina voters, contributions from the candidate him/herself up to \$1,000, and contributions from certain close family members up to \$1,000 each. All of that may not exceed the candidate's maximum for qualifying contributions. During the qualifying period after opting in, the candidate may spend all that, plus any leftover money raised after August 1 before opting in, subject to the \$20,000 limit. They may also qualify for matching funds during this period, due to the level of opposition spending.
- Grants from the Fund. – The distribution of grants occurs in the general election, and is the average of campaign-related spending made by winning candidates in the three preceding general elections for the office, but not less than \$300,000. A third of that would go out within five days after the candidate qualified to be on the ballot. The rest would go out on August 1 of the election year.
- Spending Limits in General Election. – In a general election, a candidate would be limited to spending the money received from the Fund, plus any remaining funds

from the qualifying period and any matching funds. In addition, the candidate's party could give in-kind contributions up to \$30,000 per election cycle.

- *Matching Funds.* – Matching funds are triggered in a primary by opposition spending that exceeded the maximum amount a participating candidate could raise in qualifying contributions. Matching funds are also triggered in the general election by opposition spending that exceeded the participating candidate's basic grant entitlement from the Fund. The opposition spending is subject to special expedited reporting so the matching fund provision could be administered.
- *Voter Guide.* – The State Board of Elections would publish and distribute a Voter Guide about the three Council of State offices and the public financing program. The guide would contain 150-word statements by candidates about their own campaigns. The Board would distribute the Guide to as many voting-age people in the State as practical. It could do so in conjunction with the Judicial Voter Guide it already publishes.
- *21-Day Blackout.* – The act prohibits contributions during the last 21 days before a general election, if the contribution would cause a candidate for 1 of the 3 offices to exceed the threshold for matching funds. This 21-day blackout would apply only if there was in the same race a candidate participating in the program who has not yet received the maximum in matching funds.

The appropriation became effective July 1, 2007, and the remainder of the act became effective August 2, 2007. (EC)

Major Pending Legislation

Several bills containing constitutional amendments remain pending. Those bills include:

- [SB 14](#). Taxpayers Protection Act.
- [SB 156](#) and [SB 312](#). Session Limits.
- [SB 767](#). Term Limits for Constitutional Officers.
- [SB 856](#) and [HB 1107](#). District Judge 8-Year Terms.
- [SB 1469](#). Appoint Most Council of State Members.
- [HB 878](#). Eminent Domain Constitutional Amendment.
- [HB 149](#), [SB 1093](#), [SB 1122](#). Independent Redistricting Commission.
- [HB 146](#). Three-Fifths Vote to Levy Taxes.
- [HB 165](#). Line-Item Veto.
- [HB 246](#). Recall Elections.
- [HB 294](#). Speaker/Pro Tempore Term Limits.
- [HB 493](#), [SB 13](#). Defense of Marriage.
- [HB 702](#), [SB 84](#). Four-Year Terms for Legislators.
- [HB 1006](#). Initiative.
- [HB 1633](#), [SB 1124](#), [SB 1347](#). Appoint Superintendent of Public Instruction.

For a complete list of the studies and reports authorized by the 2007 Session of the 2007 General Assembly, please refer to the Appendix contained in this publication.

Chapter 7

Consumer Protection

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

Enacted Legislation

Amend Bank and Trust Company Assessments

S.L. 2007-55 ([SB 658](#)). See **Business and Commerce**.

Remove Sunset/Debt Management for Consumers

S.L. 2007-79 ([SB 197](#)) removes the October 1, 2007, sunset on changes made in 2005 to the debt adjusting laws. In 2005, the General Assembly amended the criminal debt adjusting law that prohibits persons from engaging in the business or practice of debt adjusting. It created an exemption from the limitations of the law for (i) organizations that provide credit counseling and debt management services under certain conditions, and (ii) attorneys not primarily engaged in debt adjustment activities. The definition of "debt adjusting" was also expanded to include the business or practice of debt settlement or foreclosure assistance, and an additional remedy for violation of the law was added, to allow the court to order the violator to pay a civil penalty of up to \$5000 plus attorneys fees. The 2005 changes were originally set to expire on October 1, 2007. This act removes the sunset provision of the 2005 law and makes the changes made in 2005 permanent.

This act became effective September 1, 2007. (WGR)

Amend Certified Public Accountant (CPA) Criminal Punishment

S.L. 2007-83 ([SB 777](#)). See **Criminal Law and Procedure**.

Recodify Service Agreements Laws

S.L. 2007-95 ([SB 611](#)) recodifies the law governing motor vehicle and appliance service agreements. According to the Department of Insurance, the only regulatory authority exercised by the Department over service agreements is the requirement that a company or person issuing these agreements maintain contractual liability insurance with an authorized insurer. The Department of Insurance asked that these statutes be moved from one Chapter of the General Statutes to another Chapter. The Department of Justice and the Department of Commerce will oversee non-insurance issues related to these agreements.

This act became effective October 1, 2007. (TH)

Residential Mortgage Fraud Act

S.L. 2007-163 ([HB 817](#)) creates a new Article in the criminal law establishing the crime of residential mortgage fraud. A person is guilty of this offense if, for financial gain and with intent to defraud, the person does any of the following:

- Knowingly makes or attempts to make any misrepresentation within the mortgage lending process with the intent that the lender, broker, borrower, or any other person relies on it.
- Knowingly uses or facilitates, or attempts to use or facilitate, any misrepresentation within the mortgage lending process with the intent that the lender, broker, borrower, or any other person relies on it.
- Receives, or attempts to receive, proceeds from a residential mortgage closing that the person knew resulted from a violation of the act.
- Conspires or solicits any other to violate the act.

The act applies to loans secured by manufactured homes, as well as a mortgage or deed of trust on residential real property. Prosecution under the act does not require that the person to whom the misrepresentation was directed actually suffer financial harm, only that the defendant made or used the misrepresentation with the intent to deceive or defraud.

A violation involving a single loan is a Class H felony. A violation involving a "pattern of residential mortgage fraud" is a Class E felony. Pattern of residential mortgage fraud is defined as involving five or more mortgage loans with the same or similar intent, results, accomplices, victims, or other distinguishing characteristics. All real or personal property derived or realized through violation of the act is subject to forfeiture. The act also provides that a person who reports suspected mortgage fraud is not subject to civil liability, in the absence of fraud, bad faith, or malice.

This act becomes effective December 1, 2007, and applies to offenses occurring on or after that date. (KCB)

Consumers' Rebates Redemption Deadline

S.L. 2007-170 ([SB 1055](#)) requires businesses that offer rebates of part of the purchase price paid by the consumer, for goods or services of more than \$5.00, to mail the rebates to consumers within 60 days of the receipt of the completed rebate form submitted, either by mail or electronically, by the consumer. The act also requires that rebate forms include the telephone number and email address of the business offering the rebate, the terms of the rebate, the requirements for a valid claim, and the expiration of the rebate offer. A consumer must have at least 30 days after the purchase in which to submit the rebate form. Violations of this act are an unfair trade practice under Chapter 75 of the General Statutes.

This act became effective October 1, 2007, and applies to the sale of goods and services on or after that date. (WR)

Rental Car Fee Reform

S.L. 2007-235 ([SB 1118](#)) authorizes rental car companies to separate vehicle license and registration fees from their advertised rental rates. If the rental company elects to separate the fees, it must clearly and conspicuously disclose the existence and the range of the fees in any advertisements and price quotes. "Vehicle license and registration fees" are defined as charges that may be imposed upon rental transactions, to recoup the costs incurred by rental car companies to license, title, inspect, and register rental vehicles.

Rental car companies must make a good faith effort to ensure that the fees collected do not exceed the actual costs of obtaining a license, title, inspection, and registration for the vehicle. If the amounts collected exceed the actual costs, the company must apply the excess amount to the costs for the next calendar year, and reduce the fees charged in the next calendar year.

If the company elected to separate the vehicle license and registration fees, any advertisement for a rental rate would be required to clearly and conspicuously disclose the existence and range of the fees, or the maximum fee. When providing a renter with a rate quote,

the company would have to inform the renter of the total estimated price, including the fees, or it would have to disclose the amount of the fees separated from the rental rate. The rental agreement would have to separately identify the amount and existence of vehicle license and registration fees.

This act became effective July 18, 2007. (SR)

Contracts with Automatic Renewal Clauses

S.L. 2007-288 ([SB 527](#)) requires businesses that sell, lease, or offer to sell, or lease, products and services must disclose an automatic renewal clause and the cancellation procedure clearly and conspicuously in the contract or contract offer. A violation of this provision would render the automatic renewal clause void and unenforceable, unless the business can demonstrate all of the following:

- It has established written procedures to comply with the requirements, and enforces compliance.
- Failure to comply is the result of error.
- When an error occurs, it provides a full refund for amounts billed for the date of the renewal until the date of termination, or notice of renewal, whichever occurs first.

The requirement does not apply to licensed banks, trust companies, savings and loan associations, savings banks, or credit unions.

This act became effective October 1, 2007, and applies to contracts entered into on or after that date. (KCB)

Protect Consumers - Covered Loans

S.L. 2007-352 ([HB 1817](#)) amends the laws relating to mortgage lending to provide consumer protection in connection with certain home loans. North Carolina's current anti-predatory lending law, enacted in 1999, places restrictions on "high cost home loans" in order to create a disincentive to make such loans. In order to qualify as a high cost home loan, a loan must meet one or more of three thresholds. The thresholds relate to interest rate, the total amount charged as points and fees, and prepayment penalties.

This act amends existing law to include compensation paid to a mortgage broker in the definition of points and fees, including compensation paid in a table-funded transaction. A table-funded transaction is defined in the act as a loan closed in a mortgage broker's name with funds advanced by another party, with the loan immediately transferred to the person who advanced the funds.

The act creates a new section applicable only to "rate spread home loans," which are residential mortgage loans with an annual percentage rate that is at least 3% greater than a United States Treasury security with a comparable maturity, or at least 1.75% greater than the conventional mortgage rate on a first mortgage, or at least 5% greater than a Treasury note, or 3.75% greater than a conventional mortgage on a subordinate loan. The following restrictions are placed on these loans:

- No prepayment penalties may be charged or collected.
- A lender must verify the borrower's ability to repay the loan according to its terms and applicable taxes and insurance. If the rate spread lender knows that the borrower is contemporaneously taking another loan on the same property, the lender must document the borrower's ability to repay both loans. If the loan has an adjustable rate, the lender must determine ability to repay, using a calculation of the monthly payments as if the loan were fully indexed at the time of closing.

The making of a rate spread loan which violates either of these restrictions is deemed usurious. The penalty for a usurious loan is the forfeiture of all interest under the loan. A lender, acting in good faith, can avoid liability for violation if:

- Within 90 days, and before an action is commenced, the lender notifies the borrower and offers appropriate restitution.
- The lender establishes that the violation was a bona fide error and, within 120 days and before commencement of an action, the lender notifies the borrower and offers appropriate restitution.

The act also makes a mortgage broker involved in a rate spread loan, or a consumer home loan transaction that violates the law, jointly and severally liable with the lender. The Commissioner of Banks is given rulemaking authority for the provisions being added by the act.

The act also amends the Mortgage Lending Act with regard to a mortgage broker's duties and prohibited actions. In addition to existing duties, a broker is required to:

- Disclose to the borrower material information including the broker's compensation.
- Notify lenders in a single transaction of details of each loan.
- Offer services to similarly situated applicants on an equal basis.
- Provide borrowers with prompt credit decisions and comply with notice requirements.
- Provide nondiscriminatory advertising materials.
- Allow applicants, when credit is denied, to correct, explain, or provide additional information.

The act adds the following to the list of prohibited acts:

- Brokering a rate spread loan, without disclosing the terms and costs of a fixed rate loan from the same lender at the lowest rate for which the borrower qualifies.
- Failing to comply with all applicable federal laws and regulations.
- Engaging in unfair, misleading, or deceptive advertising related to solicitation of loans.

The Commissioner of Banks is given the authority to ban or limit practices that the Commissioner finds to be unfair, deceptive, designed to evade the law, or which are not in the best interest of the borrowing public.

This act becomes effective January 1, 2008, and Section 1 of the act applies to consumer home loans entered into on or after that date. (KCB)

Prohibit Gift Card Maintenance Fees

S.L. 2007-363 ([SB 1517](#)) requires the seller or issuer of a gift card to clearly disclose at the time of purchase, and on the card itself, any maintenance fees charged for the gift card. The act prohibits charging any maintenance fee for one calendar year after the card is purchased. A violation of this law is an unfair and deceptive trade practice under Chapter 75 of the General Statutes. A "gift card" is defined as a record evidencing a promise made for monetary consideration by a seller that goods or services will be provided to the owner of the card up to the value shown on the record. Included in the definition of a gift card is a prefunded card, a gift certificate, a stored-value card, a store card, or a prepaid long distance telephone service. "Maintenance fee" is defined as any fee the owner (holder) of the gift card is subject to when the gift card is redeemed, including a service or inactivity fee. The act does not apply to gift cards that are issued by a financial institution, or its operating subsidiary and that are usable at multiple unaffiliated sellers of goods or services.

This act becomes effective December 1, 2007, and applies to gift cards, as defined in the act, which are sold on or after that date. (DC)

Telephone Records Privacy Protection Act

S.L. 2007-374 ([SB 1058](#)). See **Criminal Law and Procedure**.

Clarify Motor Vehicle Franchise Laws/Dealer Termination

S.L. 2007-513 ([SB 1351](#)). See **Business and Commerce**.

Identity Theft/Publication of Personal Information

S.L. 2007-534, Secs. 2 and 3 ([HB 454](#), Secs. 2 and 3) create a statutory cause of action against a person who knowingly broadcasts or publishes the personal information of another person without that other person's consent. The broadcaster or publisher must have actual knowledge that the person whose personal information is published or broadcasted had previously objected to any such disclosure, in order to be in violation of the statute. "Person" is defined as any individual, partnership, corporation, trust, estate, cooperative, association, or other entity but does not include any government, government subdivision, or agency, or any entity subject to requirements under the federal Health Insurance Portability and Accountability Act. A person would be in violation of this statutory cause of action if the person publishes the first initial or first name and last name of another person, in addition to one or more of types of identifying information, such as Social Security or passport numbers, information that can be used to access a person's financial resources, biometric data, or fingerprints.

This statutory cause of action does not apply to the collection, use, or release of personal information for a purpose that is permitted, authorized, or required by any federal, state, or local law. For violations of this statutory cause of action, damages may be in an amount of up to \$5,000, but no less than \$500 for each incident, or three times the amount of actual damages, whichever amount is greater. A person also may institute a civil action to enjoin and restrain future acts that would be violations of this statutory cause of action. The court may award reasonable attorneys' fees to the prevailing party.

This statutory cause of action becomes effective December 1, 2007, and applies to offenses and violations committed on or after that date.

Section 1 of this act authorizes the taking of a photograph of a person who is cited for a motor vehicle moving violation and does not produce a valid drivers license. For additional information, see **Criminal Law and Procedure**. (DC)

Deceptive Advertising of Business Location

S.L. 2007-545 ([SB 514](#)). See **Business and Commerce**.

For a complete list of the studies and reports authorized by the 2007 Session of the 2007 General Assembly, please refer to the Appendix contained in this publication.

Chapter 8

Courts, Justice, and Corrections

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

Enacted Legislation

Domestic Violence Victims/Security

S.L. 2007-15 ([HB 46](#)). See **Children and Families**.

Protect Judicial Officer Safety

S.L. 2007-29 ([SB 184](#)). See **State Government**.

Charlotte-Mecklenburg Police Jurisdiction

S.L. 2007-45 ([HB 343](#)). See **Criminal Law and Procedure**.

Waiver of Enforcement/No-Wake Zones

S.L. 2007-46 ([SB 361](#)). See **Agriculture and Wildlife**.

Courtroom Procedures/Juvenile Proceedings

S.L. 2007-100 ([HB 1243](#)) provides a procedure, similar to the procedure used in adult court, to determine when a juvenile may be subject to restraint in the courtroom during hearings authorized or required for undisciplined and delinquent juveniles. A judge would be authorized to subject the juvenile to restraint only when it is reasonably necessary to maintain order, prevent escape, or provide for the safety of the courtroom. The judge would be required, whenever practical, to provide the juvenile and the juvenile's attorney an opportunity to contest the use of restraints before they are ordered, and, if they are ordered, the judge would be required to make findings of fact to support that decision.

This act became effective October 1, 2007. (SS)

Removal of Unqualified Judges and District Attorneys

S.L. 2007-104 ([SB 118](#)) authorizes the Governor to declare a vacancy in the office of district court judge, superior court judge, Court of Appeals judge, Supreme Court justice, or district attorney when the person holding that office has been disbarred or suspended from the practice of law and all appeals have been exhausted.

The act further provides, that once the person has been disbarred or suspended from the practice of law, his or her salary must be immediately suspended, even if the office has not yet been declared vacant. If the order of disbarment or suspension is reversed on appeal, the salary must be paid retroactively from the date the salary was suspended.

This act became effective June 21, 2007, and does not apply to persons elected to or serving in the capacity of justice or judge on or before January 1, 1981, that were not authorized

to practice law at the time of their election or at the time they began serving in the capacity of justice or judge. (SS)

Bail Bonds/Amend Forfeiture Requirement

S.L. 2007-105 ([SB 880](#)). See **Criminal Law and Procedure**.

Domestic Violence Victims/Add Protections

S.L. 2007-116, Secs. 1 and 3 ([SB 30](#), Secs. 1 and 3) keep name change records of domestic violence victims from the public records, and make mandatory a current practice of the clerks of court to provide domestic violence victims with information.

- Section 1 exempts the publication of an application for a name change if the applicant meets the listed qualifications: the applicant is a participant in the Attorney General's address confidentiality program, or provides evidence that the applicant is a victim of domestic violence, sexual offense, or stalking. The court's entire record is not a matter of public record, and is only accessible upon court order, or with the written consent of the applicant.
- Section 3 provides that the clerk of court must provide the recipient of a domestic violence protective order with an information sheet that includes domestic violence agencies and services, sexual assault agencies and services, victims' compensation services, legal aid services, and address confidentiality services.

These sections became effective October 1, 2007. (HAP)

See **Criminal Law and Procedure** for the summary of the remaining section of the bill.

Investigations of Deadly Force

S.L. 2007-129 ([HB 1617](#)) requires district attorneys to investigate the use of deadly force by law enforcement officers in certain situations. Specifically, the act provides that when a private citizen is killed as a result of the use of a firearm by a law enforcement officer in the line of duty, the district attorney must, upon request of a surviving spouse or next of kin of the deceased within 180 days of the death, request the State Bureau of Investigation to investigate the incident. For the purposes of the section, "next of kin" is defined as the child, father, mother, sister or brother of the private citizen.

Statements prepared by a district attorney under the new section would not be public records. The statements may only be released as otherwise provided by law.

This act became effective October 1, 2007, and applies to acts occurring on or after that date. (TH)

Expand Reach of Courts/Terminate Parental Rights

S.L. 2007-152 ([HB 866](#)). See **Children and Families**.

Private Correctional Officers

S.L. 2007-162 ([SB 930](#)) makes the following changes to the law governing the authority of private correctional officers:

- Removes the requirement that the Department of Correction (DOC) determine that the employment practices of private corporations operating a correctional facility, pursuant to a contract with the Federal Bureau of Prisons, meet DOC standards and

practices (only DOC determination deleted; corporation must still meet these standards and practices).

- Removes the requirement that the DOC determine if correctional officers and security supervisors of the private corporation have completed training that meets or exceeds the standards required by the North Carolina Criminal Justice Education and Training Standards Commission (as with above, only DOC determination deleted; corporation must still meet these training standards).
- Removes the requirement that a private corporation operating a correctional facility, pursuant to a contract with the Federal Bureau of Prisons, provide DOC with a certificate of liability insurance.
- Removes authority of DOC to adopt rules to implement the act.
- Provides that a private corporation operating a correctional facility, pursuant to a contract with the Federal Bureau of Prisons, bear the reasonable costs of the services provided by the State (currently - DOC) for the corporation.

This act was signed into law by the Governor on July 4, 2007, and became effective retroactively on July 1, 2007. (TH)

Alcohol Monitoring Systems for Driving While Intoxicated (DWI) Offenders

S.L. 2007-165 ([SB 1290](#)) allows earlier conditional restoration of a driver's license in certain circumstances, and provides for the use of continuous alcohol monitoring systems (CAMS) to monitor individuals who have been sentenced for DWI convictions, or as necessary by the courts, to ensure compliance with conditions of release, probation, or parole. The act:

- Allows the Division of Motor Vehicles to conditionally restore the license of someone who has received a permanent revocation for DWI offenses. Under current law, the license can be conditionally restored after 3 years of revocation. The act allows the license to be conditionally restored after 24 months of revocation, if the person meets the current requirements and can also show that he or she has not consumed any alcohol for the 12 months preceding the restoration while being monitored by a CAMS.
- Adds a new mitigating factor to the sentencing provisions for DWI offenses. The court may find, as a mitigating factor, the completion of a substance abuse assessment, compliance with its recommendations, and the simultaneous maintenance of 60 days of continuous abstinence from alcohol consumption, as proven by a CAMS.
- Authorizes the court to require, as a condition of probation, that a DWI defendant subject to Level One or Level Two punishment, abstain from alcohol consumption for a minimum of 30 days, to a maximum of 60 days, as verified by a CAMS. The cost to the defendant may not exceed \$1,000. If the court finds, upon good cause shown, that the defendant should not be required to pay the costs of the system, the court may not impose the requirement, unless the local governmental entity responsible for the incarceration of the defendant in the local confinement facility agrees to pay the costs of the system.
- Authorizes a new condition of parole. The parolee may be required to remain alcohol-free and prove abstinence by the use of a CAMS. Any fees or costs are to be paid to the clerk of court, and transmitted to the entity providing the CAMS.
- Requires the Department of Correction to establish regulations for the CAMS, and also to approve systems for use by the courts. Once the regulations are established, all courts, including those using CAMS prior to the effective date of the act, must comply with the regulations.

[Note on effective dates: The preceding provisions become effective December 1, 2007, and apply to offenses occurring on or after that date. Nothing in the act prohibits a court from either continuing or allowing the use of continuous alcohol monitoring systems as evidence of alcohol abstinence prior to the effective date. The following provisions became effective July 4, 2007.]

- Requires the Department of Correction to issue Requests for Information (RFIs) to develop possible pilot programs for the use of continuous alcohol monitoring systems as an intermediate punishment and/or as a condition of probation for offenders other than DWI offenders.
- Requires the Department of Correction to report, by October 1, 2008, to the Appropriations Chairs, the Chairs of the Appropriations Justice and Public Safety Subcommittee, and the Joint Legislative Corrections, Crime Control and Juvenile Justice Oversight Committee regarding the RFIs, an evaluation of the systems, and any recommendations they may have for implementation of the continuous alcohol monitoring. The Department must also explore funding options possibly available from other sources.

This act is effective as indicated in the Note, above. (HAP)

Juvenile Contempt/Procedures and Sanctions

S.L. 2007-168 ([HB 1479](#)) provides procedures and sanctions for contempt of court by a juvenile. The new statutes apply to juveniles that are at least 6 years old, but not yet 16 years old, and who have not been convicted of a crime in superior court.

A juvenile may be held in contempt for any of the following acts:

- Willful behavior committed during court and directly tending to interrupt the proceedings.
- Willful behavior committed during court, in the court's immediate view and presence, and directly tending to impair the respect due to the court.
- Willful disobedience, resistance, or interference with a court's lawful process, order, directive, instruction, or execution.
- Willful refusal to be sworn or affirmed as a witness or refusal to answer questions when the refusal is not legally justified.
- Willful or grossly negligent failure to comply with schedules and practices of the court resulting in substantial interference with the court's business.
- Willful refusal to testify or produce other information upon the order of a judge under the statutes that grant immunity to witnesses.
- Willful communication with a juror in an improper attempt to influence deliberations.
- Any other act or omission in another section of the statutes as grounds for criminal contempt.

The act provides for two types of contempt. Direct contempt is an act committed within the sight or hearing of a presiding judicial official, in immediate proximity to the room where the court proceedings are being held, and is likely to interfere or interrupt the matters before the court. Indirect contempt is any other contempt that does not meet the definition of direct contempt. Provisions are made in the statute for procedures to address contempt, including the appointment of an attorney to represent the juvenile.

Direct contempt sanctions include up to 5 days detention, 30 hours of supervised community service, and any evaluations necessary for the court to determine the needs of the juvenile. Indirect contempt sanctions continue to be the sanctions provided under current law.

This act becomes effective December 1, 2007, and applies to acts occurring or offenses committed on or after that date. (SS)

Custody/Visitation/Military Orders

S.L. 2007-175 ([HB 1634](#)). See **Military, Veterans', and Indian Affairs**.

Violate Order/Possess Deadly Weapon Felony

S.L. 2007-190 ([HB 47](#)). See **Criminal Law and Procedure**.

Recovery of Costs in Civil Cases

S.L. 2007-212 ([HB 21](#)) allows costs to be recovered in civil cases in the discretion of the court, subject to specific limitations. The act amends the law to specify that costs may be allowed in the discretion of the court, subject to the limitations otherwise set forth in the law, unless the costs are otherwise specifically provided for in the General Statutes.

This act became effective August 1, 2007, and applies to all motions for costs filed on or after that date. (BC)

Sex Offender Global Positioning Satellite (GPS)/Department of Correction (DOC) Requests

S.L. 2007-213 ([HB 29](#)), as amended by S.L. 2007-484, Sec. 42 ([SB 613](#), Sec. 42), establishes a procedure for determining when a sex offender is subject to satellite-based (GPS) monitoring. The district attorney must, during the sentencing phase, present any evidence that (i) the offender has been classified as a sexually violent predator, (ii) the offender is a recidivist, (iii) the conviction offense was an aggravated offense, or (iv) the offense involved the physical, mental, or sexual abuse of a minor. The offender may present any evidence showing that the district attorney's evidence is not correct. (Effective for sentences entered on or after December 1, 2007)

After receipt of evidence from the parties, the court will determine if the offender meets any of the classifications and, if so, make a finding of fact to that effect. If the offender is found to be a sexually violent predator, a recidivist, or to have committed an aggravated offense, the court must order him or her to enroll in GPS monitoring for life. If the offender is found to have committed an offense involving the physical, mental, or sexual abuse of a minor, the court shall order the Department of Correction to do a risk assessment of the offender. The Department has 30 to 60 days to do the assessment and if the court determines, based on the Department's risk assessment, that the offender requires the highest possible level of supervision and monitoring, the court must order him or her to enroll in GPS monitoring and must specify the period of time the offender must remain enrolled.

The act also establishes a procedure for determining whether a sex offender is subject to GPS monitoring when no determination was made by a court at sentencing. The Department of Correction must determine whether the offender falls into one of the categories of requiring GPS monitoring and, if so, must schedule a hearing in the court of the county in which the offender resides. The Department notifies the offender by certified mail of the hearing, which can be no sooner than 15 days from the date the notification is mailed. At the hearing, the court will determine whether the offender is required to submit to GPS monitoring, using the same process described above.

The act makes additional clarifying changes to the sex offender laws as follows:

- Establishes the time an offender is required to report to the Department of Correction to enroll, based on whether the offender receives an active sentence, an intermediate sentence, or a community punishment. (Effective December 1, 2007)

- Provides for Department supervision authority for all offenders required to enroll in GPS monitoring. (Effective December 1, 2007)
- Provides that failure to appear to receive the proper equipment is considered failure to enroll and, therefore, a Class F felony. The act also creates a Class 1 misdemeanor for failure to provide necessary information to the Department or to comply with the guidelines and regulations of the GPS program. (Effective December 1, 2007, and apply to offenses committed on or after that date)
- Amends the special conditions of probation for sex offenders to allow the probation officer to conduct warrantless searches of the probationer's person, vehicle, and premises, while the probationer is present, and clarifies that the probationer's computer or other electronic mechanism containing electronic data may also be searched. (Effective December 1, 2007, and applies to persons placed on probation on or after that date)
- Amends the conditions of parole to authorize warrantless searches of a parolee's computer and other electronic data equipment, if the parolee is a sex offender. (Effective December 1, 2007, and applies to persons placed on parole on or after that date)
- Amends the conditions of post-release supervision for sex offenders to allow the supervising officer to conduct warrantless searches of the supervisee's person, vehicle, and premises, while the supervisee is present, and clarifies that the supervisee's computer or other electronic data devices may also be searched. (Effective December 1, 2007, and applies to persons placed on post-release supervision on or after that date)
- Requires a person required to register as a sex offender who moves, to notify the sheriff of the county to which they move within 10 days of the change of address, in addition to notifying the sheriff of the county in which they last registered.
- Amends the exceptions to the residency restrictions for sex offenders to include a grandparent, legal guardian, or spouse, and also clarifies that a child or sibling must be 18 years old or older.
- Requires the Post-Release Supervision and Parole Commission to terminate the GPS monitoring requirement for any sex offender who is released from the requirement to register as a sex offender. (Effective December 1, 2007)
- Amends the statute regarding fees for GPS monitoring to clarify that all offenders must pay the fee, unless they are exempted for good cause shown by the court or the Department of Correction. (Effective December 1, 2007)

Except as noted within this summary, this act became effective July 11, 2007. (SS)

Define Residency Requirements/Bail Bondsmen

S.L. 2007-228 ([SB 881](#)). See **Occupational Boards and Licensing**.

Judicial Department Access to Social Security Number Information

S.L. 2007-249 ([SB 1287](#)) authorizes the Division of Motor Vehicles to disclose the Social Security number of an applicant for a driver's license to the Office of Indigent Defense Services for the purpose of verifying the identity of a represented client and enforcing a court order to pay for the legal services rendered.

This act became effective July 20, 2007. (BK)

Repeal Black Mountain Advancement Center for Women

S.L. 2007-252 ([SB 632](#)) repeals the statute under which The Black Mountain Advancement Center for Women is established. The Black Mountain Advancement Center for Women is the only correctional facility established in the statutes. The Department of Correction does not feel it is necessary to have this provision in the statutes and requested that the statute be repealed.

This act was signed into law by the Governor on July 20, 2007, and became effective retroactively on July 1, 2007. (TH)

Correction Enterprises

S.L. 2007-280 ([HB 648](#)) amends and recodifies the law authorizing the Department of Correction to employ inmates in industrial, agricultural, and service enterprises. The act establishes the Division of Correction Enterprises within the Department of Corrections to develop and operate industrial, agricultural, and service enterprises that employ inmates, in an effort to provide them with meaningful work experience and rehabilitative opportunities. The act reorganizes and recodifies prior law and the Department's current practices.

The act authorizes the Division to continue to market and sell products to State agencies, local governments, federal, state, or local public agencies in other states, and certain nonprofit organizations. In addition, the act authorizes the sale of products to State employees, provided that an employee's purchase may not exceed \$2,500 per year and that these products may not be resold. The act also amends the Umstead Act, which generally prohibits competition with private industry, to allow the Department of Correction to provide laundry services to VA Medical Centers.

The act authorizes the Division to participate in the federal Prison Industry Enhancement Certification Program and to pay inmates who are employed as part of the Program more than the general \$3.00 per day maximum, in accordance with applicable federal regulations.

This act became effective August 1, 2007. (BC)

North Carolina Arboretum Campus Police

S.L. 2007-285 ([SB 630](#)) authorizes the Board of Directors of the North Carolina Arboretum to establish a campus law enforcement agency. Officers employed by campus law enforcement agencies are required to comply with the requirements of the Criminal Justice Education and Training Standards Commission; are constitutionally-sworn law enforcement officers; and generally have the powers of law enforcement officers. The territorial jurisdiction of such officers includes the property owned and leased to the employing institution, and the portions of any public road or highway passing through or immediately adjoining the property. If the agency is established, the Board is authorized to enter into joint agreements with governing boards of municipalities, counties, and any other constituent institution of The University of North Carolina, to extend the law enforcement authority of campus police into those jurisdictions.

This act became effective July 27, 2007. (BC)

Exempt Law Enforcement from Backseat Belts

S.L. 2007-289 ([HB 1330](#)) creates an exemption from the requirement that a backseat passenger wear a seatbelt. The exemption applies to any person who is in the custody of a law enforcement officer and is being transported in the backseat of a law enforcement vehicle.

This act became effective July 27, 2007. (BC)

Limited Driving Privilege – Driving While License Revoked

S.L. 2007-293 ([SB 758](#)), as amended by S.L. 2007-345, Sec. 9.1(a) ([SB 758](#), as amended by HB 714, Sec. 9.1(a)). See **Transportation**.

Establishment of Additional District Public Defender Offices

S.L. 2007-323, Sec. 14.4 ([HB 1473](#), Sec. 14.4) authorizes the Indigent Defense Services Commission to establish additional district public defender offices during the 2007-2009 fiscal biennium, and to use up to \$1,570,057 during the 2008-2009 fiscal year to establish those offices. The Office of Indigent Defense Services is required to report to the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety and to the Fiscal Research Division no later than October 1, 2007, on the location and establishment of the new public defender offices.

The section also provides for the establishment of an office of public defender in Defender District 5, consisting of New Hanover county, and Defender District 29B, consisting of Henderson, Polk, and Transylvania counties.

This section became effective July 1, 2007. (BC)

Additional District Court Judges

S.L. 2007-323, Sec. 14.13 ([HB 1473](#), Sec. 14.13), as amended by S.L. 2007-484, Sec. 25(a) ([SB 613](#), Sec. 25(a)) provide for one additional district court judge in each of the following Districts, effective January 1, 2008: District 10 (Wake), District 11 (Harnett, Johnston, Lee), District 12 (Cumberland), District 18 (Guilford), District 20D (Union), District 21 (Forsyth), and District 26 (Mecklenburg). The Governor will appoint the judges, and their successors will be elected in the 2008 general election for four-year terms commencing January 1, 2009.

Three additional district court judges will be appointed, effective January 15, 2009. The judges will be appointed by the Governor and will serve in the following Districts: 5 (New Hanover, Pender), 10 (Wake), and 26 (Mecklenburg). The successors of these judges will be elected in the 2010 general election for four-year terms commencing January 1, 2011. (BC)

Office of Indigent Defense Services May Compensate Attorneys for Certain Filings

S.L. 2007-323, Sec. 14.19 ([HB 1473](#), Sec. 14.19) provides that an indigent's entitlement to the services of counsel includes the following stages of an action or proceeding:

- In a capital case in which the defendant is under a sentence of death, review of any judgment rendered on direct appeal by the North Carolina Supreme Court, pursuant to the certiorari jurisdiction of the United States Supreme Court.
- In a noncapital case, review of any judgment or decree rendered on direct appeal by a court of the North Carolina Appellate Division, pursuant to the certiorari jurisdiction of the United States Supreme Court, when the judgment does one of the following:
 - Decides an important question of federal law in a way that conflicts with relevant decisions of the United States Supreme Court, a federal court of appeals, or the court of last resort of another state.
 - Decides an important question of federal law that has not been, but should be, settled by the United States Supreme Court.
 - Decides a question of federal law in the indigent's favor and the judgment is challenged by opposing counsel, through an attempt to invoke the certiorari jurisdiction of the United States Supreme Court.

This section provides that an appellate defender's duties include, as directed by the Office of Indigent Defense Services, serving as counsel of record for indigent defendants in the United States Supreme Court, pursuant to a writ of certiorari of the decision on direct appeal by a court of the North Carolina Appellate Division.

This section became effective July 1, 2007. (TH)

Authorize Mileage Reimbursement for Appellate Judges Who Reside 50 Miles or More from Raleigh

S.L. 2007-323, Sec. 14.21 ([HB 1473](#), Sec. 14.21) provides that, in addition to other authorized travel and subsistence expenses, a Justice of the North Carolina Supreme Court or a judge of the North Carolina Court of Appeals, whose permanent residence is at least 50 miles from Raleigh must also be reimbursed for his or her mileage traveled each week from his or her home for the business of the court. Reimbursement must be calculated by multiplying the round-trip mileage by a rate-per-mile established by the Director of the Administrative Office of the Courts, but not to exceed the business standard mileage rate set by the Internal Revenue Service.

This section became effective July 1, 2007. (TH)

Add Two Special Superior Court Judges

S.L. 2007-323, Sec. 14.24 ([HB 1473](#), Sec. 14.24) provides that the Governor may appoint two special superior court judges to serve terms expiring five years from the date the judge takes office. Successors must also be appointed for five-year terms. Special superior court judges are subject to the same requirements as other superior court judges, except the requirement of residence in a particular district.

This section becomes effective January 1, 2008. (TH)

Reimburse Counties for Housing and Extraordinary Medical Costs for Inmates, Parolees, and Post-Release Supervisees Awaiting Transfer to State Prison System

S.L. 2007-323, Sec. 17.6 ([HB 1473](#), Sec. 17.6) permits the Department of Correction to use funds it received for the 2007-2009 biennium to pay \$40.00 per day to reimburse counties for the cost of housing convicted inmates, parolees, and post-release supervisees awaiting transfer to the State prison system. The Department of Correction must report quarterly to the Joint Legislative Commission on Governmental Operations; the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee; the Chairs of the House of Representatives and Senate Appropriations Committees; and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the use of funds to reimburse counties for prisoners awaiting transfer and on its progress in reducing the jail backlog.

This section became effective July 1, 2007. (BK)

Judicial Branch Longevity

S.L. 2007-323, Sec. 28.18A ([HB 1473](#), Sec. 28.18A) provides that Supreme Court Justices, Court of Appeals judges, superior court judges, district attorneys, assistance district attorneys, clerks, assistant clerks of the superior court, district court judges, public defenders, and assistant public defenders will receive 24% of their annual salary in longevity pay after 25

years of service. Previously, maximum longevity pay for these judicial branch officials equaled 19.2% of their annual salary after 20 years of service.

This section became effective July 1, 2007. (TH)

Include Public Defenders in Consolidated Judicial Retirement System

S.L. 2007-323, Sec. 28.21B ([HB 1473](#), Sec. 28.21B). See **Retirement**.

Increase Court Fees and Amend the Access to Civil Justice Act

S.L. 2007-323, Sec. 30.8 ([HB 1473](#), Sec. 30.8). See **Finance**.

Collection of Outstanding Fines and Fees by the Courts

S.L. 2007-323, Sec. 30.9 ([HB 1473](#), Sec. 30.9) amends the statute which authorizes the collection of court fees. The act provides that the Judicial Department may, in attempting to collect fees, do the following:

- Assess a collection assistance fee, which shall not exceed the average cost of collecting the debt, or 20% of the amount past due, whichever is less.
- Enter into contracts with a collection agency.
- Intercept tax refund checks.

The section became effective August 1, 2007, and applies to cases adjudicated on or after that date. (HAP)

Increase and Clarify Certain Court Costs

S.L. 2007-323, Sec. 30.10 ([HB 1473](#), Sec. 30.10). See **Finance**.

Establish Processing Fee for Limited Driving Privilege

S.L. 2007-323, Sec. 30.11 ([HB 1473](#), Sec. 30.11), as amended by S.L. 2007-345, Sec. 9.1(b) and (c) ([HB 714](#), Sec. 9.1(b) and (c)) establishes a \$100 processing fee for applications or petitions for a limited driving privilege. The applicant or petitioner shall pay this fee to the clerk of superior court in the county in which the limited driving privilege is issued. The fee must be remitted to the State Treasurer and used for support of the General Court of Justice.

This section became effective August 1, 2007. (HAP)

Industrial Commission Investigators/Sworn Law Enforcement Officers

S.L. 2007-358 ([SB 882](#)) authorizes the North Carolina Industrial Commission to use sworn law enforcement officers, duly appointed and certified through the Criminal Justice Education and Training Standards Commission, to conduct investigations of workers compensation fraud and other workers compensation violations.

This act became effective September 1, 2007. (TH)

Speeding Law Changes

S.L. 2007-380 ([SB 925](#)) amends the statute that provides for improper equipment as a lesser included offense of speeding, and limits the availability of a prayer for judgment continued (PJC) for speeding offenses. There are no limitations on the number of times a person may be found guilty of improper equipment, and no driver's license points or insurance surcharge can be assessed for the violation. A PJC does not count as a conviction, and therefore there are no driver's license or insurance points imposed.

The act changes the current law by requiring that when a driver is guilty of the lesser-included offense, an entry of "Improper Equipment – Speedometer" will be entered on the driver's official record. The lesser-included offense will not be available if the driver is charged with speeding in excess of 25 miles per hour over the posted speed limit. In addition, a driver charged with speeding in excess of 25 miles per hour over the posted speed limit will not be eligible for a PJC.

This act becomes effective December 1, 2007, and applies to offenses occurring on or after that date. (HAP)

Mediation in District Criminal Courts

S.L. 2007-387 ([SB 728](#)) permits mediation in district criminal court cases. It establishes a program for certification of mediators in district criminal courts, directs community mediation centers to assist the court in administering the program, and directs the North Carolina Supreme Court to adopt rules to implement the act. The act also increases the size of the Dispute Resolution Commission from 15 to 16 members by creating an additional slot for a certified district criminal court mediator. The North Carolina Supreme Court must adopt rules to implement the act and must establish requirements for the certification of mediators no later than January 1, 2008.

This act became effective August 19, 2007, and applies to mediations conducted on or after the date the North Carolina Supreme Court adopts rules and requirements for the certification or qualification of mediators serving under this act. (BK)

Open Discovery/Administrative Office of the Courts Changes

S.L. 2007-393 ([SB 1130](#)) clarifies the State's discovery laws. Under current law, a defendant is entitled to the disclosure of the complete files of all "law enforcement and prosecutorial agencies." The law is amended to define a "prosecutorial agency" to include a private entity, e.g., a private lab that has been given DNA samples for analysis. The act also makes numerous changes to provisions affecting the Administrative Office of the Courts, and adds a provision for a pilot program for juror waiver of fees.

This discovery and juror fee pilot program provisions of the act became effective October 1, 2007. The remainder of the act became effective August 20, 2007. (HAP)

Department of Correction Inmate Labor

S.L. 2007-398 ([SB 1096](#)) allows inmates to volunteer in service projects that benefit the State, local governments, or 501(c)(3) entities that serve the citizens of the State and would exempt from the State Surplus laws any products made in these volunteer programs. It removes several restrictions on the use of female inmates and creates a new exemption from the law which generally prohibits departments or agencies of State government from selling goods in competition with citizens and private enterprises. This exemption would permit the gift or sale of any craft items made by inmates in the custody of the Department of Correction as part of a program established by the Division of Prisons.

This act became effective August 21, 2007. (BK)

Bail Bond/Exception/Return of Bond Premium

S.L. 2007-399 ([SB 1327](#)) adds two new exceptions to the requirement that the premium be returned within 72 hours of the defendant's surrender. The surety would not be required to return the premium if the defendant:

- Fails to disclose information or provides false information regarding any past or current criminal activity, charge, or conviction.
- Provides the surety with incorrect personal identification.

This act became effective on August 21, 2007. (TH)

Authorize Judge/Concealed Weapon in Court

S.L. 2007-412 ([HB 573](#)) authorizes a district court judge or superior court judge, who has a concealed handgun permit, to carry or possess a concealed handgun while in a courthouse to discharge his or her official duties.

This act became effective August 21, 2007. (SS)

Eyewitness Identification Reform Act

S.L. 2007-421 ([HB 1625](#)). See **Criminal Law and Procedure**.

Certain Law Officers/Waive Handgun Permit

S.L. 2007-427 ([HB 1231](#)) waives the requirement to obtain a concealed handgun permit for certain persons authorized by federal law to carry concealed handguns, if they are in compliance with federal law, and for certain federal and state retired law enforcement officers. The act also allows armed armored car service guards and armed security guards to carry weapons on certain educational property while performing their duties.

The act gives the North Carolina Criminal Justice Education and Training Standards Commission the responsibility and authority to establish the necessary standards and guidelines to certify and recertify qualified retired law enforcement officers to carry concealed weapons, pursuant to federal law, and to adopt rules and charge a reasonable fee. A qualified retired law enforcement officer may apply to the Commission for certification, instead of applying for a concealed carry permit. The Commission is required to notify the person of the limitations applicable under federal or State law, but failure to receive such a notification is not a defense to a violation of federal or State laws.

The act provides that any person applying or assisting an applicant that makes a willful and intentional misrepresentation will be guilty of a Class 2 misdemeanor; any certification that has been issued will be revoked, and the person will be ineligible to receive a concealed carry permit.

The establishment of standards and guidelines by the Commission, and the provision authorizing certain armed guards to carry weapons on educational property, became effective August 23, 2007. The remainder of this act becomes effective December 1, 2007, and applies to offenses committed on or after that date. (SS)

See **Education** for the summary of Sec. 6 of the act.

Identify Juvenile Escapees

S.L. 2007-458 ([HB 1148](#)) amends the Juvenile Code to require the Department of Juvenile Justice and Delinquency Prevention (DJJDP) to release identifying information concerning certain juveniles who escape from custody. Identifying information includes the juvenile's first name and last initial, photograph, the name and location of the institution from which the juvenile escaped, and a statement of the level of concern the DJJDP has as to the juvenile's threat to self or others. The DJJDP is required to release the information only if the escape was from a detention facility and the juvenile is alleged to have committed an offense that, for an adult, would be a Class A, B1, B2, C, D, or E felony, or the escape was from a youth development center and the juvenile has been adjudicated delinquent for an offense that, for an adult, would be any felony or a Class A1 misdemeanor. The information must be released within 24 hours of the escape, unless the juvenile is returned to custody prior to that time.

The act allows, but does not require, the DJJDP to release information about a juvenile who escapes from custody if the juvenile has been adjudicated for an offense that, for an adult, would be a Class 1, 2, or 3 misdemeanor.

This act became effective October 1, 2007. (BC)

Silver Alert System/Missing Persons Alert

S.L. 2007-469 ([HB 38](#)). See **Senior Citizens**.

Detention Officers Courthouse Firearms

S.L. 2007-474 ([HB 1707](#)) allows detention officers employed by the sheriff to carry firearms at the county courthouse.

This act became effective August 29, 2007. (BK)

Fire Chief/Emergency Medical Services Director: Criminal History Requests

S.L. 2007-479 ([HB 1322](#)). See **Local Government**.

Magistrates Prohibited from Private Practice of Law

S.L. 2007-484, Sec. 28 ([SB 613](#), Sec. 28) adds magistrates to the list of court officers who are prohibited from engaging in the private practice of law. A violation is a Class 3 misdemeanor, and the violator will be subject to a fine of not less than \$200.

This section becomes effective December 1, 2007, and applies to offenses committed on or after that date. (BC)

Driving While Intoxicated (DWI) Technical Corrections

S.L. 2007-493 ([SB 999](#)) primarily makes technical corrections to the Motor Vehicle Driver Protection Act of 2006 (MVDPA). The MVDPA made numerous changes to laws relating to impaired driving, including: changing law enforcement procedure, the creation of criminal offenses for repeat offenders who seriously injure or kill other drivers, sentencing procedure, data collection and reporting on DWI cases, and the forfeiture of vehicles. This act, in addition to making technical changes, also adds some new provisions relating to the State's impaired driving laws. The following provisions change current law or procedure:

- Amends the Blood Alcohol Content (BAC) level in the statute regarding ignition interlock from 0.16 to 0.15, and amends the DWI sentencing statute to change the BAC level to be considered an aggravating factor from 0.16 to 0.15. (Effective December 1, 2007, and applies to offenses occurring on or after that date)
- Corrects the effective date for the interlock device medical exception. The MVDPA had only allowed a medical exception for offenses occurring on or after December 1, 2006. This act makes the exception immediately available to any driver with the interlock device requirement, regardless of the date of offense. (Effective on August 30, 2007)
- Amends the limited driving privilege statute, in order to comply with federal law, to place restrictions on certain high risk drivers who receive a limited driving privilege. Any limited driving privilege issued to a person who is convicted of a DWI and has a BAC level of 0.15 or more at the time of the offense must (i) not become effective for at least 45 days after conviction, (ii) require an ignition interlock, and (iii) limit the person to driving only to and from a place of employment, school, court ordered treatment, and an ignition interlock facility. (Effective December 1, 2007, and applies to offenses occurring on or after that date.)
- Adds a new revocation period and conditional restoration period for persons who had an offense involving impaired driving and a fatality. The addition of the new, more serious, offenses required an increase in the periods of time for both revocation and conditional restoration of a license. (Effective August 30, 2007)
- Prevents a defendant from continuing to appeal a district court sentence after a case has been appealed to Superior Court, and then the appeal is withdrawn. Under the MVDPA, an appeal to superior court vacates the sentence. If the case is remanded, or the defendant withdraws his appeal, the district court resentences the defendant using facts (e.g., convictions) that were not available at the original sentencing. If new facts are used to resentence the defendant, then there is a right to appeal the new sentence. However, if the new sentence is appealed (and vacated) where there have been no additional facts considered by the court, and the appeal is subsequently withdrawn, then the new sentence imposed by the district court is reinstated and no further appeal is allowed. (Effective August 30, 2007)
- Allows a court to order secure custody of a juvenile who has been found to be dangerous to persons and is charged with an impaired driving violation. (Effective December 1, 2007, and applies to offenses occurring on or after that date)

This act became effective, except for designated sections, on August 30, 2007. (HAP)

Legal Status of Prisoners

S.L. 2007-494 ([SB 229](#)) requires the administrator or other person in charge of a county jail, local confinement facility, district confinement facility, or satellite jail/work release unit to determine if a prisoner is a legal resident of the United States by inquiry of the prisoner, or by examination of any relevant documents, or both. If the administrator is unable to determine the residency status of a prisoner, the administrator must make a query through the Division of Criminal Information system to the Law Enforcement Support Center (LESC) of Immigration and Customs Enforcement of the United States Department of Homeland Security. If the LESC determines that the prisoner has not been lawfully admitted to this country, the Department of Homeland Security is deemed notified of the prisoner's status and confinement at the facility by its receipt of the query. Nothing in the act may be construed to deny bond to a prisoner, or to prevent a prisoner from being released, if the prisoner is otherwise eligible for release.

The administrator must annually report the number of queries under this section to the Governor's Crime Commission, and the Commission must make the reports available to the public.

This act becomes effective January 1, 2008. (TH)

Expunge Driving While Intoxicated Civil Revocation

S.L. 2007-509 ([SB 301](#)). See **Transportation**.

Updating of Jury List

S.L. 2007-512 ([HB 943](#)) requires the State Registrar to provide county jury commissions with lists of recently deceased residents and directs jury commissions to remove those deceased residents from their jury lists. The act requires the Commissioner of Motor Vehicles to remove from its list any driver whose license is expired and has not been renewed for eight years or more. It also directs the State Board of Elections to remove from the list of registered voters any registered voter who has been inactive for eight years or more. The act also authorizes the Division of Motor Vehicles to disclose the Social Security number of an applicant for a driver's license to each county jury commission, for the purpose of verifying the identity of deceased persons whose names should be removed from jury lists.

This act became effective October 1, 2007. (BK)

Arbitration/Negligent Health Care Claims

S.L. 2007-541 ([HB 1671](#)). See **Civil Law and Procedure**.

Protections for Victims of Human Trafficking

S.L. 2007-547 ([SB 1079](#)) amends the State human trafficking law to allow any victim to obtain benefits under the Crime Victims Rights Act, and authorizes Legal Aid of North Carolina to assist the victim in obtaining any available federal assistance. The act:

- Provides that persons who are not legal residents of the State would be authorized to receive State benefits and services if they are human trafficking victims; makes human trafficking victims eligible under the Crime Victims Rights Act; and requires the district attorney to notify the Office of the Attorney General, and Legal Aid of North Carolina, of the trafficking victim's status.
- Directs the Attorney General to issue a letter of certification of eligibility, or like document, to a human trafficking victim when notified by a district attorney that the person is authorized by law to receive State benefits and services. The Attorney General must do this within 96 hours of getting notice from a district attorney.
- Amends the statutes that provide for legal aid and assistance by Legal Aid of North Carolina to include human trafficking victims as eligible clients; and authorizes Legal Aid to assist human trafficking victims in obtaining federal benefits and services.
- Requires the North Carolina Justice Academy to establish training protocols, and make them available to all State and local law enforcement agencies. The protocols would include training on the phenomenon of human trafficking, the recognition and protection of victims, and providing information on benefits and services.

This act becomes effective December 1, 2007, and applies to offenses occurring on or after that date. (HAP)

Studies

Legislative Research Commission

Study Availability of Prosecutorial Resources to District Attorneys and the Management and Use of These Resources by District Attorneys

S.L. 2007-323, Sec. 14.15 ([HB 1473](#), Sec. 14.15) authorizes the Legislative Research Commission to contract for an independent study to assess the availability of prosecutorial resources to the State's district attorneys and the use and management of these resources by district attorneys, their staffs, and the Conference of District Attorneys. All of the following must be addressed:

- Current prosecutorial resources, including those available to district attorneys and their legal, administrative, support, and investigative staff, and the Conference of District Attorneys, and supplemental assistance provided through State funding or other funding sources.
- Services provided by district attorneys and the Conference of District Attorneys and the recipients of those services.
- Funding, adequacy of supplies, equipment, and working space and allocation of resources, including the following:
 - Funding, supplies, equipment, and space to adequately support services.
 - Distribution of resources and how distribution is determined.
 - Equitable allocation of prosecutorial resources among geographical areas and between urban and rural areas.
 - The proportion of personnel and budget devoted to criminal prosecution.
 - Whether General Fund monies should be used to support positions for the Conference of District Attorneys or for any other conference.
- The current role of the Conference of District Attorneys and district attorneys in assessing the needs of the public and the current role, responsibilities, and interaction of the Conference of District Attorneys with regard to the General Assembly and the executive branch and whether that role should be modified.
- Documentation of current prosecutorial services that are automated and the ability of those systems to interact with each other, and the role of automation in improving or increasing efficiency.
- Cost management practices of district attorneys and their staffs.
- Caseload management, including the need to prosecute serious crimes in a timely manner, and to keep jail populations at a low level. Other issues to be addressed include:
 - Mechanisms used to manage caseloads.
 - Screening processes, if any, for assessing cases.
 - Initiatives implemented by a district attorney, if any, to expedite the resolution of certain categories of cases.
 - Statistics kept by the district attorney's office and the purposes for these statistics.
 - Performance indicators used by district attorneys and their effectiveness and, if not used, whether such indicators would be helpful.
- How the current management and use of prosecutorial resources affect the following:
 - Access to justice.
 - Day-to-day functioning of the prosecution service.

- Case management.
 - Timely resolution of caseloads.
 - Reduction of backlogs and the impact of current management and use of resources on the jail population.
 - The capacity to handle complex crimes.
 - The effectiveness of district attorneys in responding to domestic violence and other violent crimes.
 - Services provided to victims.
 - Public accountability.
- Any other issues deemed relevant by the Legislative Research Commission.

The findings and recommendations of the study must be reported to the Chairs of the House of Representatives and the Senate Appropriations Committee, the Chairs of the House of Representatives and the Senate Appropriations Subcommittees on Justice and Public Safety, and the Fiscal Research Division by March 15, 2008.

This section became effective July 1, 2007. (TH)

Referrals to Existing Commissions/Committees

Study Gang Activity

S.L. 2007-323, Sec. 16.8 ([HB 1473](#), Sec. 16.8) requires the Governor's Crime Commission (Commission) to study gang activity in North Carolina. In its study, the Commission must do all of the following:

- Assess gang activity in communities known to have gangs, including any connections between gangs and organized crime.
- Consult with the Department of Correction to assess gang activity in the State's prisons.
- Consult with the Department of Public Instruction, the Department of Justice, and the Department of Correction on any gang prevention initiatives in place or administered in the past.
- Summarize significant gang prevention, intervention, and suppression programs that have been administered by local law enforcement, State agencies, local governments, and community-based organizations.
- Review accepted best practices in gang prevention and evaluate whether or not increasing penalties will mitigate gang activity.
- Project the growth of gang activity over the next five years and identify where the growth is projected to occur.
- Provide recommendations on how to improve the effectiveness of future gang prevention initiatives.

The Commission must report on the study's findings and recommendations by March 15, 2008, to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety.

This section became effective July 1, 2007. (BK)

Parole Eligibility Report

S.L. 2007-323, Sec. 17.11 ([HB 1473](#), Sec. 17.11) directs the Post-Release Supervision and Parole Commission (Commission) to collaborate with the North Carolina Sentencing and Policy Advisory Commission and the Department of Correction to analyze the amount of time each inmate, who is eligible for parole on or before July 1, 2008, has served compared to the time served by offenders under Structured Sentencing for comparable crimes. The Commission

must determine if the person has served more time in custody than the person would have served if sentenced to the maximum sentence under Structured Sentencing. When calculating the maximum sentence, the Commission must follow the rules delineated in this section.

The Commission must report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and to the Chairs of the House of Representatives and Senate Appropriations Committees, and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by April 1, 2008. The report must include the class of the offense for which each parole-eligible inmate was convicted and whether an inmate had multiple criminal convictions. The Commission must reinstate the parole review process for each offender who has served more time than that person would have served under Structured Sentencing. The Commission must also report on the number of parole-eligible inmates reconsidered in compliance with this section and the number who were actually paroled.

This section became effective July 1, 2007. (BK)

Referrals to Departments, Agencies, Etc.

Office of Indigent Defense Services Report

S.L. 2007-323, Sec. 14.5 ([HB 1473](#), Sec. 14.5) requires the Office of Indigent Defense Services to report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by March 1 of each year on a number of matters, including the volume and cost of cases handled in each district by assigned counsel or public defenders, actions taken by the Office to improve the cost-effectiveness and quality of indigent defense, and changes in operations implemented in response to certain findings and recommendations contained in a March 2007 State Audit Report.

This section became effective July 1, 2007. (BC)

Report on Business Courts

S.L. 2007-323, Sec. 14.7 ([HB 1473](#), Sec. 14.7) requires the Administrative Office of the Courts to report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by March 1 of each year on the activities of each North Carolina Business Court site, including the number of new, closed, and pending cases; average age of pending cases; and annual expenditures for the prior fiscal year.

This section became effective July 1, 2007. (BC)

Annual Evaluation of Tarheel Challenge Program

S.L. 2007-323, Sec. 16.1 ([HB 1473](#), Sec. 16.1) requires the Department of Crime Control and Public Safety (Department) to report on the operations and effectiveness of the National Guard Tarheel Challenge Program (Program). The Department must evaluate and report on the Program's effectiveness in preventing juveniles from becoming undisciplined or delinquent and on the Program's role in improving individual skills and employment potential for participants. The report must include all of the following:

- The source of referrals for individuals participating in the Program.
- The summary of types of actions or offenses committed by participants in the Program.
- An analysis outlining the cost of providing services for each participant.
- The number of individuals who successfully complete the Program.

- The number of participants who commit offenses after completing the Program.

The Department must make this report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by March 1 of each year of the biennium.

This section became effective July 1, 2007. (BK)

Report on Electronic Monitoring Program/Use of Global Positioning Systems (GPS) for Sex Offenders

S.L. 2007-323, Sec. 17.14 ([HB 1473](#), Sec. 17.14) requires the Department of Correction to make an annual report to the Chairs of the House and Senate Appropriations Committees; the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety; and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the following:

- The number of sex offenders enrolled on active and passive GPS monitoring.
- The caseloads of probation officers assigned to GPS-monitored sex offenders.
- The number of violations.
- The number of absconders.
- The projected number of offenders to be enrolled by the end of each fiscal year.
- The total cost of the program, including a per offender cost.

This section became effective July 1, 2007. (SS)

Report on Probation and Parole Caseloads

S.L. 2007-323, Sec. 17.16 ([HB 1473](#), Sec. 17.16) requires the Department of Correction to make an annual report to the Chairs of the House and Senate Appropriations Committees; the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety; and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on caseload averages for probation and parole officers. The report must include:

- Data on current caseload averages for Probation Parole Officer I, Probation Parole Officer II, and Probation Parole Officer III positions.
- An analysis of the optimal caseloads for these officer classifications.
- An assessment of the role of surveillance officers.
- The number and role of paraprofessionals in supervising low-risk caseloads.
- An update on the Department's implementation of the recommendations contained in the National Institute of Correction study conducted on the Division of Community Corrections in 2004.
- The selection of a risk assessment and the resulting distribution of offenders among risk levels.
- Any position reallocations in the previous 12 months, and the reasons for and fiscal impact of those reallocations.

This section also requires the Department of Correction to conduct a study of probation/parole officer workload at least biannually. The study must be used to determine whether the caseload goals established by the Structured Sentencing Act are still appropriate, based on the nature of the offenders supervised, and the time required to supervise those offenders. The results of this study and any recommendations for adjustments to caseload goals shall be reported to the House and Senate Appropriations Subcommittees on Justice and Public Safety by January 1, 2009.

This section became effective July 1, 2007. (SS)

Juvenile Crime Prevention Council (JCPC) Grant Reporting and Certification

S.L. 2007-323, Sec. 18.2 ([HB 1473](#), Sec. 18.2) requires the Department of Juvenile Justice and Delinquency Prevention to submit an annual report to the Joint Legislative Commission on Governmental Operations and the House and Senate Appropriations Committees listing the recipients of the grants awarded, or preapproved for award, from funds appropriated to the Department for local JCPC grants. The list must include information such as the amount awarded, the types of programs funded, and the membership of the local committee administering the award. Additionally, the list must identify any programs that have received funds at one time, but for which funding has been eliminated. This section also requires each county in which local programs receive grant funds to certify annually that funds received are not used to duplicate or supplant other programs within the county.

This section requires the Department to report annually to the Chairs of the House and Senate Appropriations Committees; the Chairs of the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee; and the Fiscal Research Division on a variety of information regarding the funding and effectiveness of programs that receive JCPC grant funds.

This section became effective July 1, 2007. (SS)

Study of State Detention Centers

S.L. 2007-323, Sec. 18.8 ([HB 1473](#), Sec. 18.8) requires the Department of Juvenile Justice and Delinquency Prevention to study the nine juvenile detention centers operated by the State. The review must include information on admissions, offense history, staffing levels, and housing capacity, as well as estimates of repair, renovation, or new construction. The Department must report its findings to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety no later than March 1, 2008.

This section became effective July 1, 2007. (SS)

For a complete list of the studies and reports authorized by the 2007 Session of the 2007 General Assembly, please refer to the Appendix contained in this publication.

Chapter 9

Criminal Law and Procedure

Brenda Carter (BC), Trina Griffin (TG), Jeff Hudson (JH), Howard Alan Pell (HAP),
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Enacted Legislation

Amend Domestic Violence Laws/Homicide Reporting

S.L. 2007-14 ([HB 42](#)) adds "stalking" to the offenses qualifying for use of the domestic violence pretrial release statute. The act requires the Attorney General's Office to develop, in consultation with the North Carolina Council for Women/Domestic Violence Commission, the North Carolina Sheriffs' Association, and the North Carolina Association of Chiefs of Police, a Statewide data collection and reporting system for homicides, where there is a personal relationship between the defendant and the victim. The database must include:

- The type of relationship between the defendant and the victim.
- Whether a domestic violence protective order had been obtained by the victim.
- Whether the defendant was on pretrial release.

The Attorney General's Office must report the previous year's data to the Joint Legislative Committee on Domestic Violence no later than February 1st.

The provision adding stalking to offenses qualifying for the domestic violence pretrial release statute becomes effective December 1, 2007, and applies to offenses occurring on or after that date. The remainder of the act became April 12, 2007. (HAP)

Domestic Violence Victims/Security

S.L. 2007-15 ([HB 46](#)). See **Children and Families**.

County-City (Charlotte-Mecklenburg) Police Jurisdiction

S.L. 2007-45 ([HB 343](#)) clarifies that law enforcement officers of a consolidated county-city law enforcement agency have the same authority as county officers to arrest person's anywhere within the State for felonies committed within the agency's jurisdiction. The Charlotte-Mecklenburg Police Department is one such county-city law enforcement agency, but the legislation applies to any county-city law enforcement agency within the State.

This act became effective May 16, 2007. (SS)

Kill Police Animal

S.L. 2007-80 ([SB 34](#)) makes willfully killing a law enforcement agency animal, or assistance animal, a Class H felony and makes it an aggravating factor for other criminal offenses, when a law enforcement agency animal, or assistance animal, is seriously harmed or killed while performing its official duties.

Under current law, it is a criminal offense to willfully cause, or attempt to cause, serious harm, willfully cause, or attempt to cause, harm, or willfully taunt, tease, or obstruct a law enforcement agency animal, or an assistance animal. The penalties are a Class I felony, a Class 1 misdemeanor, and a Class 2 misdemeanor, respectively. A defendant who violates these provisions must make restitution to the person with a disability, or the law enforcement agency

who owns, or is responsible for the care of the animal. The provisions do not apply to licensed veterinarians following the North Carolina Veterinary Practice Act, self-defense as an affirmative defense to these crimes, and the current law does not affect any civil remedies that might also be available.

This act adds to the current law the offense of willfully killing an animal if the person knows, or has reason to know, that an animal is a law enforcement agency animal, or assistance animal. Violation is a Class H felony. The act also makes it an aggravating factor for a criminal offense when the offense was committed against, or proximately caused serious harm or death to, a law enforcement agency animal, or assistance animal, while the animal was performing its official duties. An aggravating factor is a factor which may increase a defendant's sentence.

This act becomes effective December 1, 2007, and applies to offenses committed on or after that date. (WGR)

Execution/Change Age

S.L. 2007-81 ([HB 784](#)) changes State law to conform to the United States Supreme Court ruling in [Roper v. Simmons](#). The Roper Court held that it was unconstitutional to execute a person who committed first degree murder, if the person was under 18 years of age at the time of the offense. The act changes the first degree murder statute by changing the age, from 17 to 18, as the minimum age at which a person who commits first degree murder would be eligible for capital punishment.

This act became effective June 14, 2007. (HAP)

Amend Certified Public Accountant (CPA) Criminal Punishment

S.L. 2007-83 ([SB 777](#)) increases the criminal penalty for unlawful use of the title "certified public accountant" from a Class 3 misdemeanor to a Class 1 misdemeanor.

This act becomes effective December 1, 2007, and applies to violations occurring on or after that date. (BC)

Bail Bonds/Amend Forfeiture Requirement

S.L. 2007-105 ([SB 880](#)) provides an additional ground upon which forfeiture of a bail bond must be set aside, and allows a court to impose monetary sanctions against a surety who fails to attach documentation, or who attaches fraudulent documentation, to a motion to set aside forfeiture. The act establishes conditions under which the forfeiture of a bail bond will be set aside, if the defendant was incarcerated at the time of the defendant's failure to appear in court. The forfeiture will be set aside, if:

- The incarceration was in a local, state, or federal detention center, jail, or prison located within the borders of the United States and
- The district attorney was notified of the defendant's incarceration, and
- The defendant remains incarcerated for at least 10 days after the DA's receipt of the notice.

The act also makes conforming changes to the statutory notice of forfeiture.

This act became effective October 1, 2007, and applies to forfeitures entered on or after that date. (BC)

Public Health Information Access/Health Information Portability and Accountability Act (HIPAA) Clarification

S.L. 2007-115, Secs. 3-6 ([HB 353](#), Secs. 3-6) clarify that health care providers may release protected medical information, pursuant to the Health Information Portability and Accountability Act (HIPAA). The act further provides that a health care provider can refuse to collect blood or urine, if it reasonably appears the collection will endanger the person collecting the sample or the person from whom the sample is being taken. If the sample has been requested by a law enforcement officer, the health care provider must provide written justification for the provider's refusal to take the sample.

These sections became effective June 27, 2007. (SS)

For more information on the remaining sections of this act see **Health and Human Services**.

Domestic Violence Victims/Add Protections

S.L. 2007-116, Sec. 2 ([SB 30](#), Sec. 2) includes, as victims for purposes of the Crime Victims Rights Act, persons who had a domestic violence protective order, and there is probable cause to believe that another person has violated that order. The Crime Victims' Rights Act provides that law enforcement agencies, the district attorney's office, and the court have certain obligations to victims, including: Notification of availability of services; explanation of the agency's role in prosecuting offenses; notification to the victim of proceedings; and insuring victim identification information is forwarded to the district attorney.

This section became effective October 1, 2007. (SS)

Sections 1 and 3 of this act create additional protections for domestic violence victims. For additional information see **Courts, Justice, and Corrections**.

Modify Laws for Desecrating Graves

S.L. 2007-122 ([HB 105](#)) increases the penalties for defacing grave markers and desecrating human remains, and restructures the applicable statutes to more clearly distinguish between misdemeanor and felony offenses.

The act prohibits the defacing or desecration of grave sites by the unauthorized moving or destruction of cemetery fences, shrubbery, flowers, and other articles. A violation will be a Class I felony if the damage is \$1,000 or more; otherwise, the offense remains a Class 1 misdemeanor.

The act also rewrites G.S. 14-149, prohibiting the desecration of human remains or the disturbing of a grave or grave marker. It is a Class I felony to knowingly and willfully disturb or vandalize a casket or grave, or to vandalize or remove a monument or grave marker. The act makes it a Class H felony to knowingly and willfully disturb, remove, or desecrate any human remains that have been interred in a cemetery.

This act becomes effective December 1, 2007, and applies to offenses committed on or after that date. (BC)

Alcohol Inhalers Illegal

S.L. 2007-134 ([SB 125](#)) amends the Toxic Vapors Act to include ethyl alcohol as an unlawful substance that may not be inhaled, possessed, or transferred to another for the purpose of inducing intoxication. The bill also would make it unlawful to knowingly manufacture, sell, give, deliver, possess, or use an alcohol vaporizing device (AVD).

An AVD is a device, machine, apparatus, or appliance designed or marketed for the purpose of mixing ethyl alcohol with oxygen, or other gases, to produce alcoholic vapors that can be inhaled or snorted. An AVD does not include inhalers, nebulizers, atomizers, or other devices used to deliver substances either prescribed by a licensed medical provider, or sold as over-the-counter medications, so long as the devices are not used for the purpose of inducing intoxication through inhalation.

This act becomes effective December 1, 2007, and applies to offenses occurring on or after that date. (HAP)

Residential Mortgage Fraud Act

S.L. 2007-163 ([HB 817](#)). See **Consumer Protection**.

Juvenile Contempt/Procedures and Sanctions

S.L. 2007-168 ([HB 1479](#)). See **Courts, Justice, and Corrections**.

Sex Offenders/Pretrial Release

S.L. 2007-172 ([SB 17](#)) amends the pretrial release statute that applies to certain offenses against children, by making pretrial release conditions mandatory instead of discretionary. Under the current law, upon the pretrial release of a person accused of a sex offense, or crime of violence against a minor victim, a judicial official may impose the following conditions:

- That the defendant stay away from the alleged victim.
- That the defendant refrain from communicating with the victim.
- That the defendant refrain from assaulting, beating, intimidating, stalking, threatening, or harming the alleged victim.

This act makes the imposition of the conditions mandatory, rather than discretionary. However, the judicial official will be authorized to waive one or more of the first two conditions upon the request of the defendant. In order to waive the conditions, the judicial official will be required to make written findings of fact that the imposition of the condition is not in the best interest of the alleged victim.

This act becomes effective December 1, 2007, and applies to offenses committed on or after that date. (WGR)

Motor Vehicle Chop Shop Act

S.L. 2007-178 ([HB 1354](#)) makes it a Class H felony to engage in activities involving the alteration for resale of stolen vehicles, including permitting a place one controls to be used for those activities. The act also provides for civil penalties and private civil actions for prohibited activities, forfeiture of property used in such activities, and abatement and forfeiture of real property used to engage in such activities.

The act makes it a Class H felony to knowingly do any of the following, regardless of the value of the property involved:

- Alter, destroy, disassemble, dismantle, reassemble, or store any motor vehicle or motor vehicle part the person knows to be illegally obtained by theft, fraud, or other illegal means.
- Permit a place to be used for any prohibited activity, if the person has legal possession of the place and knows that the place is being used for an activity prohibited by the act.
- Purchase, dispose of, sell, transfer, receive, or possess a motor vehicle or motor vehicle part with the knowledge that the vehicle identification number of the motor

vehicle, or vehicle part identification number of the vehicle part, has been altered, counterfeited, defaced, destroyed, disguised, falsified, forged, obliterated, or removed.

- Purchase, dispose of, sell, transfer, receive, or possess a motor vehicle or motor vehicle part to or from a person engaged in any activity prohibited by the act, knowing that the person is engaged in that activity.

The act gives the court with jurisdiction over a criminal case the authority to assess civil penalties, up to three times the assets the defendant obtained, as a result of violations. It also authorizes civil actions to be brought by a person aggrieved by a violation of the act. A full range of remedies is available, including punitive damages. The act also authorizes the seizure and forfeiture of vehicles, parts, other instrumentalities, and real property used to engage in prohibited activities.

This act becomes effective December 1, 2007, and applies to offenses committed on or after that date. (WGR)

Officials Forfeit Pensions for Felonies

S.L. 2007-179 ([SB 659](#)). See **Retirement**.

Allow Earthdog Trials

S.L. 2007-180 ([SB 1424](#)) clarifies that earthdog trials that are sanctioned or sponsored by entities approved by the Commissioner of Agriculture that meet standards to protect the health and the safety of the dogs are not prohibited under the general statute that prohibits the fighting or baiting of dogs. An earthdog trial tests the ability of a Dachshund or small terrier to negotiate tunnels while following the scent of its quarry, a rat. The quarry is protected from the dog by a barrier. The act also provides that the quarry at an earthdog trial must be kept separate from the dogs and have access to food and water.

This act becomes effective December 1, 2007, and applies to offenses committed on or after that date. The Commissioner of Agriculture may take action before that date to approve entities to conduct earthdog trials. (JH)

Clarify Dog Fighting and Baiting Law

S.L. 2007-181 ([SB 21](#)) clarifies that the statute prohibiting dog fighting and baiting dogs does not apply to the use of herding dogs working with domesticated livestock for agricultural, entertainment, or sporting purposes.

This act became effective July 5, 2007. (SS)

Law Enforcement Agency Provide Information to District Attorney for Discovery

S.L. 2007-183 ([HB 786](#)) requires law enforcement and prosecutorial agencies to make available to the State, upon request, a complete copy of their complete files used in the investigation or prosecution of a defendant, to ensure that the District Attorney has all necessary information to comply with discovery statutes.

This act becomes effective December 1, 2007, and applies to cases where the trial date is on or after that date. Nothing in the act is to be construed to overrule any judicial rulings or decisions made prior to the effective date of this act. (SS)

Assault Disabled Person/Institutional Setting

S.L. 2007-188 ([HB 554](#)) increases the penalty, from a Class A1 misdemeanor to a Class H felony, for physically abusing a patient of a health care facility, or a resident of a residential care facility. Following are the elements of the offense:

- The abuse results in death or bodily injury, and where such conduct evinces a pattern of conduct.
- The conduct is willful or culpably negligent.
- The abuse proximately causes bodily injury to a patient or resident

This act becomes effective December 1, 2007, and applies to offenses committed on or after that date. (SS)

Violate Order/Possess Deadly Weapon Felony

S.L. 2007-190 ([HB 47](#)) creates a Class H felony for any person who knowingly violates a domestic violence protective order, by doing both of the following:

- Failing to stay away from a place or person as directed in the order.
- Possessing a deadly weapon on or about their person or within close proximity to their person.

This act becomes effective December 1, 2007, and applies to offenses committed on or after that date. (SS)

Modify School Employee Confidentiality Law

S.L. 2007-192 ([HB 550](#)). See **Education**.

False Report/Mass Violence at School

S.L. 2007-196 ([HB 1347](#)) makes it a Class H felony to communicate a false report that an act of mass violence is going to occur on educational property or at an activity sponsored by a school. Mass violence is defined as physical injury that could lead to permanent injury or death to two or more people. The bill would authorize the court to order a person convicted of this offense to pay restitution, including costs and consequential damages resulting from the disruption of the normal activity that would have otherwise occurred on the premises but for the false report.

This act becomes effective December 1, 2007, and applies to offenses committed on or after that date. (BC)

Increase Penalty/Starvation of Animals

S.L. 2007-211 ([HB 995](#)) provides that it is a Class A1 misdemeanor to maliciously kill, or cause or procure to be killed, any animal by intentional deprivation of necessary sustenance. This provision becomes effective December 1, 2007, and applies to offenses committed on or after that date. It also provides that physically altering livestock or poultry for the purpose of conforming with breed or show standards does not constitute cruelty to animals. This provision became effective July 11, 2007. (JH)

Sex Offender Global Positioning System/Department of Correction Requests

S.L. 2007-213 ([HB 29](#)). See **Courts, Justice, and Corrections**.

Immunity/Veterinarians Reporting Animal Cruelty

S.L. 2007-232 ([HB 1359](#)). See **Civil Law and Procedure**.

Duty to Report Child Porn

S.L. 2007-263 ([HB 27](#)). See **Business and Commerce**.

Violence Against Women Act of 2005 Compliance

S.L. 2007-294 ([HB 1810](#)) brings North Carolina into compliance with the federal Violence Against Women Act (VAWA) of 2005. This act prohibits law enforcement from requiring a person claiming to be a victim or a witness of sexual assault to submit to a polygraph, or similar examination, as a precondition of conducting an investigation into the matter. If an agency wishes to conduct a polygraph examination, the agency must inform the person that it is voluntary, the results are not admissible in court, and whether or not the person submits to the polygraph will not be the sole basis for a decision not to investigate the matter.

If an agency declines to investigate an alleged case of sexual assault, following a decision by a person claiming to be a victim not to submit to a polygraph, the agency must provide to that person, in writing, the reasons why the agency did not pursue the investigation.

Additionally, the act requires the Administrative Office of the Courts, in cooperation with the North Carolina Coalition Against Domestic Violence and the North Carolina Governor's Crime Commission, to develop a form to comply with the criminal case firearm notification requirements of the VAWA of 2005. The form must be available no later than December 1, 2007. Effective January 1, 2008, all defendants convicted of crimes subject to the firearm notification requirements must receive a copy of the form from the court.

The provisions of this act relating to polygraph examinations become effective December 1, 2007, and apply to sexual assault offenses alleged to have been committed on or after that date. The remainder of this act became effective July 28, 2007. (SS)

Increase Criminal Penalty/Theft of Metals

S.L. 2007-301 ([HB 367](#)) amends the laws regarding regulation of the purchase of metals by secondary metals recyclers and enacts other measures to curtail the theft of metals.

Secondary Metals Recyclers: The act increases the record keeping requirements for secondary metals recyclers when purchasing certain metals. The records must be made available at the end of each day if requested by local law enforcement. The act also prohibits secondary metals recyclers from purchasing metals, other than aluminum cans, from minors at other than a fixed location. The act requires secondary metals recyclers convicted for certain felonies to hold and retain metals property, other than iron and steel, for seven days after purchase before disposing of the property. The penalty for second and subsequent violations of these provisions is increased to a Class I felony.

Injury of fixtures of telephone and electric-power companies: The act adds wireless and cable communications fixtures and equipment to the law creating criminal penalties for the willful injury or destruction of wires and fixtures of telephone, telegraph, and electric-power lines. The penalty for violation of this law is increased from a Class 1 misdemeanor to a Class I felony.

Forfeiture of vehicles used to transport unlawfully obtained metals property: The act creates a new section in Article 1 of Chapter 66 of the General Statutes to provide for the forfeiture of vehicles used to transport unlawfully obtained metals property, with certain exceptions.

This act becomes effective December 1, 2007, and applies to offenses committed on or after that date. (HF)

Use of Senate Seals and Coat of Arms

S.L. 2007-354 ([SB 371](#)). See **Business and Commerce**.

Require Fingerprinting for Driving While Intoxicated/Driving While License Revoked

S.L. 2007-370 ([SB 1211](#)) requires an arresting law enforcement officer to fingerprint and photograph someone who is being charged with driving while impaired, or driving with a revoked license based on an Impaired Driving License Revocation, if the person does not have a form of valid identification. The fingerprints and photographs may be forwarded to the State Bureau of Investigation, the Federal Bureau of Investigation, or other law enforcement agencies.

This act became effective October 1, 2007, and applies to offenses committed on or after that date. (HAP)

Amend Larceny Laws

S.L. 2007-373 ([SB 1270](#)) makes the following changes to the General Statutes related to theft:

- Amends the statute on receiving stolen goods, to provide that if a person knowingly receives or possesses property in the custody of a law enforcement agency that was explicitly represented to the person by an agent of the law enforcement agency as stolen, the person is guilty of a Class H felony. It further provides that the person may be indicted, tried, and punished in any county in which the person received or possessed the property.
- Provides that a person is guilty of a Class H felony, if the person commits larceny against a merchant under any of the following circumstances:
 - If the property taken has a value of more than \$200, by using an exit door upon which has been placed a notice providing information about the felony offense and punishment.
 - By removing, destroying, or deactivating a component of an antishoplifting or inventory control device, to prevent the activation of the device.
 - By affixing a product code created for the purpose of fraudulently obtaining goods or merchandise from a merchant at less than its actual sale price.
 - When the property is infant formula valued in excess of \$100.
- Establishes the new crime of organized retail theft, which provides that a person is guilty of a Class H felony if the person does either of the following:
 - Conspires with another person to commit theft of retail property with a value exceeding \$1,500 aggregated over a 90-day period, with the intent to sell the property to a retail property fence.
 - Receives or possesses the property while knowing or having reasonable grounds to believe the property is stolen.

Any interest a person has acquired or maintained in violation of the organized retail theft law is subject to forfeiture.

This act becomes effective December 1, 2007, and applies to offenses committed on or after that date. (JH)

Telephone Records Privacy Protection Act

S.L. 2007-374 ([SB 1058](#)) creates civil and criminal liability for fraudulently obtaining, or purchasing, receiving or selling without consent, a telephone record of another person. The definition of a "telephone record" is a record in any form, excluding caller identification record, directory assistance information, and subscriber list information created by a telephone service provider that contains any of the following information: numbers dialed by a customer; numbers of calls made to a customer; time of calls made by or to a customer; duration of calls made by or to a customer; or charges applied to calls.

The act prohibits a person from doing any of the following:

- Fraudulently obtaining another person's telephone record by false statements to a telephone service provider or a customer, by providing fraudulent documents, or by accessing a customer's account via the Internet without prior authorization.
- Purchasing, receiving, or asking another person to obtain or purchase or attempt to obtain or purchase, a telephone record of another person without prior authorization or having reason to know that it was obtained fraudulently.
- Selling, or offering to sell, a telephone record obtained without prior consent or knowing that it was obtained fraudulently.

The act excepts from these prohibitions actions for law enforcement purposes, disclosures by telephone service providers to customers, the National Center for Missing and Exploited Children, governmental agencies in emergency situations, and disclosures otherwise permitted under law, or for purposes of testing telephone provider security systems. The act also limits the liability of telephone service providers who act reasonably and in good faith with regard to record disclosures.

The act makes a violation of the Article a Class G felony. It also creates a civil remedy for an unfair and deceptive trade practice, with minimum damages of \$1,000.

This act becomes effective December 1, 2007, and applies to acts and offenses committed on or after that date. (WR)

Expand Safe Zones/Schools, Parks, Child Centers

S.L. 2007-375 ([SB 8](#)) would increase the boundary limit around specified locations where the penalty for drug sales would be classified as a Class E felony. For persons 21 years of age or older, the act:

- Increases the distance, from 300 feet to 1,000 feet, around a child care center, elementary school, or secondary school, where the transfer is a Class E felony offense. The current law retains the exception for the transfer, without compensation, of less than five grams of marijuana.
- Increases the distance, from 300 feet to 1,000 feet, around the boundary of a public park, where the transfer is a Class E felony offense. The act deletes the provision that required the offense to be either on, or within the specified distance, from a playground in a public park. The current law retains the exception for the transfer, without compensation, of less than five grams of marijuana.

This act becomes effective December 1, 2007, and applies to offenses occurring on or after that date. (HAP)

Discovery/District Attorney Notes

S.L. 2007-377 ([SB 1009](#)) amends the discovery laws to provide the circumstances under which the State must disclose witness interview notes, and witness identifying information. The act:

- Provides that a prosecuting attorney is not required to make notes of oral statements by a witness for disclosure to the defendant, unless the information is new or significantly different from a prior statement by the witness.
- Provides that the State is not required to disclose the identity of a confidential informant, unless otherwise required by law.
- Requires the State to disclose only the following personal identifying information of a witness: name, address, date of birth, and published phone number. The defendant could seek additional information by motion to the court, on the grounds that it is necessary to accurately identify and locate the witness.

This act became effective August 19, 2007, and applies to pending cases. (HAP)

Speeding Law Changes

S.L. 2007-380 ([SB 925](#)). See **Courts, Justice, and Corrections**.

School Bus Safety Act Correction

S.L. 2007-382, Sec. 1 ([SB 924](#), Sec. 1) removes the element of serious bodily injury from a felony violation of the statute that requires motor vehicles to stop for a school bus. Under the law, a motor vehicle must stop when a school bus is displaying its mechanical stop signal or flashing red lights and is stopped for the purpose of receiving or discharging passengers, unless the driver is traveling in the opposite direction on a divided roadway and the school bus is stopped across the dividing space or physical barrier. The requirement to stop applies only in the event that the school bus bears on the front and rear a plainly visible sign containing the words "school bus." Currently, a violation is a Class 1 misdemeanor, unless the driver strikes any person and causes serious bodily injury to that person, and then it is a Class I felony. This section removes the requirement that a person suffer serious bodily injury in order for the violation to be a Class I felony.

This section becomes effective December 1, 2007, and applies to offenses committed on or after that date. (WGR)

For a summary of the remaining sections of the bill, see **Transportation**.

Mediation in District Criminal Courts

S.L. 2007-387 ([SB 728](#)). See **Courts, Justice, and Corrections**.

Sex Offenders/Test for Sexually Transmitted Diseases

S.L. 2007-403 ([HB 118](#)) provides that a person charged with a sexual offense, who is ordered to be tested for a sexually transmitted infection, must be tested within 48 hours of the date of the court order. It also provides that a test for HIV ordered pursuant to the statute must use the HIV-RNA Detection Test for determining HIV infection.

This act becomes effective December 1, 2007, and applies to offenses committed on or after that date. (JH)

Authorize Judge/Concealed Weapon in Court

S.L. 2007-412 ([HB 573](#)). See **Courts, Justice, and Corrections**.

Eyewitness Identification Reform Act

S.L. 2007-421 ([HB 1625](#)) creates the Eyewitness Identification Reform Act. The act requires law enforcement to follow certain procedures when conducting a lineup for eyewitness identification. The procedures include the following:

- Use of an independent administrator or an approved alternative procedure. An independent administrator is a lineup administrator who is not participating in the investigation of the offense and is unaware of which person is the suspect.
- Sequential presentation of photos or individuals. Sequential presentation means that each person or photo is presented separately, and one is removed before the next is presented.
- Instructions to the eyewitness prior to the lineup.
- Use of a current photo of the suspect, and representative of the suspect at the time of the offense, to the extent practical.
- The fillers (nonsuspects) must generally resemble the eyewitness' description of the perpetrator, while ensuring that the suspect does not unduly stand out.
- No identifying writing or information visible to the eyewitness.
- Documentation of the eyewitness' identification and their confidence level in their identification.
- A video or audio record, and if neither is practical, a written record.

Alternative methods are authorized and are designed to achieve neutral administration and prevent the administrator from knowing which photograph is being presented to the eyewitness.

Failure to comply with the requirements of the act must be considered in any motion to suppress the identification, must be admissible in support of claims of eyewitness misidentification, and when evidence of compliance or noncompliance with the requirements has been presented at trial, the jury must be instructed that it may consider credible evidence to determine the reliability of eyewitness identifications.

This act becomes effective March 1, 2008, and applies to offenses committed on or after that date. (SS)

Enhance Reliability of Interrogations

S.L. 2007-434 ([HB 1626](#)) creates a new Article entitled "Electronic Recording of Interrogations." The act makes the following requirements and provisions:

- Requires law enforcement officers conducting a custodial interrogation in a homicide investigation to electronically record the interrogation in its entirety.
- Provides for any oral, written, nonverbal, or sign language statement of a defendant to be admitted in a homicide trial, if the interrogation was electronically recorded in its entirety.
- Provides that if the court finds that the defendant was subjected to a custodial interrogation that was not electronically recorded in its entirety, any statements made by the defendant after that interrogation may be questioned with regard to the voluntariness and reliability of the statement.
- Requires the State to establish, through clear and convincing evidence, that the statement was voluntary and reliable, and that there was a good cause for failing to record the interrogation in its entirety. Good cause may include the defendant refusing to have the interrogation recorded, or unforeseeable equipment failure.

A failure to comply with the requirements of this act:

- Will be considered by the court in adjudicating motions to suppress a statement made during or after a custodial interrogation.

- Will be admissible in support of claims that the defendant's statement was involuntary or is unreliable.
- Requires the court to instruct the jury that it may consider credible evidence of compliance or noncompliance to determine whether the defendant's statement was voluntary and reliable.

Electronic recordings of a custodial interrogation for a defendant who is convicted of an offense related to the interrogation must not be destroyed or altered until one year after all appeals are exhausted.

This act becomes effective March 1, 2008, and applies to interrogations occurring on or after that date. (SS)

Increase Penalties for Audiovisual Piracy

S.L. 2007-463 ([HB 1094](#)) increases the penalty for unlawfully recording a movie in a movie theater. The bill increases a first offense from a Class 1 misdemeanor to a Class I felony, and a minimum \$2,500 fine.

The bill retains the Class I felony for a second or subsequent offense, but adds a minimum \$5,000 fine. The act also creates a new misdemeanor offense: A person who operates any camera device that can record, copy, or transmit a part of a motion picture that is not greater than one image, is guilty of a Class 1 misdemeanor.

This act becomes effective December 1, 2007, and applies to offenses occurring on or after that date. (HAP)

Detention Officers Courthouse Firearms

S.L. 2007-474 ([HB 1707](#)). See **Courts, Justice, and Corrections**.

DWI Technical Corrections

S.L. 2007-493 ([SB 999](#)). See **Courts, Justice, and Corrections**.

Identity Theft

S.L. 2007-534, Sec. 1 ([HB 454](#), Sec. 1) amends the law on when photographs may be taken of a vehicle operator. Under current law, the taking of photographs or fingerprints is not authorized when the offense charged is a Class 2 or Class 3 misdemeanor under Chapter 20 (Motor Vehicles) of the General Statutes. The act amends the law to allow an officer to take a photograph of a vehicle operator if all of the following circumstances exist:

- The operator is cited for a moving violation;
- The operator vehicle does not produce a valid drivers license upon the request of a law enforcement officer; and
- The law enforcement officer has a reasonable suspicion concerning the true identity of the operator of the motor vehicle.

The photograph may be of the operator of the motor vehicle only from the neck up, and may be taken only at the location where the citation is issued or at the jail if an arrest is made. The agency or law enforcement officer must retain the photograph until the conclusion of the case, and the photograph cannot be used for any reason other than to confirm the identity of the alleged offender. Upon the final decision by the court, the photograph must be destroyed by the law enforcement officer or agency.

This section becomes effective December 1, 2007, and applies to offenses occurring on or after that date. (HAP)

For additional information on this act see **Consumer Protection**.

DNA Evidence/Preserve and Access by Defendant

S.L. 2007-539 ([HB 1500](#)) makes several changes to DNA testing laws. The act would allow pre-trial testing of DNA evidence that has previously been tested, if more accurate testing procedures are now available that were not available at the time of the testing.

The act makes changes to the preservation and disposal of biological evidence. It defines the term "biological evidence" to include not only individual samples of biological material, but also evidence that may contain blood, semen, hair, skin tissue, saliva, or other identifiable biological material. The evidence must be preserved in a manner reasonably calculated to prevent contamination or degradation of any biological evidence that might be present, and must be subject to a continuous chain of custody and securely retained with sufficient official documentation to locate the evidence.

The act sets forth periods of time for which the evidence must be retained as follows:

- For a conviction resulting in a death sentence, it must be retained until the offender is executed.
- For conviction of a violent felony, it must be retained during the period of incarceration, except in cases where the conviction is based on a guilty plea, in which case it must be retained for 3 years from the date of conviction.
- For conviction of a sex offense, it must be retained during the period of incarceration, and any period of mandatory supervised release or probation.
- For conviction of any other felony, it must be retained for 7 years from the date of conviction, except in cases where the conviction is based on a guilty plea, in which case it must be retained for 3 years from the date of conviction.

The governmental entity holding the evidence may petition the court to dispose of the evidence earlier than the periods provided. The court may authorize the disposal of the evidence if the court determines that the evidence:

- Has no significant value for biological analysis.
- Has no significant value for biological analysis and is in some way impractical to retain.
- May have value for biological analysis but is in some way impractical to retain.

The court may order the governmental entity to take measures to remove or preserve portions of evidence suitable for future testing, or may provide the defendant with the opportunity to take those measures. An order regarding disposal of the evidence may be appealed by the defendant within 30 days.

The act requires the defendant to sign a sworn affidavit of innocence before the court may grant postconviction DNA testing. The act also allows the defendant to appeal an order denying the defendant's motion for DNA testing, including by an interlocutory appeal.

This act becomes effective March 1, 2008. (SS)

Major Pending Legislation

Street Gang Prevention Act

[HB 274](#) would enact the Street Gang Prevention Act, making it a Class H felony for a person associated with a criminal street gang to conduct, or participate, in a pattern of criminal gang activity, to solicit or coerce another to participate in a criminal street gang, or to threaten a person to deter that person from withdrawing from a gang. The bill would make it a Class E felony to discharge a firearm from within a vehicle, or other enclosure, as a part of gang activity, and would provide enhanced punishment for misdemeanors committed as part of gang activity, or for using a deadly weapon in the commission of a Class E or higher felony. The bill would provide for the seizure and forfeiture of property used to facilitate criminal gang activity and declare real property used by gangs to be a public nuisance subject to abatement, as provided by

law. The bill would provide for the conditional discharge and expunction of records for certain convictions of participation in criminal, street gang activity, if the person was under 18 at the time of the offense and has not been convicted of any other criminal offense. The bill has passed the House and is pending in the Senate Committee on Appropriations/Base Budget, along with [SB 1358](#), which is substantially similar to this bill. (BC)

Amend Criminal Offense of Stalking

[HB 887](#) would rewrite the law that defines the criminal offense of stalking, to include a course of conduct of two or more acts in which the offender follows, monitors, observes, surveils, threatens, communicates to or about a person, or interferes with a persons property. The bill would increase the penalty for stalking when a court order is in effect, making it a Class G felony rather than a Class H felony. Otherwise, the penalty would remain the same as under current law: the offense is a Class A1 misdemeanor, and a second or subsequent offense is a Class F felony. The bill has passed the House and is pending in the Senate Judiciary I Committee. (BC)

Jessica Lunsford Act for North Carolina (Sex Offender Legislation)

[HB 933](#) would provide that certain criminal offenses of first degree rape and sexual offense committed against a child are punishable by life imprisonment without parole, or a mandatory active sentence of 25 years and lifetime satellite-based monitoring. The bill would increase the penalties for various offenses; shorten the notification time period that offenders have to make changes to their registration; require notification of the presence of sexually violent predators or repeat sex offenders; and provide for a 30-year registration period for sex offenders, with an opportunity to petition for removal after 10 years. The bill also would create a new criminal offense, to make it unlawful for sex offenders to be on premises where a reasonable person would know children regularly congregate without adult supervision. The bill would amend the law regarding bail for violations of probation and post-release supervision by sex offenders, and require sex offender registry checks of school contractual personnel. The bill has passed the House and is pending in the Senate Judiciary I Committee. (SS)

For a complete list of the studies and reports authorized by the 2007 Session of the 2007 General Assembly, please refer to the Appendix contained in this publication.

Chapter 10

Education

Dee Atkinson (DA), Drupti Chauhan (DC), Shirley Iorio (SI),
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Enacted Legislation

Public Schools

Schools Provide Information on Cervical Cancer

S.L. 2007-59 ([SB 260](#)) requires that public schools, including charter schools, provide information to parents concerning cervical cancer, cervical dysplasia, human papillomavirus, and vaccines available to prevent those diseases. The information is required to be provided to parents of children entering grades 5 through 12 at the beginning of the school year. The Division of Nonpublic Education in the Department of Administration must also make information available to private religious schools, qualified nonpublic schools, and home schools for distribution to parents concerning these diseases and available vaccines.

This act became effective July 1, 2007, and applies beginning with the 2007-2008 school year. During the 2007-2008 school year, year-round schools could comply by providing the required information no later than September 1, 2007. (KM)

School Finance Officer Fidelity Bonds

S.L. 2007-85 ([SB 772](#)) changes the required surety bond for a school finance officer, from an amount between \$10,000 and \$250,000 (set by the local board of education), to a set statutory amount of \$50,000. This is the same requirement imposed upon finance officers for other units of local government.

This act becomes effective July 1, 2008. (DC)

Modify School Funding Mediation Law

S.L. 2007-92 ([HB 1519](#)) amends the procedure for the resolution of disputes between boards of education and boards of county commissioners regarding school funding, when an appeal is taken to the North Carolina Court of Appeals. The act removes the requirement that, if there is an appeal that results in a delay, the county commissioners must deposit in the local school administrative unit's current expense fund a sum of money equal to the amount of this fund for the previous year.

The act also adds the following new requirements:

- Notice of appeal must be given within 10 days after entry of judgment.
- If the appeal is still pending beyond the school or fiscal year which is the subject of the budget dispute, the controversy between the parties cannot be deemed to be resolved.
- Final judgment is binding on the parties at the conclusion of the appeals process.
- Payment of final judgment must not be considered or used to reduce subsequent fiscal year appropriations to the local school administrative unit to offset a final judgment.

This act became effective June 20, 2007. (SK)

Information on Lawful Child Abandonment

S.L. 2007-126 ([HB 485](#)) requires local boards of education to adopt policies to ensure that each year public school students in grades 9 through 12 receive information on the manner in which a parent may lawfully abandon a newborn baby with a responsible person.

The Department of Public Instruction must ensure that charter schools provide their students in grades 9 through 12 with this information annually. Also, the Division of Nonpublic Education in the Department of Administration must ensure that this information is available to private religious schools, qualified non-public schools, and home schools.

This act became effective June 27, 2007, and applies beginning with the 2008-2009 school year. (SI)

Clarify Definition of Retirement

S.L. 2007-143 ([HB 654](#)). See **Retirement**.

Offer Sign Language in Schools and Colleges

S.L. 2007-154 ([HB 915](#)) directs the State Board of Education (State Board) to encourage high schools to offer American Sign Language (ASL) as a modern foreign language. The State Board must adopt and implement standards for teacher certification and set standards for teacher education programs that prepare students for certification as ASL teachers. The act requires that:

- The State Board of Community Colleges must develop curriculum and continuing education standards for courses of instruction in ASL, and must encourage community colleges to offer courses in ASL as a modern foreign language.
- The Board of Governors of The University of North Carolina must encourage the constituent institutions to offer courses in ASL as a modern foreign language.
- The State Board of Education, the State Board of Community Colleges, and the Board of Governors of The University of North Carolina must report on implementation by October 1, 2007, to the Joint Legislative Education Oversight Committee.

This act became effective June 29, 2007. (KM)

Every Child Ready to Learn

S.L. 2007-173 ([HB 150](#)) changes the date by which a child must have reached the age of 5 to be eligible for entry into kindergarten that school year. The bill requires that, to be eligible for enrollment in a particular school year: (a) a child must have turned 5 on or before August 31 of that school year or (b) the child did not reach the age of 5 on or before August 31, but had been attending school in another state during that school year before becoming a resident of North Carolina.

This act became effective July 4, 2007, and applies beginning with the 2009-2010 school year. (SK)

Four-Year Terms/Teaching Standards Commission

S.L. 2007-174 ([HB 1449](#)) changes the term of service for members of the North Carolina Professional Teaching Standards Commission from two-year to four-year terms. The terms will be staggered and will begin September 1.

This act became effective July 5, 2007. (SI)

Name Change/Division of Facility Services/Commission for Health Services

S.L. 2007-182 ([HB 720](#)). See **Health and Human Services**.

School Absences Excused/Legislative and Governor's Pages

S.L. 2007-186 ([HB 1464](#)) directs the State Board of Education to adopt rules to provide for excused absences for a student's participation in a valid educational opportunity, such as service as a legislative page or a Governor's page.

This act became effective July 7, 2007, and applies beginning with the 2007-2008 school year. (DC)

Study Safety Restraints on School Buses

S.L. 2007-191 ([SB 812](#)). See **Transportation**.

Modify School Employee Confidentiality Law

S.L. 2007-192 ([HB 550](#)) amends the law relating to confidentiality of school personnel files, to clarify that information contained in personnel files relevant to possible criminal misconduct may be made available to law enforcement and to district attorneys to assist in the investigation of either of the following:

- A report to law enforcement made by a principal involving such acts as assault, sexual assault, sexual offense, rape, kidnapping, indecent liberties with a minor, assault involving use of a weapon, or possession of a controlled substance.
- Any report to law enforcement regarding arson, attempted arson, destruction of, theft from, theft of, embezzlement from, embezzlement of any personal or real property owned by the local board of education.

The act requires that the employee be given five working days' prior written notice of any disclosure and the right to seek in-camera review in district court of the records, to determine if the information is relevant to possible criminal misconduct. Statements or admissions made by an employee and produced under this act are inadmissible in any subsequent criminal proceedings against the employee.

This act became effective July 8, 2007. (SK)

False Report/Mass Violence at School

S.L. 2007-196 ([HB 1347](#)). See **Criminal Law and Procedure**.

Tobacco Free Schools

S.L. 2007-236 ([SB 1086](#)) requires local boards of education to broaden their tobacco use policies to prohibit the use of any tobacco products by any person in public school buildings and facilities, on public school campuses, and on (or in) any other school property owned or operated by the local school administrative unit. The expanded policy includes persons attending school-sponsored activities at other locations not listed above when students or school personnel are present, or in an area where smoking is already prohibited by law. The policy must provide for adequate notice to parents and the public. Local boards of education must adopt, implement, and enforce this written policy no later than August 1, 2008.

The North Carolina Health and Wellness Trust Fund Commission must assist local school boards in implementing this policy by providing information on smoking cessation and prevention. This act became effective July 18, 2007. (SK)

Ban Cell Phone Use by School Bus Drivers

S.L. 2007-261 ([HB 183](#)). See **Transportation**.

Disability History and Awareness Month

S.L. 2007-274 ([SB 753](#)) designates October as Disability History and Awareness Month in North Carolina, and requires each local board of education to provide instruction on disability, people with disabilities, and the disability rights movement. The University of North Carolina constituent institutions are also encouraged to conduct and promote activities that provide education, awareness, and understanding of disability history, people with disabilities, and the disability rights movement.

Nothing in the act requires the General Assembly to appropriate funds for implementation or a local school administrative unit to spend additional funds for implementation.

This act became effective July 27, 2007. (SI)

Reaching One's Potential for Excellence (ROPE) Scholars Pilot Program

S.L. 2007-277 ([SB 1030](#)) requires the State Board of Education (State Board), The University of North Carolina Board of Governors, and the State Board of Community Colleges to cooperatively develop a framework for a Reaching One's Potential for Excellence (ROPE) Scholars Pilot Program. The framework must include the requirement that participating schools have, or be afforded access to, high speed broadband Internet resources and use the SAS Education Value Added Assessment System, or a comparable software system, to track student academic progress.

The ROPE Scholars Pilot Program (Program) is focused on strengthening middle grades education in order to reduce the dropout rate, increase graduation rates, and decrease the need for remediation in institutions of higher education. The intent of the Program is to do the following:

- Reduce class size to a 1 teacher to 17 student (1:17) ratio.
- Provide annual salary incentives of up to \$5,000 to teachers certified in any high-need subject matter area, or to support personnel.
- Provide a coordinator position at each participating school to assist in community and parental support.
- Encourage participating students to have excellent attendance, maintain a B average, achieve an adequate score on the PSAT, SAT or ACT, meet The University of North Carolina admission standards, engage in community service, and demonstrate good character.
- Provide college scholarships to students who successfully participate in the Program.

The State Board is required to develop a competitive process through which local school administrative units may apply to participate in the Program, and then select units from different geographic areas of the State. Three units will be selected for the 2009-2010 school year, at least one of which must be urban and one rural.

The act also directs the State Board to (i) develop a process to evaluate the effectiveness of the Program and (ii) submit a draft proposed framework to the Joint Legislative Education Oversight Committee by October 15, 2007, with a final proposal by December 15, 2007. The final

proposal must include the cost of implementing the pilot program and an indication of the laws, rules, and policies that would prevent the implementation of the Program.

This act became effective July 27, 2007. (DC)

Military Children May Attend Public Schools

S.L. 2007-283 ([HB 1357](#)). See **Military, Veterans', and Indian Affairs**.

Define Residence for Student with Special Needs

S.L. 2007-292 ([HB 18](#)) adds the definition of "residence" and "reside" to State laws on education of children with disabilities. The act defines both the terms "residence" and "reside" as the place where a child with a disability is entitled to be enrolled in a North Carolina public school under the statute generally governing school assignments for students. However, the act specifies that the age restrictions do not apply to children with disabilities.

This act became effective July 28, 2007. The definition of "residence" and "reside" does not apply to children with disabilities either enrolled in a particular local school administrative unit (LEA) on the last day of the 2006-2007 school year, or enrolled in and attending school in an LEA on August 1, 2007, for the 2007-2008 school year, for so long as they live in and are enrolled in that LEA. (KM)

Construction Plan Review

S.L. 2007-303 ([HB 735](#)). See **Insurance**.

"More at Four" Program and Office of School Readiness

S.L. 2007-323, Sec. 7.24 ([HB 1473](#), Sec. 7.24) provides that 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 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.
 - 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 shifting of slots must occur 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, 2008, 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 North Carolina Prekindergarten initiatives as outlined in this provision.

"More at Four" must establish income eligibility requirements for the program for the 2007-2008 and the 2008-2009 fiscal years. The requirements must not exceed 75% of the State median income. Up to 20% of children enrolled may have family incomes in excess of 75% of median income, if they have other designated risk factors. Any eligible child of the following person must be eligible for the program:

- An active duty member of the armed forces who is ordered to active duty within the past 18 months, or is expected to be ordered to active duty within the next 18 months.
- A member of the armed forces who was injured or killed while serving on active duty.

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. If a county is unable to increase the number of slots for the 2007-2008 fiscal year because of a documented lack of available resources for the local contribution, the contract agency for the

county may appeal to the Office of School Readiness for an exception to the local amount for the additional slots. The Office of School Readiness may grant an exception and allot funds to pay up to 90% of the full cost of the additional slots for the county if it finds that (i) there is a documented lack of available resources in the county, and (ii) granting the exception will not reduce statewide access to "More at Four" slots.

This section became effective July 1, 2007. (SK)

Learn and Earn Online

S.L. 2007-323, Sec. 7.27 ([HB 1473](#), Sec. 7.27) requires that funds appropriated for the Learn and Earn Online program be used for course tuition and only those technology and course fees and textbooks required for course participation. The funds also must support a liaison position to be housed at the Department of Public Instruction (DPI) to coordinate with The University of North Carolina (UNC), and the North Carolina Community College System (NCCCS), and to communicate course availability and related information to high school administrators, teachers, and counselors.

The State Board of Education (State Board) must determine the allocation of Learn and Earn Online (LEO) course offerings across the State. The State Board also must verify the credit hour enrollment of high school students in LEO courses and then allot funds for tuition, fees, and textbooks on that basis. Local school systems may purchase textbooks for LEO courses through DPI's textbook warehouse.

UNC and NCCCS must provide oversight and coordination, including coordination with DPI and with the North Carolina Virtual Public School, to avoid course duplication.

This section allows public school students enrolled in grades 9 through 12 and participating in the LEO program to enroll in online courses through a community college for college credit. Participating students may enroll in LEO courses, regardless of the college service area in which they reside. The State Board of Community Colleges must consult with DPI to adopt rules to implement this provision beginning with the 2007-2008 school year.

The State Board, UNC and NCCCS must report to the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, and the Fiscal Research Division no later than April 15, 2008, on the implementation of the program for the 2007-2008 school year and the proposed operating plan for the 2008-2009 school year. The report must include the number of students enrolled in courses under the LEO program and the number of students who completed courses during the fall semester of the 2007-2008 school year.

This section became effective July 1, 2007. (SI)

School Connectivity Initiative

S.L. 2007-323, Sec. 7.28 ([HB 1473](#), Sec. 7.28) appropriates funds to support enhancement of technology infrastructure for public schools. This section requires the State Board of Education (State Board) to contract with an entity to serve as administrator of the School Connectivity Initiative (Initiative) and to approve a plan to enhance the technology infrastructure for public schools that supports teaching and learning in the classroom. The plan must include all of the following components:

- A business and operation plan which includes timelines, clearly defined outcomes, governance structure, support services, and a budget.
- Assurances for a fair and open bidding and contracting process.
- Technology assessment site survey template.
- Documentation of technology assessments.
- Documentation of how technology will enhance teaching and learning.
- Documentation of how existing State-invested technology funds are maximized to implement the Initiative.

- Number, location, and schedule of sites to be served in 2007-2008 and 2008-2009.
- Assurances of support by local school administrative units.

Funds currently used for services covered by the new funds must not be supplanted by the additional funding. The State Board may establish up to eight regional positions or contracts to assist in implementing the Initiative.

The State Board must report by January 15, 2008, and annually thereafter, on progress towards achieving the Initiative to the Joint Legislative Oversight Committee on Information Technology, the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, the State Information Technology Officer, and the Fiscal Research Division.

The North Carolina Education Cabinet must develop a plan to:

- Coordinate E-learning activities among public and private colleges and universities, community colleges, and public schools.
- Establish a clear purpose and goals for NCVirtual.
- Develop a strategic plan with measurable goals.
- Develop, track, and regularly report to the Education Cabinet on accountability measures for those goals.
- Develop and manage an E-learning portal for NCVirtual.
- Use State-invested funds for E-learning to eliminate duplication of service.

Funds may be transferred to the Office of the Governor to establish NCVirtual within the Education Cabinet, to coordinate E-learning activities across all State educational agencies. The Education Cabinet must report on its progress on January 1, 2008, and annually thereafter, to the Joint Legislative Oversight Committee on Information Technology, the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, the State Information Technology Officer, and the Fiscal Research Division.

This section became effective July 1, 2007. (KM)

School Technology Pilot Program

S.L. 2007-323, Sec. 7.39 ([HB 1473](#), Sec. 7.39) establishes a school technology pilot program and appropriates \$3 million in State funds to be used, with a grant of \$3 million from the Golden LEAF Foundation and other private sector funds. The Golden LEAF Foundation and the Department of Public Instruction will select eight pilot high schools that will be given money to incorporate technology in the classroom. Non-State monies will fund portable computers for teachers and students. The State Board of Education must report to the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, and the Fiscal Research Division on the results of the pilot program by March 15, 2009. The section authorizes up to \$100,000 to be used to contract with an independent research organization to: (i) study the effectiveness of the pilot program on student achievement; (ii) complete a cost-benefit analysis; (iii) make recommendations for improvements in the pilot program; and (iv) make recommendations regarding the possible continuance or expansion of the program. The remaining State funds must be used to do the following:

- Assess the network capabilities and connectivity needs at each of the eight pilot schools.
- Purchase the additional software and equipment necessary to support the program.
- Allow each pilot school to use a maximum of \$130,000 to establish up to two positions to provide on-site instructional and technical support on a contract basis.
- Provide ongoing professional development for teachers and principals in the pilot schools.

This section became effective July 1, 2007. (DC)

Evaluation of Educational Services to Students with Hearing and Visual Impairments

S.L. 2007-323, Sec. 10.20 ([HB 1473](#), Sec. 10.20). See **Health and Human Services**.

Local Option County Taxes

S.L. 2007-323, Sec. 31.17 ([HB 1473](#), Sec. 31.17). See **Finance**.

Retired Teachers Work

S.L. 2007-326 ([HB 956](#)). See **Retirement**.

Expand Safe Zones/Schools, Parks, Child Centers

S.L. 2007-375 ([SB 8](#)). See **Criminal Law and Procedure**.

Pilot Program for Lateral Entry Teachers

S.L. 2007-376 ([SB 1115](#)) requires the State Board of Education (State Board) to adopt policies and procedures no later than December 15, 2007, to pilot innovative programs for lateral entry teachers. The State Board may grant approval to a local school administrative unit (LEA), a community college, or a college or university to pilot such a program.

The Department of Public Instruction must license all individuals who complete these approved programs who are recommended by the LEA, community college, or college, or university, and who have met all other licensure requirements.

If a lateral entry teacher leaves a unit with an approved innovative program before completing the program, and is hired to teach in another LEA, the teacher must receive credit for any completed work.

The State Board must report by October 15, 2010, to the Joint Legislative Education Oversight Committee on the effectiveness of the pilot innovative programs, along with any recommendations regarding the continuation, expansion, or elimination of the pilot program.

This act became effective August 19, 2007. (SI)

Teachers Convert Personal Leave to Sick Leave

S.L. 2007-378 ([SB 914](#)) allows teachers to accumulate personal leave, without limit, until June 30 of each year. On June 30 of each year, a maximum of five days of personal leave may be carried forward to July 1 and the balance converted to sick leave. At the time of retirement, a teacher may convert accumulated personal leave to sick leave for creditable service towards retirement. The act also provides that, subject to the availability of a substitute teacher, a request for personal leave must be granted automatically if the request is made five days in advance and the request for personal leave is not for one of the following days: (i) the first day a teacher is required to report for the school year; (ii) a required teacher workday; (iii) the day before or the day after holidays or scheduled vacation days; or (iv) days scheduled for State testing. In the preceding four situations, the request for personal leave must be approved by the principal.

This act became effective July 1, 2007. (DC)

School Bus Safety Act Correction

S.L. 2007-382 ([SB 924](#)). See **Criminal Law and Procedure** and **Transportation**.

Modify Requirements/Teacher License Renewal

S.L. 2007-409 ([SB 1292](#)) directs the State Board of Education to adopt a policy requiring teachers to take three renewal credits in their academic subject areas, as part of the five-year teaching license renewal process. The policy may provide exceptions for teachers seeking certification or re-certification by the National Board for Professional Teaching Standards. The policy will apply to teachers currently in the fourth or fifth year of their five-year renewal cycle, beginning with the first year of their next five-year renewal cycle.

This act became effective August 21, 2007. (KM)

Diesel School Buses to Use Minimum B-20 Fuel

S.L. 2007-423 ([SB 1452](#)). See **Environment and Natural Resources**.

Homebound Instruction for Disabled Students

S.L. 2007-425 ([HB 14](#)) requires that, when a change of placement occurs under the discipline regulations of the federal Individuals with Disabilities Education Improvement Act of 2004, homebound instruction can be assigned only if a student's Individualized Education Program team determines it is the least restrictive alternative environment. If the team determines that homebound instruction is the least restrictive alternative environment, then the team must meet and determine the services to be provided to the student on homebound instruction. The continued appropriateness of the homebound instruction must be reviewed monthly by the team leader.

This act became effective August 23, 2007. (DC)

Homebound Instruction Standards

S.L. 2007-429 ([HB 20](#)) adds definitions for the terms "educational services" and "homebound instruction" to State law on the education of children with disabilities.

The definition of "educational services" includes all of the following:

- The necessary instructional hours per week, in the form and format determined by the student's Individualized Education Program (IEP) team, and consistent with State and federal law.
- Instruction delivered by a teacher appropriately qualified to the extent required by federal and State laws which require a free appropriate public education and the opportunity for a sound basic education.
- Related services included in the student's IEP.
- Behavior intervention services designed to address the behavior violation that caused the disciplinary change of placement in order to prevent a recurrence.

"Homebound instruction" means educational services provided to a student outside the school setting.

This act became effective August 23, 2007. (SI)

High-Need Schools/Additional Support

S.L. 2007-445 ([SB 1479](#)) requires the State Board of Education (State Board) to designate schools as "high-need schools" if they meet two or more of the following criteria:

- More than 45% of students perform at Level 1 or Level 2 on end-of-grade or end-of-course tests.
- Teacher turnover rate is greater than 25%.
- More than 80% of students qualify for free or reduced-price lunch.

To ensure that high-need schools have high quality staff and additional support, the act makes the following modifications, which apply only to high-need schools, beginning in the 2008-2009 school year:

- National board certified teachers in high-need schools who serve as mentors, literacy coaches, or in other non-administrative instructional leadership positions, will retain the 12% salary increment for National Board for Professional Teaching Standards certification.
- National board certified teachers, teachers of the year, and other categories of accomplished teachers designated by the State Board, will be given academic freedom to use research-based practices in the classroom beyond the standard course of study.

The act also directs the State Board to consider the following strategies to ensure high-need schools have high quality staff and additional needed support:

- Adding additional teacher positions to reduce class size.
- Providing incentives to attract national board certified teachers.
- Employing teachers for 11 months, with the extra month used for curriculum development, staff development, and planning for the next school year.

The State Board must report to the Joint Legislative Education Oversight Committee by January 15, 2008, on the cost of implementing these strategies for the 2008-2009 fiscal year.

This act became effective August 23, 2007. (DC)

Alternative Teacher Salary Plans/Pilot Program

S.L. 2007-453 ([HB 966](#)) directs the State Board of Education (State Board) to establish, in up to five local school administrative units (LEAs) a pilot program authorizing the implementation of alternative teacher salary plans.

The purpose of the pilot program is to enable the participating LEAs to develop and implement new and innovative teacher salary plans that will improve student performance by financially rewarding teachers through performance pay plans; by recruiting teachers to the school unit; and by recruiting teachers to hard-to-fill positions in specific subject areas.

The Department of Public Instruction (DPI) must notify all LEAs of the availability of the pilot projects and the timelines for submission of the business plans. The LEAs applying to participate in the pilot program must submit to the State Board a business plan adopted by the local board of education. The State Board may grant waivers of laws, rules, and policies that are necessary for the pilot units to implement their business plans.

The business plan must include all of the following:

- A detailed explanation of how additional flexibility in the use of salary funds will be used to accomplish specific improvements in student academic performance.
- A description of alternative methods to be used, proposed changes to existing practices, incentives or alternative salary structure to be deployed, expectations for participating teachers and other employees, anticipated results, and methods of evaluation for participating employees.
- Laws, rules, and policies that must be waived to implement the business plan, and expected outcomes of those waivers.

- An explanation of how the business plan will be administered, in a nondiscriminatory manner, to ensure fair and equitable treatment to all participants in the pilot.
- Implementation, timeline, management, performance, and reporting benchmarks.
- Statements of how teachers and other stakeholders were included in developing the plan.
- A statement of how all participating teachers conducted a verifiable secret ballot vote, a statement that the results of the secret ballot vote were presented to the planning team and the local board of education before consideration of the final plan, and a statement that the majority of teachers in the participating schools and the school administration have agreed on the plan.

There are several reporting requirements included in this act:

- DPI must report to the Joint Legislative Education Oversight Committee (Education Oversight Committee) on the number of LEAs that have submitted business plans, the types of waivers being requested, and the status of the selection process.
- The Financial Services Section of DPI must monitor the implementation of the business plans, and regularly report its findings to the State Board and the Education Oversight Committee.
- DPI and the State Board must report to the Education Oversight Committee by June 30, 2010, regarding the effectiveness and performance of all the pilots, along with any recommendations regarding the continuation, modification, or elimination of the pilot program.

This act became effective August 27, 2007. (SI)

Charter School Employment Benefits Election

S.L. 2007-464 ([HB 1471](#)) authorizes participation of Orange Charter School (Orange County) in both the Teachers' and State Employees' Retirement System and the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan, if that school's Board of Directors elects to participate. The act also authorizes participation of both Bethany Community Middle School (Rockingham County) and Tiller School (Carteret County) in the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan, if the respective Boards of Directors of those schools elect to participate. The election must be made within thirty days of the effective date of the act.

This act became effective August 28, 2007. (KM)

School Bus Retrofits in Nonattainment Areas

S.L. 2007-465 ([HB 1912](#)). See **Environment and Natural Resources**.

Notice and Rights Regarding School Suspension/Expulsion

S.L. 2007-466 ([HB 1739](#)) requires principals, or their delegates, to give parents or guardians notice of a student's short-term suspension, and that student's rights upon short-term suspension, by a method reasonably designed to achieve actual notice. Students placed on short-term suspension must be provided the opportunity to take textbooks home and the right to inquire about homework assignments for the duration of the suspension. For long-term suspensions, the local board of education must give notice to the student's parent or guardian, by a method reasonably designed to achieve actual notice of the student's rights.

This act became effective August 29, 2007, and applies beginning with the 2007-2008 school year. (KM)

Property Tax - School Capital Leases

S.L. 2007-477 ([HB 63](#)). See **Finance**.

Lifetime Certification after Teaching 50 Years

S.L. 2007-478 ([HB 1308](#)) directs the State Board of Education to provide a lifetime certification for a teacher after 50 years of teaching. This creates an exemption from the mandatory teacher certification program, which provides for initial certification after the completion of preservice training, continuing certification after three years of teaching, and certificate renewal every five years thereafter, until the teacher retires.

This act became effective August 29, 2007. (DC)

Local School Board Member Removal

S.L. 2007-498 ([HB 349](#)) repeals the statutory provision that allowed the State Board of Education (SBE) to initiate the process of removing a local school board member. Previously, if the SBE had sufficient evidence that a member of a local board of education was not capable of discharging, was not discharging the duties of the office, or was guilty of immoral or disreputable conduct, the SBE notified the chairman of that local board of education. If the member in question was the chairman, then the SBE notified all of the other members of that local board of education. On receiving such a notice from the SBE, the local board of education held a meeting to investigate the charges. If those charges were found to be true, then the office of that member was declared vacant. The member in question was given proper notice of the hearing, and the record of the findings by the other members was recorded in the minutes of that local board of education.

This act became effective August 30, 2007. (SK)

Alternative Hearing before School Reassignment

S.L. 2007-501 ([HB 488](#)) states that a local board of education may provide initial hearings prior to the final determination made by the full board regarding school reassignment appeals. If the local board of education establishes initial hearings, it must designate a hearing panel of at least two board members to hear appeals. The local board of education also would have the option to designate a hearing officer, to hear appeals for fact-finding and a recommended decision. If a local board designates both a hearing panel of at least two board members and the hearing officer, the applicant must select which entity will conduct the hearing. Both the hearing panel's recommendations and the hearing officer's recommended findings of fact and recommended decision must be submitted to the local board of education for final determination. The local board of education must provide notice of the decision to the applicant by mail, telephone, telefax, email, or any other method reasonably designed to achieve notice.

This act became effective August 30, 2007. (DC)

Clarify Public Access to Personnel Records

S.L. 2007-508 ([SB 1546](#)). See **Labor and Employment**.

Criminal History Checks/Department of Public Instruction (DPI) Employees

S.L. 2007-516 ([HB 1659](#)) authorizes the Department of Justice, upon a request by DPI, to provide criminal history record checks of DPI employees, applicants for employment, and contractors. "Criminal history" is defined as a State or federal history of conviction of a crime, whether a misdemeanor or a felony, that bears upon a covered person's fitness for employment in DPI. The act provides that DPI may not request a criminal history check based on a person's age, sex, race, color, national origin, religion, creed, political affiliation, or handicapping condition. If DPI requests only a State criminal history check, it must provide a consent form signed by the person to be checked. The act authorizes national criminal history checks for applicants who have not lived in the State during the past five years. If DPI requests a national criminal history check, it must provide the fingerprints of the person to be checked and a signed consent form. DPI is required to keep all information obtained confidential. The Department of Justice is authorized to charge a reasonable fee for conducting the criminal history records check.

If the records check reveals one or more convictions of one of the covered crimes, the conviction constitutes just cause for not employing a person, or for dismissing a person from current employment. However, a conviction does not automatically prohibit employment. A number of factors must be considered by DPI in determining whether to deny employment, which include:

- The date, level, and seriousness of the crime.
- The age of the person at the time of the conviction.
- The circumstances surrounding the commission of the crime and the prison, jail, probation, parole, rehabilitation, and employment records of the person since the date of the crime.
- The nexus between the criminal conduct of the person and the job duties.
- Subsequent commission of a crime.

DPI may deny employment to an applicant, or dismiss a current employee, for refusing to consent to the criminal history records check, and that refusal constitutes just cause for denial of employment, or dismissal from employment. DPI also may extend a conditional offer of employment, pending results of the criminal history records check.

This act became effective October 1, 2007. (DC)

Enhanced Training for School Administrators

S.L. 2007-517 ([HB 536](#)) directs the State Board of Education to adopt new standards for school administrator preparation programs by July 1, 2008. The new standards must:

- Align with revised standards for evaluation of school executives and address use of the results of the Teacher Working Conditions Survey.
- Require evidence of a high level of institutional commitment.
- Require use of cross-functional work teams, to determine a common curriculum framework which aligns with defined standards, includes rigorous core courses, and produces administrators who meet the defined standards.
- Require use of cross-functional work teams to design and update specific standards regarding clinical experiences.
- Require written agreements between the institution of higher education and local school administrative unit to govern shared responsibility for recruitment and preparation of school administrators and successful employment.
- Require authentic partnerships between adjunct and full-time faculty, to address both practical and academic experiences.
- Require all candidates to complete a year-long internship.

- Require development of portfolios of evidence that training is applied to actual school needs and challenges.

Institutions of higher education must redesign their school administrator preparation programs, to meet the new standards and report to the State Board of Education on the redesign of their programs by July 1, 2009.

This act became effective August 30, 2007. (KM)

School Food Service Equipment/Lease-Purchase

S.L. 2007-519 ([HB 705](#)) adds food service equipment to the list of items that local boards of education may purchase, or finance the purchase of through lease purchase contracts and installment purchase contracts.

This act became effective August 31, 2007. (DC)

Higher Education

Offer Sign Language in Schools and Colleges

S.L. 2007-154 ([HB 915](#)). See also **Public Schools** in this chapter.

False Report/Mass Violence at School

S.L. 2007-196 ([HB 1347](#)). See **Criminal Law and Procedure**.

Establish the Education Access Rewards North Carolina Scholars Fund (EARN)

S.L. 2007-323, Sec. 9.7 ([HB 1473](#), Sec. 9.7) creates the Education Access Rewards North Carolina Scholars Fund (Fund). The Fund will provide grants to certain eligible students to attend certain North Carolina postsecondary institutions, without incurring student loans during the first two years of their postsecondary education. The State Education Assistance Authority (SEAA) will administer the Fund and adopt rules for administration of the grants.

The SEAA must develop criteria for awarding the grants. The criteria must include the following:

- The student must have legal residency in North Carolina and the United States, and be a resident for tuition purposes.
- The student must have graduated from a North Carolina high school, received a General Education Development certificate from a North Carolina institution, or completed a high school education in a home school setting within seven months of the fiscal year in which the grant is disbursed.
- The student must have been admitted, enrolled in, and be classified as a full-time undergraduate student in a matriculated status at an eligible postsecondary institution in North Carolina.
- The student must qualify as an eligible dependent student.
- The student must meet all other eligibility requirements for the federal Pell Grant.
- To retain eligibility for the second year, the student must meet achievement standards by maintaining satisfactory academic progress.
- The student may not receive a grant that exceeds the cost of attendance, when combined with the federal Pell Grant.
- The student may not receive a grant for more than the equivalent of two academic years.

A student is eligible for a maximum grant of \$4,000 per academic year. The SEAA must report to the Joint Legislative Education Oversight Committee by December 1, 2009, and annually thereafter, regarding the Fund and grants awarded from the Fund.

This section became effective July 1, 2007. (KM)

Local State Personnel Act Employee Status/University of North Carolina Public Records

S.L. 2007-372, Secs. 2 and 3 ([SB 1023](#), Secs. 2 and 3) exempt from public disclosure records maintained by The University of North Carolina (UNC) or any constituent institution, by the Community Colleges System Office, or by any community college, if the records contain personally identifiable information from or about an applicant for admission. However, any letter of recommendation or record containing communication from an elected official, concerning an applicant for admission who has not enrolled as a student, is considered a public record subject to disclosure.

The act also provides that the UNC internal auditor's working papers that are the basis for an audit report must be open to examination and inspection, but only after the audit report has been completed. At the time that audit working papers are made public, the custodian of the audit working paper may redact the name and personally identifying information of any person who requests that his or her name and personally identifying information be kept confidential and who initiated specified allegations.

Nothing in this act is intended to limit the disclosure of public records that do not contain personally identifiable information.

These sections became effective August 19, 2007, and these sections apply to public records existing before, on, or after that date. (SI)

See **Local Government** for the summary of Section 1 of this act.

Teacher Assistant Scholarship Fund

S.L. 2007-457 ([HB 851](#)) clarifies that an applicant for the Teacher Assistant Scholarship Fund, who is pursuing teacher licensure, can be enrolled in a community college.

This act became effective August 28, 2007. (DC)

Clarify Public Access to Personnel Records

S.L. 2007-508 ([SB 1546](#)). See **Labor and Employment**.

Energy Conservation in State Buildings

S.L. 2007-546 ([SB 668](#)). See **Environment and Natural Resources**.

Community Colleges

Modify Community College Lateral Entry Process

S.L. 2007-166 ([HB 583](#)) removes the following two requirements in order for an individual to participate in the community college program of study (lateral entry program) for lateral entry teachers: (i) that an individual must have completed a bachelor's degree at least five years before participation in the lateral entry program, and (ii) that an individual must hold a lateral entry teaching certificate and be employed as a teacher in a local school administrative

unit. The act keeps in place the requirement that an individual must hold at least a bachelor's degree from a regionally accredited institution of higher education, in order to participate in the lateral entry program. In separate legislation [S.L. 2007-484, Sec. 35 ([SB 613](#), Sec. 35)], the General Assembly repealed the sunset provision of July 1, 2011, which had existed for the lateral entry program.

This act became effective July 1, 2007. (DC)

Meetings of Community College Trustees/Modify Law

S.L. 2007-197 ([HB 581](#)) adds "a majority of the trustees" as an entity that may call a meeting of the board of trustees of a community college. The chairman of the board of trustees and the chief administrative officer of the community college also may call a meeting of a community college board of trustees.

This act became effective July 8, 2007. (SI)

Expand Legislative Intern Program

S.L. 2007-201 ([SB 167](#)) expands the Legislative Intern Program to community college students by defining, for the purpose of the Legislative Intern Program, "institutions of higher education" as four-year colleges and universities, and community colleges that offer college transfer programs. The act provides that interns are to be selected from institutions of higher education within the State including, but not limited to, all units of the university system and the community college system.

This act became effective July 8, 2007. (DC)

Amend Community College Performance Standards

S.L. 2007-230 ([HB 642](#)) amends the community college institutional performance accountability standards, by revising the criteria and formulas for recognition of performance accountability. Four of the 12 performance standards are removed from the mandatory standards. The State Board of Community Colleges (State Board) must evaluate each college, using all of the remaining eight performance measures for recognition of successful institutional performance. The State Board may also add additional performance standards for evaluation. For each standard on which successful performance is demonstrated, the community college may carry forward 1/4th of 1% of its final fiscal year General Fund appropriations into the next fiscal year. A college may also carry forward 1/4th of 1% of its final fiscal year General Fund appropriations for each standard in use for three years or less, and on which the college demonstrates significant improvement.

The State Board must allocate remaining funds in recognition of exceptional institutional performance to colleges that (i) perform successfully on the eight performance standards, (ii) have a 70% or greater passing rate for reported licensure/certification examinations over which the college has authority as to who sits for the examination, and (iii) whose percentage of college transfer students with a 2.0 grade point average, after two semesters at a four-year institution, exceeds or equals the performance of students who began college at the four-year institution. The State Board may withhold the funds, if the college is under investigation by a State or federal agency or does not meet regional accreditation or state agency standards, until the investigation is complete and the issues resolved.

The act became effective July 18, 2007. (KM)

College Information System Project Personnel Positions

S.L. 2007-323, Sec. 8.1 ([HB 1473](#), Sec. 8.1) authorizes the Community Colleges System Office to use funds from the College Information System Project to create a maximum of 10 positions, or incur expenditures necessary to transfer the maintenance and administration of the College Information System Project from the vendor to the Community Colleges System Office. Personnel positions created must be located in community colleges throughout the State. Before creating the personnel positions, the Community Colleges System Office must obtain approval from the Office of State Budget and Management and consult with the Office of Information Technology Services and the Joint Legislative Commission on Governmental Operations.

The Community Colleges System Office must report to the Joint Legislative Education Oversight Committee on a quarterly basis on the implementation of the College Information System Project.

This section became effective July 1, 2007. (DC)

Graduate Nurse Scholarship Loans for Community College Nursing Faculty

S.L. 2007-323, Sec. 9.6 ([HB 1473](#), Sec. 9.6) provides scholarship loans for up to two years, in the amount of \$15,000 per year, to North Carolina Community Colleges System nursing faculty members who are enrolled in a master's degree program in nursing education. Standards adopted by the North Carolina Nursing Scholars Commission must provide that community college nursing faculty will receive preference for the scholarship loan awards. In order to have the scholarship loan forgiven, within seven years after graduating from a nursing education program, a recipient of a scholarship loan, who is a nursing faculty member of a community college, must teach in a community college nursing program in North Carolina for one year for every year a scholarship loan was received. The State Education Assistance Authority retains the discretion to forgive the scholarship loan, if it determines that it is impossible for the recipient to teach in a community college nursing program for a sufficient time to repay the scholarship loan, because of the death or permanent disability of the recipient within 10 years following graduation, or termination of enrollment in a nursing education program.

This section became effective July 1, 2007. (DC)

Community College Tuition Surcharge/Scholarships

S.L. 2007-367 ([SB 1065](#)) authorizes a community college, with approval of the State Board of Community Colleges, to implement a tuition surcharge of up to 33 1/3% of the statewide tuition rate to fund a new instructional program necessary to attract industry to the area, and to use proceeds of an endowed scholarship in excess of \$5 million to offset the cost of the tuition surcharge, consistent with terms of the endowment. All students enrolled in the program must be charged the tuition surcharge, unless tuition is waived by law or regulation.

The funds collected from the endowment must be deposited in an unrestricted institutional fund account at the community college. The State Board must adopt rules for implementation of this section.

This act became effective July 1, 2007. (KM)

Community Colleges/Participate in Energy Loan Program

S.L. 2007-476 ([HB 177](#)) authorizes local community college boards of trustees to enter into loan agreements under the Energy Improvement Loan Program (EILP). EILP provides low-interest loans for eligible conservation measures to qualifying organizations. The loans can be

repaid from the energy savings these improvements generate. The time period of the loan equals the average payback time of the conservation measures, but cannot exceed 10 years.

This act became effective August 29, 2007. (SI)

Community College Changes

S.L. 2007-484, Sec. 29(a)–(f) ([SB 613](#), Sec. 29 (a)–(f)) makes the following changes to certain State laws pertaining to community college fiscal operations:

- Clarifies that the State Board of Community Colleges (State Board) approves capital improvement projects, such as new construction and renovation and repairs, rather than buildings and building plans. The Office of State Construction has the statutory authority to approve buildings and building plans.
- Modifies the requirements for the transfer of property between local boards of trustees and boards of county commissioners, and expands the geographic area in which a board of trustees may acquire property to include the service delivery area of the community college.
- Limits to no more than five the number of State funded lease purchase or installment purchase contracts a community college has in effect at any one time.
- Authorizes the State Board to set the date by which local boards of trustees must submit their budget requests to the Community Colleges System Office.
- Authorizes local tax-levying authorities to set the date by which the local boards of trustees must submit their budget to the local tax-levying authority.

This section became effective October 1, 2007. (SI)

Universities

Immunization Certificate/College Students

S.L. 2007-99 ([SB 982](#)) clarifies which students are not required to provide documentation of immunizations for diphtheria, tetanus, whooping cough, poliomyelitis, red measles (rubeola), and rubella in order to attend a college or university in the State. A student residing off-campus and registering for any combination of evening courses, weekend courses, off-campus courses, and no more than four traditional day credit hours in on-campus courses would not be required to provide documentation of immunizations, in order to attend a college or university in North Carolina.

This act became effective June 20, 2007. (SK)

The University of North Carolina Smoke-Free

S.L. 2007-114 ([SB 862](#)) allows The University of North Carolina (UNC) facilities defined in the act, and the areas within 100 linear feet of UNC buildings, to be designated as nonsmoking. It also allows the areas within 100 linear feet of State-owned, occupied, or leased buildings involved in health care instruction to be designated as nonsmoking. Finally, the act removes certain UNC affiliated health care facilities, grounds, and walkways from any restrictions on designating nonsmoking areas. The effect of this exclusion allows the governing boards of those facilities to designate all areas as nonsmoking.

This act became effective July 1, 2007. (SK)

Name Change/Division of Facility Services/Commission for Health Services

S.L. 2007-182 ([HB 720](#)). See **Health and Human Services**.

The University of North Carolina/Agricultural Extension Employee Status

S.L. 2007-195 ([HB 847](#)). See **Labor and Employment**.

Disability History and Awareness Month

S.L. 2007-274 ([SB 753](#)). See also **Public Schools** in this chapter.

The University of North Carolina Board of Governors/Dual Office Holding

S.L. 2007-278 ([SB 884](#)) removes the prohibition against eligibility of spouses of officers or employees of the State as members of: (i) The University of North Carolina Board of Governors; (ii) the boards of trustees of constituent institutions of The University of North Carolina; and (iii) the State Board of Community Colleges. The act also removes the prohibition against spouses of officers or employees of the State, The University of North Carolina, or of any constituent institution of The University of North Carolina from eligibility as members of the Board of Trustees of the North Carolina School of Science and Mathematics.

This act became effective July 27, 2007. (SI)

North Carolina Arboretum Campus Police

S.L. 2007-285 ([SB 630](#)). See **Courts, Justice, and Corrections**.

The University of North Carolina Hospitals and Statewide Accounts Receivable

S.L. 2007-306 ([HB 646](#)). See **Health and Human Services**.

The University of North Carolina President's Advisory Committee Recommendations

S.L. 2007-322 ([HB 749](#)). See **State Government**.

Board of Governors' Medical Scholarships

S.L. 2007-323, Sec. 9.4 ([HB 1473](#), Sec. 9.4) codifies the requirements of the Board of Governors' Medical Scholarship Loan Program (Program). The Program was established by the Board of Governors of The University of North Carolina (Board); it operates under the purview of the Board; and it is administered by the Board.

The Program may provide a four-year scholarship loan of relevant tuition and fees, mandatory medical insurance, required laptop computers, and an annual stipend of \$5,000 per

year to any student who has been accepted for admission to the Duke University School of Medicine, the Brody School of Medicine at East Carolina University, the University of North Carolina at Chapel Hill School of Medicine, or the Wake Forest University School of Medicine. The Board may adopt standards for awarding these scholarship loans, and must make an effort to identify and encourage minority and economically disadvantaged youth to enter the Program.

Repayment. – All awards must be made as scholarship loans and must be repaid to the Board, at an annual interest rate of 10%, beginning September 1 after completion of the program, or immediately after termination of the scholarship loan, whichever is earlier. The scholarship loan may be terminated by the recipient withdrawing from school, or by the recipient not meeting the standards set by the Board.

Forgiveness. – The Board must forgive the loan if, within seven years after graduation, the recipient practices medicine in North Carolina for four years. The Board also must forgive the loan if it finds that it is impossible for the recipient to practice medicine in North Carolina for four years, within seven years after graduation, because of the death or permanent disability of the recipient.

All unused funds appropriated to, or otherwise received by, the Board for scholarship loans, all funds received as repayment of scholarship loans, and all interest earned on these funds must revert to the General Fund at the end of each fiscal year.

This section became effective July 1, 2007, and applies to all awards made on or after that date. (SK)

Board of Governors' Dental Scholarships

S.L. 2007-323, Sec. 9.5 ([HB 1473](#), Sec. 9.5) codifies the requirements of the Board of Governors' Dental Scholarship Loan Program (Program). The Program was established by the Board of Governors of The University of North Carolina (Board); it operates under the purview of the Board; and it is administered by the Board.

The Program may provide a four-year scholarship loan of relevant tuition and fees, mandatory medical insurance, required laptop computers for first-year students, required dental equipment, and an annual stipend of \$5,000 per year to any student who has been accepted for admission to the School of Dentistry at the University of North Carolina at Chapel Hill. The Board may adopt standards for awarding these scholarship loans, and must make an effort to identify and encourage minority and economically disadvantaged youth to enter the program.

Repayment. – All awards must be made as scholarship loans and must be repaid to the Board, at an annual interest rate of 10%, beginning September 1 after completion of the program, or immediately after termination of the scholarship loan, whichever is earlier. The scholarship loan may be terminated by the recipient withdrawing from school, or by the recipient not meeting the standards set by the Board.

Forgiveness. – The Board must forgive the loan if, within seven years after graduation, the recipient practices dentistry in North Carolina for four years. The Board also must forgive the loan if it finds that it is impossible for the recipient to practice dentistry in North Carolina for four years, within seven years after graduation, because of the death or permanent disability of the recipient.

All unused funds appropriated to or otherwise received by the Board for scholarship loans, all funds received as repayment of scholarship loans, and all interest earned on these funds must revert to the General Fund at the end of each fiscal year.

This section became effective July 1, 2007, and applies to all awards made on or after that date. (SI)

Future Teachers of North Carolina Scholarship Loan Program

S.L. 2007-323, Sec. 9.9 ([HB 1473](#), Sec. 9.9) increases the number of Future Teachers of North Carolina Scholarship Loans from 100 to 150. Recipients of the scholarship loans must be North Carolina students pursuing a college degree, at either a North Carolina public or private institution of higher education that has an accredited teacher preparation program, to become certified teachers in North Carolina. The scholarship loan is for \$6,500 per year and is awarded only for the junior and senior years.

This section became effective July 1, 2007. (SK)

Principals' Executive Program

S.L. 2007-323, Sec. 9.10 ([HB 1473](#), Sec. 9.10) directs the Principals' Executive Program to develop a formalized admissions policy that gives priority to school administrators working in high-need schools and takes into account geographic diversity, to ensure that school administrators from across the State are served. If there are more applicants for admission than slots available, the Principals' Executive Program must retain those names and offer them priority admission for the next class. The waiting lists must be used to assess demand and determine the best method for allocating resources among the various executive training courses.

By April 1, 2008, the State Board of Education and the Board of Governors of The University of North Carolina must recommend to the Joint Legislative Education Oversight Committee a plan to provide input on the priorities of the Principals' Executive Program and feedback on its performance.

This section became effective July 1, 2007. (DC)

Legislative Tuition Grant for Part-Time Students

S.L. 2007-323, Sec. 9.13 ([HB 1473](#), Sec. 9.13) clarifies that a full-time North Carolina undergraduate student attending certain private colleges is awarded the full amount of the legislative tuition grant, and a part-time North Carolina undergraduate student attending certain private colleges who is enrolled to take at least nine hours of academic credit per semester is awarded a tuition grant, in an amount that is calculated on a pro rata basis.

The legislative tuition grant is also awarded to full-time licensure students who are enrolled in a teaching or nursing program at an approved institution. The grant also is awarded on a pro rata basis to any part-time licensure student who is enrolled in a program intended to result in a license in teaching or nursing from an approved institution. This section clarifies that "part-time" means taking at least nine hours of undergraduate academic credit per semester. Generally the legislative tuition grant is awarded for undergraduate courses only. However, for purposes of the tuition grant, if a course is required for licensure, but is designated as both an undergraduate and graduate course, the course must be considered an undergraduate course.

In the event that a full-time or part-time student, or a full-time or part-time licensure student, has been awarded a tuition grant and is not enrolled and carrying the required minimum academic load as of the 10th classroom day following the beginning of the school term for which a grant or prorated grant was paid, the institution must refund the full amount of the grant to the State Education Assistance Authority. However, if a full-time student, or a full-time licensure student, becomes a part-time student or part-time licensure student by the 10th classroom day following the beginning of the school term for which the grant was paid, the institution must refund only the difference between the amount of the full-time grant awarded and the amount of the part-time grant that is awarded.

This section also amends the law that provides State grants to eligible North Carolina undergraduate students who attend private nonprofit educational institutions that are not owned or operated by the State, are accredited by the Southern Association of Colleges and Schools,

and award postsecondary degrees. These students are eligible for a State grant for an academic year if the student is a North Carolina undergraduate, and is not eligible for a similar State grant under another State program for the same academic year. The changes allow part-time students, and part-time licensure students, enrolled in a program intended to result in a license in teaching or nursing from an approved institution to be eligible for a prorated State grant. Part-time students must be enrolled in at least nine hours of undergraduate academic credit per semester.

This section became effective July 1, 2007. (SI)

Establish the John B. McLendon Leadership Awards (Historically Black Colleges and Universities)

S.L. 2007-323, Sec. 9.18 ([HB 1473](#), Sec. 9.18) creates the John B. McLendon Scholarship Fund (Fund). The State Education Assistance Authority (SEAA) will administer the Fund. Interest from the Fund must be used to provide two leadership scholarships annually, to be awarded to a male and a female student athlete at each of North Carolina's accredited Historically Black Colleges and Universities. Bennett College will receive funding for two leadership scholarships for two female student athletes. The amount of the scholarship will be \$1,250 per academic year. To be eligible for the scholarship, a student must meet the following criteria:

- Meet enrollment standards by being admitted, enrolled, and classified as an undergraduate student in a matriculated status at an accredited Historically Black College or University.
- Be an athlete participating on a varsity team at the college or university.
- Demonstrate outstanding leadership qualities, be involved in the college or university community, and maintain high academic standards.
- Be designated as a recipient by the college or university where attending.

The Chancellor or President and the Board of Trustees of each Historically Black College or University may designate students as recipients of the scholarships.

The SEAA may adopt rules to administer the Fund and must report no later than June 1, 2008, and annually thereafter, to the Joint Legislative Education Oversight Committee regarding the scholarships awarded.

This section became effective July 1, 2007. No scholarships will be awarded under this section prior to the 2008-2009 academic year. (KM)

The University of North Carolina Non-Appropriated Capital Projects

S.L. 2007-394 ([SB 1241](#)) authorizes (i) capital improvement projects by constituent institutions of The University of North Carolina, and (ii) the financing of these projects with funds available to the institutions from gifts, grants, receipts, self-liquidating indebtedness, Medicare reimbursements for education costs, or other funds, or any combination of these funds. Funds received for tuition or appropriated from the General Fund of the State are not included.

Following are some of the institutions and authorized projects:

- Appalachian State University (Frank Residence Hall Renovation, \$7.4 million).
- East Carolina University (Family Medicine Center, \$6 million).
- North Carolina State University (Companion Animal Hospital, \$34 million).
- The University of North Carolina at Chapel Hill (Science Complex, \$20 million).
- The University of North Carolina at Pembroke (New Football/Multi-purpose Tower, (\$2 million).
- The University of North Carolina at Wilmington (Marine Biotechnology Research Facility, \$15 million).
- Western Carolina University (Residence Halls, \$44.5 million).

[Note: The preceding list is not a complete list of all authorized projects]

The act authorizes the issuance of special obligation bonds to fund the authorized projects, and amends a prior spending authorization to redistribute unused funds for projects at Elizabeth City State University, and North Carolina Central University.

The act became effective August 20, 2007. (HAP)

Certain Law Officers/Waive Handgun Permit

S.L. 2007-427, Sec. 6 ([HB 1231](#), Sec. 6) provides that a person registered under the Private Protective Services Act is exempt from the prohibitions regarding weapons on campus or other educational property, if the person is one of the following:

- An armed armored car service guard or armed courier service guard, when acting in the discharge of the guard's duties and with the permission of the college or university.
- An armed security guard, when acting in the discharge of the guard's duties with the permission of the college or university while on the premises of a hospital or health care facility located on educational property.

This section became effective August 23, 2007. (KM)

See **Courts, Justice, and Corrections** for the summary of Sections 1-5 of this act.

Enhanced Training for School Administrators

S.L. 2007-517 ([HB 536](#)). See also **Public Schools** in this chapter.

Studies

New/Independent Studies/Commissions

Dropout Prevention Grants

S.L. 2007-323, Sec. 7.32 ([HB 1473](#), Sec. 7.32) as amended by S.L. 2007-345, Sec. 5.1 ([HB 714](#), Sec. 5.1) establishes the Committee on Dropout Prevention (Committee) to determine which local school administrative units, schools, agencies, and nonprofits will receive dropout prevention grants established in this section, the amount of each grant, and eligible uses of the grant funding. The Committee will have 15 members: 5 appointed by the Governor, 5 appointed by the President Pro Tempore of the Senate, and 5 appointed by the Speaker of the House of Representatives. The following criteria apply to dropout prevention grants approved by the Committee:

- Grants must be issued in varying amounts up to \$150,000.
- Grants must be provided to innovative programs and initiatives that target students at risk of dropping out of school and that demonstrate the potential to be effective, sustained, expanded, or replicated.
- Priority must be given to new programs and initiatives or to those that have begun within the last five school years.
- Grants must be distributed geographically throughout the State.
- Grants may be made to local school administrative units, schools, local agencies, or nonprofit organizations.
- Grants must be to programs and initiatives that hold all students to high academic and personal standards.
- Grant applications must include all of the following:
 - How grant funds will be used.
 - What, if any, other resources will be used in conjunction with the grant funds.

- How the program or initiative will be coordinated to enhance the effectiveness of existing programs, initiatives, or services in the community.
- A process for evaluating the success of the program or initiative.
- Programs and initiatives that receive grants must be based on best practices for preventing students from dropping out of school, or for increasing the high school completion rate for those students who already have dropped out of school.
- Priority must be given to proposals that demonstrate input from the local community and coordination with other available programs or resources.
- Grantees must comply with applicable laws and rules regulating conflict of interest.
- Grants must be made no later than November 1, 2007, or as expeditiously as possible.

This Committee must report to the Joint Legislative Commission on Dropout Prevention and High School Graduation by December 1, 2007, on the grants awarded, and will terminate after submitting that report.

This section also creates the Joint Legislative Commission on Dropout Prevention and High School Graduation (Commission). The Commission will have 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 will do the following:

- Evaluate initiatives and programs designed to reduce the dropout rate and increase the graduation rate.
- Review research on factors related to students' success in school.
- Evaluate the grants awarded and recommend whether any of the programs and initiatives that received one of these grants has potential for success and should be expanded or replicated.
- Study the emergence of major middle school and high school reform efforts, including Learn and Earn Programs, New Schools Initiative, and 21st Century Schools, and the impact they may have on the dropout rate.
- Examine strategies, programs, and support services that should be provided if the compulsory school attendance age is raised, along with implementation timelines.
- Review the courses required for graduation and the current system of awarding credit for those courses, to determine whether changes should be made that better recognize the different learning rates and other needs of students.
- Determine which interventions and strategies used as an alternative to grade retention, or subsequent to grade retention, are the most effective at enabling these students to remain in school and graduate.

The Commission may submit an interim report to the Joint Legislative Education Oversight Committee and the General Assembly by May 1, 2008, and must submit a final report of its findings and recommendations on or before the convening of the 2009 Session of the General Assembly. The Commission will terminate upon the filing of its final report.

This section became effective July 1, 2007. (SI)

Study of Public School Funding Formulas

S.L. 2007-345, Sec. 5.3 ([HB 714](#), Sec. 5.3) creates the Joint Legislative Study Committee on Public School Funding Formulas (Committee). The Speaker of the House of Representatives and the President Pro Tempore of the Senate must each appoint 10 members of their respective chambers to serve on the Committee. The Committee may contract for professional, clerical, or consultant services. The Committee must conduct an extensive study of the following public school funding formulas:

- School Capital Fund.
- Lottery School Construction Formula.
- Children with Disabilities.
- Limited English Proficiency.

- At-Risk Student Services/Alternative Schools.
- Improving Student Accountability.
- Disadvantaged Students Supplemental.
- Low-Wealth Counties Supplemental Funding.
- Small County Supplemental Funding.
- Transportation of Pupils.
- Academically or Intellectually Gifted.
- Number of school systems funded per county.

The Committee also must study the State Board of Education's model for projecting average daily membership, and focus particularly on how well the model projects average daily membership in rapidly growing school systems with highly mobile populations. The Committee must submit any of its findings and recommendations, including proposed legislation, to the 2008 Session. The Committee will terminate upon filing its report.

From funds available to the General Assembly, the Committee may use up to \$1 million for the study, subject to the approval of the Legislative Services Commission.

In preparation of the Committee's work, the chairs of the Legislative Services Commission may hire consultants before the first meeting of the Committee.

This section became effective July 1, 2007. (SK)

(Note: A similar study was created in S.L. 2007-323, Sec. 7.31 ([HB 1473](#), Sec. 7.31) - AN ACT TO MAKE BASE BUDGET APPROPRIATIONS FOR CURRENT OPERATIONS OF STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES)

Referrals to Existing Commissions/Committees

Joint Legislative Education Oversight Committee Studies

Strategies for Recovering Textbook Costs

S.L. 2007-275 ([HB 232](#)) directs the Joint Legislative Education Oversight Committee to study strategies for recovering costs due to damaged and lost textbooks. The Committee must consider the scope of the problem and strategies for recouping the cost of replacing the textbooks. The Committee must report its findings to the General Assembly by March 31, 2008.

This act became effective July 27, 2007. (KM)

Study Community College Access

S.L. 2007-323, Sec. 8.6 ([HB 1473](#), Sec. 8.6) directs the Joint Legislative Education Oversight Committee to study whether the North Carolina Community College System is organized to provide adequate geographic access, while minimizing overhead costs. The Committee must review the organization and structure of the Community College System, the State Board of Community College's policy and procedure for approving new programs, the appropriateness of the current process for approving multicampus center designations, and whether establishment of additional multicampuses should be subject to General Assembly approval. The Committee must report the results of the study to the General Assembly prior to April 30, 2008.

This section became effective July 1, 2007. (KM)

Referrals to Departments, Agencies, Etc.

Study Teacher Preparation Programs

S.L. 2007-284 ([HB 26](#)) directs the Board of Governors of The University of North Carolina (BOG), in consultation with the State Board of Education, to study the effectiveness of the current teacher education programs in preparing new teachers to educate students with disabilities. The BOG must include the following in its report:

- Evidence that the current teacher education programs are effective in preparing teachers to educate students with disabilities.
- Documentation that the current requirements that teacher education programs include demonstrated competencies in identification and education of children with disabilities and positive management of student behavior are being met.
- Identification of changes needed in these programs so that teachers will be better prepared to teach students with disabilities.
- A timeline for implementing the changes.

The report is due to the Joint Legislative Education Oversight Committee by May 15, 2008.

This act became effective July 27, 2007. (DC)

Study Services for Students with Disabilities in High School

S.L. 2007-295 ([HB 17](#)) requires the Department of Public Instruction to study the delivery of education and other services to students with disabilities at the high school level, including identifying current models used to deliver services in North Carolina, the efficacy of those models, and a review of research for best practice models implemented in other states. The Department must report its findings and any recommended legislation or policy changes to the Joint Legislative Education Oversight Committee by March 1, 2008.

This act became effective July 28, 2007. (KM)

Charter School Evaluation

S.L. 2007-323, Sec. 7.16 ([HB 1473](#), Sec. 7.16) authorizes the State Board of Education to spend up to \$50,000 a year for the 2007-2008 and 2008-2009 fiscal years to evaluate charter schools. The State Board of Education must consider the extent to which charter schools have accomplished the following objectives:

- Improved student learning.
- Increased learning opportunities for all students with special emphasis on expanded learning experiences for students at risk of academic failure, or students who are academically gifted.
- Encouraged the use of different and innovative teaching methods.
- Created new professional opportunities for teachers, including opportunities to be responsible for the learning program at the school level.
- Provided parents and students with expanded choices in the types of educational opportunities available within the public school system.
- Held the charter schools accountable for meeting measurable student achievement results, and provided a method to change the schools to performance-based accountability systems.

The State Board of Education must report the results of its evaluation to the Joint Legislative Education Oversight Committee and the Fiscal Research Division of the North Carolina General Assembly.

This section became effective July 1, 2007. (DC)

Report on the North Carolina Community College System Distance Learning and Online Capabilities

S.L. 2007-323, Sec. 8.4 ([HB 1473](#), Sec. 8.4) directs the Community Colleges System Office to report by March 1, 2008, to the Joint Legislative Education Oversight Committee, the Fiscal Research Division, and the Office of State Budget and Management on its efforts regarding distance learning opportunities. The report must address:

- Expenditure of funds appropriated for bandwidth at community colleges.
- Five-year history of courses offered, and FTE students served, through distance learning.
- Results from evaluations of distance learning.
- Current and anticipated future joint efforts regarding distance learning between the Community College System and The University of North Carolina and North Carolina private colleges.
- Analysis of necessary changes, to improve sharing of distance learning and online opportunities with The University of North Carolina and the Department of Public Instruction.

This section became effective July 1, 2007. (KM)

Study of FTE Funding Formula

S.L. 2007-323, Sec. 8.8 ([HB 1473](#), Sec. 8.8) directs the Fiscal Research Division, in consultation with the Community College System, to consider modifications to the funding formulas, to ensure that the community colleges have sufficient funds to adequately serve students when enrollment increases. The Fiscal Research Division must:

- Make findings and recommendations for a new computation for the Basic Skills Block Grant.
- Consider the need to incorporate funding for equipment and instructional resources into the Full-Time Equivalent (FTE) funding formula.
- Make findings and recommendations regarding the appropriateness of adjusting the "Other Costs" factors in the Instructional and Institutional Support formulas.
- Review the Institutional Support formula to determine whether funding is appropriately allocated between the Base Allotment and Enrollment Allotment.

The Fiscal Research Division must report the results of the study to the Joint Legislative Education Oversight Committee and to the chairs of the Senate and House Appropriations Committees by April 15, 2008.

This section became effective July 1, 2007. (SK)

Reporting on The University of North Carolina Faculty Workload

S.L. 2007-323, Sec. 9.2 ([HB 1473](#), Sec. 9.2) requires the Board of Governors of The University of North Carolina to use the Delaware Study Method of collecting data to conduct a study on faculty workload at The University of North Carolina. The report must include the following information:

- The faculty workload data for each constituent institution of The University of North Carolina, compared to The University of North Carolina enrollment model.
- The University of North Carolina faculty workload average, as compared to The University of North Carolina enrollment model student credit hours per instructional position.

- The faculty workload of regional and peer institutions, as compared to each constituent institution faculty average and to The University of North Carolina faculty workload average.

The Board of Governors must report to the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, and the Fiscal Research Division no later than March 1, 2008.

This section became effective July 1, 2007. (SI)

The University of North Carolina/State Personnel Act Task Force Review

S.L. 2007-413 ([SB 1353](#)) requires the President of The University of North Carolina (UNC) to appoint a Task Force to examine the application of the State Personnel Act (SPA) to UNC and make recommendations that do the following:

- Improve the ability of UNC to attract, reward, and retain high quality employees.
- Enable UNC to better meet the needs of its employees.
- Improve the efficiency of UNC personnel operations.

Membership on the Task Force must include chancellors, representatives of the UNC Staff Assembly who are subject to the SPA, human resources professionals, UNC employees who are exempt from the SPA, and a representative of the Office of State Personnel.

The Task Force is required to report to the President of UNC and to the UNC Board of Governors by January 15, 2008. By March 24, 2008, the UNC Board of Governors must forward the recommendations that it approves to the Joint Legislative Education Oversight Committee.

This act became effective August 21, 2007. (SK)

Other Studies

Focused Education Reform Pilot Program

S.L. 2007-323 ([HB 1473](#)) creates an education reform pilot program in five local school administrative units (LEAs) to be administered by the Public School Forum, in conjunction with the North Carolina Science, Mathematics, and Technology Education Center. The participating LEAs will be chosen, based on the following criteria: hard-to-staff, geographic diversity, continuing low performance, and high-risk student population. The pilot will incorporate targeted professional development, after school programming, teacher recruitment and retention bonuses, principal achievement bonuses, teacher mentoring, and science and math instructional assistance. The Public School Forum will receive some of the funds for the creation of after-school programs, the creation of a leadership development program for school administrators, food, and lodging costs for campus-based summer training, provision of staff and consultants, and administration of the pilot program.

[This pilot program is provision 23 (page F 4) of The Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets.]

This act became effective July 1, 2007. (SK)

For a complete list of the studies and reports authorized by the 2007 Session of the 2007 General Assembly, please refer to the Appendix contained in this publication.

Chapter 11

Environment and Natural Resources

George Givens (GG), Jeff Hudson (JH), Mariah Matheson (MM),
Jennifer McGinnis (JLM), Jennifer Mundt (JM)

Enacted Legislation

Air Quality

Increase Penalties for Air Pollution

S.L. 2007-296 ([HB 1646](#)) increases the maximum per day civil penalty the Secretary of Environment and Natural Resources may assess for violations of air quality laws from \$10,000 to \$25,000.

This act became effective October 1, 2007, and applies to offenses committed on or after that date. (JM)

School Bus Retrofits in Nonattainment Areas

S.L. 2007-465 ([HB 1912](#)) establishes a pilot program to provide funds to retrofit school buses in order to reduce diesel emissions in counties located in areas with air quality problems. The pilot program must be developed by the Department of Environment and Natural Resources (DENR) in consultation with the Departments of Public Instruction (DPI) and Transportation (DOT) and stakeholders and be administered by DENR. Local school administrative units may apply to DENR for a grant to retrofit an eligible school bus with a verified diesel emission control device. In order to qualify for grants under this program, an eligible school bus must:

- Have a model year 1994 through model year 2006 engine.
- Be registered in a county that is located in an area designated by the United States Environmental Protection Agency as having air quality problems.
- Be capable of operating on diesel fuel.
- Transport public school students.

DENR must develop grant application procedures, the criteria, and priorities for selecting grant recipients and the selection of school buses for diesel retrofits and procedures for distributing grants.

The act establishes the nonreverting School Bus Diesel Emissions Reduction Account within DENR. Funds in the Account must be distributed as grants to local school administrative units for school bus retrofits, in an amount equal to 20% of the cost of purchasing a diesel retrofit for each bus selected for retrofitting, and the funds must be used to match qualifying federal-aid funds.

The act requires DPI to submit to DENR information on or before August 1, 2008, on the total number of school buses eligible for grants under the program and the number of school buses that are equipped with an engine certified as meeting the USEPA standard for particulate matter. This act also requires DENR to prepare and submit an annual report on or before September 1, 2008, and September 1, 2009, to DPI and DOT and to the Environmental Review Commission on the pilot program.

The act provides that the DOT may reimburse up to \$2 million for the 2007-2008 fiscal year and up to \$2 million for the 2008-2009 fiscal year, from the federal congestion mitigation and air quality improvement program funds apportioned to the State by the United States to DENR, for the costs of purchasing diesel retrofits for school buses under the pilot program. This

section provides that DENR and DOT may enter into contracts that provide for the terms and methods by which DENR bills DOT for reimbursement of eligible costs.

The provisions of the act pertaining to reimbursement of federal aid funds became effective July 1, 2007. The remainder of the act became effective August 29, 2007. (JM)

Safety/Emission Inspection Changes

S.L. 2007-503 ([HB 679](#)). See **Transportation**.

Animal Waste Management

Swine Farm Environmental Performance Standards

S.L. 2007-523 ([SB 1465](#)) makes the swine farm animal waste management system performance standards that the General Assembly enacted in 1998 permanent, establishes a program to assist in the conversion of traditional lagoon and sprayfield animal waste management systems to innovative animal waste management systems, and establishes a pilot program for the purchase of electricity by electric public utilities produced from methane captured on swine farm animal waste management systems.

Background. – In 1997, the General Assembly enacted a temporary statewide moratorium on the construction or expansion of animal waste management systems that serve swine farms. The moratorium was scheduled to expire March 1, 1999. In 1998, the General Assembly enacted legislation to provide specific performance standards for an innovative animal waste management system. In 1998, the legislation continued the moratorium on swine waste farm animal waste management systems that do not meet the performance standards, specifically the lagoon and sprayfield system described below, and extended the duration of the moratorium to September 1, 1999. Since then, the General Assembly has amended and extended the moratorium several more times. Prior to this act, the moratorium was set to expire September 1, 2007.

Performance Standards for Swine Farm Animal Waste Management Systems. – The act makes the swine farm animal waste management system performance standards that the General Assembly enacted in 1998 permanent. The Environmental Management Commission (EMC) may not issue or modify a permit for the construction, operation, or expansion of an animal waste management system that serves a swine farm that employs an anaerobic lagoon as the primary method of treatment and land application of waste by means of a sprayfield as the primary method of waste disposal. The EMC may issue a permit for the construction, operation, or expansion of an animal waste management system that serves a swine farm if the EMC determines that the animal waste management system will meet or exceed all of the following performance standards (the standards initially enacted in 1998):

- Eliminate the discharge of animal waste to surface water and groundwater through direct discharge, seepage, or runoff.
- Substantially eliminate atmospheric emission of ammonia.
- Substantially eliminate the emission of odor that is detectable beyond the boundaries of the parcel or tract of land on which the swine farm is located.
- Substantially eliminate the release of disease-transmitting vectors and airborne pathogens.
- Substantially eliminate nutrient and heavy metal contamination of soil and groundwater.

An animal waste management system that serves a swine farm for which a permit was issued prior to September 1, 2007, and that does not meet the performance standard requirements may continue to operate under that permit, including any renewal of the permit. Also, the EMC may modify a permit that was issued prior to September 1, 2007, for an animal

waste management system that serves a swine farm, to authorize the replacement of a lagoon that is a component of the animal waste management system if the EMC finds that several conditions are met, including that replacement, but not repair, of the lagoon will abate an imminent hazard.

The EMC must adopt rules to implement the performance standards. Until such rules become effective, the EMC will refer to the "Development of Environmentally Superior Technologies – Phase 3 Report: For Technology Determinations per Agreements between the Attorney General of North Carolina and Smithfield Foods, Premium Standard Farms, and Frontline Farmers." The EMC must consult with the Animal and Poultry Waste Management Center of North Carolina State University regarding the application and modification of the performance standards.

Lagoon Conversion Program. – The act establishes the Lagoon Conversion Program (Program) to provide grants to assist in the conversion of traditional lagoon and sprayfield animal waste management systems that serve swine farms to systems that meet the new performance standards (innovative systems). Grants under the Program will be used to assist in the closure of traditional lagoon and sprayfield systems that are replaced by innovative animal waste management systems and to establish centralized waste collection and treatment systems that serve innovative animal waste management systems.

The Program will be administered by the Division of Soil and Water Conservation (Division) in the Department of Environment and Natural Resources (DENR). The Division must establish criteria for evaluating eligible innovative systems and for the selection of eligible applicants. Priority must be given to systems that are affordable, easily maintained, produce marketable by-products, reduce or eliminate the emission of ammonia and greenhouse gases, and are capable of being connected to a centralized waste collection and treatment. Priority also must be given to applicants whose participation in the program will result in the removal of animal waste management systems from floodplains; who have substantially complied with federal and State laws, regulations, and rules for the protection of the environment, natural resources, and public health; and who have a limited ability to pay for or finance an innovative swine waste management system through private or cooperative credit at reasonable rates and terms. The 2007 budget includes \$2 million in funding for the Program.

Methane Capture Pilot Program. – The act establishes the Swine Farm Methane Capture Pilot Program (Pilot Program) to be administered by DENR and the North Carolina Utilities Commission (NCUC). Under the Pilot Program, each electric power supplier that serves a swine farm that is selected for participation in the Pilot Program must purchase all electricity generated by the swine farm using methane as a fuel. The total of all electric power that must be purchased from swine farms is capped at 25 megawatts. The NCUC will set the purchase price so that it will allow owners and operators of swine farms that participate in the Pilot Program to recover capital and operating costs of generating electricity from captured methane, but in no event will the purchase price exceed 18¢ per kilowatt hour. All costs incurred by an electric power supplier to comply with the Pilot Program will be recovered under the annual fuel adjustment.

Agreements. – This act will not affect any of the agreements between the Attorney General of North Carolina and various parties regarding the swine industry.

The Swine Farm Waste Management System Conversion Account became effective July 1, 2007. All other provisions of the act became effective September 1, 2007. The Methane Capture Pilot Program will sunset on September 1, 2017. (GG, JH)

Clarify/Extend Animal Waste Management Provisions

S.L. 2007-536 ([HB 810](#)) makes the following changes to animal waste management statutes and laws: (i) adds county employees and employees of Soil and Water Conservation Districts – who have federal engineering job approval that involves the planning, designing, or implementation of best management practices on agricultural land – to the list of practices that are not subject to the North Carolina Engineering and Land Surveying Act; (ii) extends the

termination date of the pilot program for the inspection of animal waste management systems from September 1, 2007, to September 1, 2009; and (iii) clarifies the applicability of enforcement provisions.

This act became effective August 31, 2007. (JM)

Coastal Development

Waterfront Access and Marine Industry Fund

S.L. 2007-323, Secs. 29.14(b) and (e) ([HB 1473](#), Secs. 29.14(b) and (e)) require the Director of the Division of Marine Fisheries in the Department of Environment and Natural Resources to establish a program to administer the Waterfront Access and the Marine Industry Fund. A maximum of \$20 million in the Fund may be used to acquire waterfront properties or develop facilities for the purposes of providing public and commercial waterfront access and improving and developing these properties and facilities.

The Director may consult with representatives of the commercial fishing industry and other marine industries and with State, local, or nonprofit agencies that have expertise in waterfront access issues and property acquisitions. The Director may establish a committee to review potential property acquisitions and capital and infrastructure improvements. Before expending any funds, the Division must report to the Joint Legislative Commission on Seafood and Aquaculture. The Division also must report to the Commission on the use of these funds on a quarterly basis until the funding expires.

This section became effective July 1, 2007. (JM)

Enact Waterfront Access Study Committee Recommendations

S.L. 2007-485 ([SB 646](#)) enacts several recommendations of the Waterfront Access Study Committee.

Present-Use Value for Working Waterfronts. – The act provides that working waterfront property be taxed at its present use value, rather than its true value. Working waterfront property is defined as any of the following property that has, for the most recent 3-year period, produced an average gross income of at least \$1,000:

- A pier that extends into coastal fishing waters and limits access to those who pay a fee.
- Real property that is adjacent to coastal fishing waters and is primarily used for a commercial fishing operation or fish processing, including adjacent land that is under improvements used for one of these purposes.

Deferred taxes are the difference between the taxes due on the property taxed at its present use and the taxes that would be due if the property were taxed at its true value. Deferred taxes for the preceding three fiscal years plus interest become due when the property no longer qualifies as working waterfront property.

Present use value taxation will be effective for taxes imposed for taxable years beginning on or after July 1, 2009.

Advisory Committee for the Coordination of Waterfront Access. – The act establishes the Advisory Committee for the Coordination of Waterfront Access within the Department of Environment and Natural Resources. The Advisory Committee will be composed of representatives of State and local government and is charged with developing a coordinated plan and recommendations for providing greater waterfront access in the State. The Advisory Committee will report its progress and any recommendations to the Joint Legislative Commission on Seafood and Aquaculture no later than October 1 of each year.

Department of Transportation to Expand Public Access to Coastal Waters. – The act directs the Department of Transportation to expand public access to coastal waters in its road project planning and construction programs. The Department will report on its progress to the Joint Legislative Commission on Seafood and Aquaculture and the Joint Legislative Transportation Oversight Committee no later than March 1 of each year.

Increase Boating and Waterway Access Funding. – The act increases certain boat numbering fees that are held in the Wildlife Resource Commission's Boating and Waterway Account. Prior to this act, the fee for numbering a boat was \$10. The act requires a \$15 fee for a 1-year period and a \$40 fee for a 3-year period. The act also provides that interest and other investment income earned by the Account accrue to the Account.

The increase in boat numbering fees becomes effective January 1, 2008.

Waiver of Fees from Coastal Area Management Act (CAMA) Emergency Permits. – The Secretary of Environment and Natural Resources may issue special emergency CAMA building permits when life or structural property is in imminent danger as a result of a storm, sudden failure of a man-made structure, or similar occurrence. The act provides that the fees associated with such a permit will be waived.

Study Construction and Repair in Regulated Flood Zones. – The act directs the Division of Emergency Management in the Department of Crime Control and Public Safety to study ways to facilitate construction and repair of water dependent structures in regulated flood zones. The Division will report on the results of the study and any recommendations to the Joint Legislative Commission on Seafood and Aquaculture by March 1, 2008.

Except as otherwise noted, this act became effective August 30, 2007. (JH)

See **Agriculture and Wildlife, Finance, and Transportation** for additional information on this act.

Fisheries

Brunswick Menhaden Restrictions

S.L. 2007-320 ([HB 1017](#)) makes it unlawful to take menhaden or Atlantic thread herring with a purse seine net within three nautical miles of the shoreline of Brunswick County from May 1 through October 31. Violation of this prohibition is a Class A1 misdemeanor.

This act became effective August 29, 2007, and applies to offenses committed on or after that date. (JH)

Miscellaneous

Department of Environment and Natural Resource's Embargo Authority for Food or Drink

S.L. 2007-7 ([HB 124](#)). See **Health and Human Services**.

Oyster Shells/Highway Beautification

S.L. 2007-84 ([SB 1453](#)). See **Transportation**.

Mercury Switch Removal Program Amendments

S.L. 2007-142 ([HB 1758](#)) substantially rewrites the laws governing the removal of mercury switches from end-of-life vehicles that were enacted in 2005, in order to make it feasible

to implement the mercury switch removal program and to allow the program to be implemented under the Memorandum of Understanding to establish the National Vehicle Mercury Switch Recovery Program.

Definitions. – The act adds new definitions for the terms "inaccessible," when used in connection with mercury switch, "mercury recovery performance ratio," "vehicle manufacturer," "vehicle crusher," and "vehicle dismantler" and amends the definition for the term "end of life vehicle."

Removal of Mercury Switches from End-of-Life Vehicles. – All vehicle crushers, vehicle dismantlers, vehicle recyclers, and scrap vehicle processing facilities must remove accessible mercury switches before destroying an end-of-life vehicle. If an end-of-life vehicle is conveyed to another crusher, dismantler, recycler, or processing facility without removing all accessible mercury switches, the receiving entity must agree to accept the vehicle and the responsibility for the proper removal of all accessible mercury switches. The act requires the person removing the switch to mark the vehicle to indicate that all accessible mercury switches have been removed and certify to any person to whom the vehicle is conveyed, in a form acceptable to the Department of Environment and Natural Resources (DENR), that all accessible mercury switches have been removed from the vehicle. The act also requires vehicle manufacturers to work with DENR to develop, implement, and bear the cost of the mercury switch collection system in accordance with the National Vehicle Mercury Switch Removal Program (NVMSRP).

Mercury Switch Removal Account. – This act renames the Mercury Pollution Prevention Account as the Mercury Switch Removal Account and provides that vehicle crushers, vehicle dismantlers, vehicle recyclers, and scrap vehicle processing facilities may be reimbursed from the Account for costs incurred in implementing the mercury switch removal program. Requests for reimbursement must be made and verified against information posted by the vehicle manufacturers in accordance with either the NVMSRP or against other information that verifies the reimbursement request to the satisfaction of DENR. Persons who seek reimbursement must maintain relevant records for at least three years.

Enforcement of Violations. – The act makes the penalty for knowingly destroying a vehicle that contains an accessible mercury switch, or willfully failing to remove a mercury switch when required to do so, a Class 1 misdemeanor. Making a false report or a fraudulent claim for reimbursement is a Class 2 misdemeanor carrying a maximum fine of \$10,000. Other violations may be enforced by an administrative or civil action.

Annual Report. – DENR is required to submit a report on the mercury switch removal program to the Environmental Review Commission and the Senate and House Appropriations Subcommittees on Natural and Economic Resources by October 1 of each year beginning in 2008. The report must include a description of: (i) the mercury recovery performance ratio achieved by the program; (ii) the mercury switch collection system; (iii) recommendations or alternative actions necessary to achieve a mercury recovery performance ratio of at least 0.90 of the national mercury recovery; (iv) the number of mercury switches collected; and (v) costs required to implement the program, including receipts and disbursements from the Account.

The provisions of the act that pertain to definitions and the annual report became effective June 29, 2007. The provisions that amend the program for removal of mercury switches from end-of-life vehicles, the Mercury Switch Removal Account, and changes in the enforcement of violations became effective July 1, 2007, and apply to violations that occur on or after that date. This act sunsets December 31, 2017. (JM)

Commercial and Noncommercial Leaking Petroleum Underground Storage Tank Program Administrative Costs

S.L. 2007-323, Secs. 12.1(a) and 12.1(b) ([HB 1473](#), Secs. 12.1(a) and 12.1(b)) amend the Commercial and Noncommercial Leaking Petroleum Underground Storage Tank Cleanup

Funds to provide that both funds may be used to support the administrative functions of the program for underground storage tanks up to the amounts allowed by law. These amounts may be changed from time to time. In the case of a legislated increase or decrease in salaries and benefits, the administrative allowance existing at the time of the increase or decrease must be correspondingly increased or decreased by an amount equal to the legislated increase or decrease in salaries and benefits.

These sections became effective July 1, 2007. (JM)

North Carolina Green Business Fund

S.L. 2007-323, Secs. 13.2(a) through 13.2(d) ([HB 1473](#), Secs. 13.2(a) through 13.2(d)). See **Business and Commerce**.

Erosion and Sedimentation Control Plan Fee Increase

S.L. 2007-323, Secs. 30.1(a) and 30.1(b) ([HB 1473](#), Secs. 30.1(a) and 30.1(b)). See **Finance**.

Modify Tax Credit for Constructing Renewable Fuel Facilities

S.L. 2007-323, Secs. 31.9(a) and 31.9(b) ([HB 1473](#), Secs. 31.9(a) and 31.9(b)). See **Finance**.

Amend Wildlife Resources Management Laws

S.L. 2007-401 ([SB 1464](#)). See **Agriculture and Wildlife**.

Amend Environmental Laws/Environmental Technical Corrections 2007

S.L. 2007-495 ([SB 844](#)) makes clarifying, conforming, and technical amendments to various environmental and natural resources laws and amends various environmental and natural resources laws and reporting requirements as follows:

- Provides that, as an alternative to submission of a plat, a site plan may be submitted with the application for a private drinking water well construction permit in situations where the well is proposed to be located on a site on which a regulated wastewater system is located or is proposed to be located.
- Clarifies that a well contractor, in order to renew his or her certification, must provide proof of having completed any professional development hours as may be required by rules of the Well Contractors Certification Commission.
- Provides an additional statutory exception for transplanting oysters from public grounds to private beds, when seed clams and seed oysters are a certain size and originate from an aquaculture operation permitted by the Secretary of Environment and Natural Resources.
- Extends the terms of members of the Advisory Commission for the North Carolina State Museum of Natural Sciences from two years to four years and provides that members appointed by the Governor may not serve more than three consecutive four-year terms.
- Extends the exemption from continuing education requirements for 2 years from September 1, 2008, to September 1, 2010, for well contractors who: (i) are 70 years old or more; (ii) have engaged in well contractor activity for more than 20 years; (iii)

have no record of having violated any provision of the Well Construction Act, Well Contractors Certification, or order issued pursuant to or rule adopted under these laws in the previous 10 years; and (iv) meet all other requirements for Well Contractors Certification.

- Amends certain laws governing the regulation of coastal fisheries to remove the Environmental Review Commission (ERC) from the list of entities responsible for reviewing draft Fishery Management Plans prepared by the Department of Environment and Natural Resources (DENR).
- Clarifies that the Roanoke River Basin Bi-State Commission must submit its annual report on or before October 1 of each year.
- Adds the ERC to the list of entities to which the North Carolina Agricultural Development and Farmland Preservation Trust Fund Advisory Committee must report on its activities, agriculture easements purchased, and agricultural projects funded during the previous year as required by law.
- Provides that DENR must submit annual reports on or before October 1 of each year on the cost of the hazardous waste management program as required by law.

This act became effective August 30, 2007. (GG, JM)

Amend Dry-Cleaning Solvent Cleanup Act

S.L. 2007-530 ([SB 1362](#)) makes the following amendments to the Dry-Cleaning Solvent Cleanup Act (Act):

- Modifies language throughout the Act to clarify that all site assessment and cleanup procedures will be performed by private contractors hired by the Environmental Management Commission (EMC). These changes clarify that the State is responsible for hiring private contractors and awarding of contracts pursuant to the Act.
- Amends the existing co-payment scheme to provide for a one-time \$1,000 application fee, effective September 1, 2007.
- Effective retroactively to August 1, 2001, revises the financial responsibility requirements payment schedule as follows:
 - Dry-cleaning facilities owned by persons who employ fewer than 5 full-time employees: 1% of the costs of assessment or remediation, but not exceeding \$1 million.
 - Dry-cleaning facilities owned by persons who employ at least 5 but fewer than 10 full-time employees, and abandoned dry-cleaning facility sites: 1.5% of the costs of assessment or remediation, but not exceeding \$1 million.
 - Dry-cleaning facilities owned by persons who employ 10 or more full-time employees, and wholesale distribution facilities: 2% of the costs of assessment or remediation, but not exceeding \$1million.
- Authorizes the Department of Environment and Natural Resources to use up to 1% of the balance in the Dry-Cleaning Solvent Fund (Fund) in each fiscal year for investigation of inactive hazardous substance disposal sites that the Department believes to be contaminated by dry-cleaning solvent.
- Effective retroactively to January 1, 2007, the act increases the amount per year that may be disbursed for a site from the Fund as follows:
 - For assessment or remediation response costs incurred in connection with any individual dry-cleaning solvent assessment agreement, the maximum amount is increased from \$200,000 to \$500,000 per year.
 - For assessment and remediation costs incurred in connection with a certified facility or an abandoned site that poses an imminent hazard, the maximum amount is increased from \$400,000 to \$1 million per year.

- Provides the EMC with discretion to reject petitions made by operators who are not in compliance with minimum management practices for handling of solvents or operators who are delinquent in paying solvent taxes.
 - Adds "implementing" the Act to the actions for which the State or its agents are immune from liability, effective retroactively to January 1, 1998.
 - Authorizes the EMC to adopt temporary rules to establish a risk-based approach applicable to the assessment, prioritization, and remediation of dry-cleaning solvent contamination, in certain circumstances, provided the temporary rules are adopted in accordance with the Administrative Procedure Act.
- Except as otherwise noted, this act became effective August 31, 2007. (JM)

Parks and Public Spaces

State Nature and Historic Preserve Additions and Removals

S.L. 2007-307 ([HB 1724](#)) does the following:

- Dedicates and accepts certain properties as part of the State Nature and Historic Preserve (Preserve) and removes certain lands from the Preserve.
- Adds the following units to the Preserve (each is a new unit of the State Parks System authorized since the last dedication of State property in 2003): Carvers Creek State Park, Chimney Rock State Park, Haw River State Park, Lower Haw River State Natural Area, Mayo River State Park, Mountain Bog State Natural Area, and Sandy Run Savannas State Natural Area.
- Changes the designation of Dismal Swamp and Elk Knob State Natural Areas to State Parks.

The act also excepts or deletes previous exceptions from the Preserve as follows:

- Crowders Mountain State Park:
 - Deletes language that excepted a tract from the Preserve and authorized the State to sell the tract to adjacent landowners with the proceeds used for other land acquisition at the park. This transaction was completed, the tract is no longer part of the park, and the language was deleted.
 - Adds language to the statute to except a small triangle of land containing approximately 0.54 acres that is across a road from the remainder of the park. The isolated triangle is of no further use or benefit to the park, and the tract was removed from the Preserve and the State Parks System.
- Stone Mountain State Park: The act deletes language that excepted a tract located within the park from the Preserve and authorized the State to exchange a portion of the land for property owned by the National Park Service, in order to improve the boundaries of the State park and the Blue Ridge Parkway. The exchange was completed, the tract is no longer part of the park, and the language was deleted.
- South Mountains State Park: The act deletes language that excepted from the Preserve the following tracts located within the park:
 - Two tracts excepted in order to allow for an exchange of a right-of-way with the Department of Transportation for the realignment of SR 1904.
 - A 0.33 acre tract excepted in order to allow the tract to be transferred to the Walker Top Baptist Church to be used for church purposes.

These transactions have been completed, the tracts are no longer part of the park, and thus the language was deleted.

- Lake James State Park: The act adds language to except from the Preserve two tracts located within the park as follows:
 - The first clause authorizes the State to grant Duke Energy Corporation a temporary road easement across park property to allow trucks to transport fill

material to facilitate the Catawba Dam Embankment Seismic Stability Improvements Project (fill material will come from Duke Energy property, not from the park.) The tract must be removed from the Preserve, because property in the Preserve may not be used for such a purpose under Section 5 of Article XIV of the Constitution of North Carolina. Because the easement is temporary, however, the tract will remain in the State Parks System. The easement will be terminated upon completion of the project and the tract added back into the Preserve.

- The second clause removes a tract of land from the Preserve and the State Parks System and authorizes the State to grant an easement to an adjacent landowner in order to extinguish a prescriptive easement that the landowner currently uses that interferes with management of the park.

This act became effective July 28, 2007. (JLM)

Conservation Tax Credit Modifications

S.L. 2007-309 ([HB 463](#)). See **Finance**.

Deep River State Trail/Parks Authority Members

S.L. 2007-437 ([SB 1431](#)) authorizes the Department of Environment and Natural Resources (DENR) to add Deep River State Trail to the State Parks System, and to acquire and manage lands and easements for the purpose of establishing the Deep River State Park and adding it to the State Parks System. The act also directs DENR to promote, encourage, and facilitate the establishment of connecting trail segments by other federal, State, local, and private landowners. As envisioned by the State Parks System, the Deep River State Trail would emerge as a land-based and paddle trail with access and recreation facilities along the river and its tributaries – beginning at the river’s headwaters near High Point and Jamestown in Guilford County and extending through Randolph, Moore, and Chatham counties to the confluence of the Deep River and the Haw River near Moncure in Lee County.

In addition, the act increases the membership of the North Carolina Parks and Recreation Authority from 11 members to 15 members. Of the four additional members, two are to be appointed by the Governor, one by the General Assembly upon the recommendation of the Speaker of the House of Representatives, and one by the General Assembly upon the recommendation of the President Pro Tempore of the Senate.

This act became effective August 23, 2007. (JLM)

Renewable/Alternative Energy and Energy Efficiency

Facilitate Distribution of E-Blend Fuel

S.L. 2007-82 ([SB 567](#)). See **Transportation**.

Use of Solar Collectors

S.L. 2007-279 ([SB 670](#)). See **Local Government**.

Building Permit Reductions/Rebates

S.L. 2007-381 ([SB 581](#)). See **Local Government**.

Promote Renewable Energy/Baseload Generation

S.L. 2007-397 ([SB 3](#)) establishes a Renewable Energy and Energy Efficiency Portfolio Standard (REPS), amends the provisions for recovery of various costs by electric utilities, provides for the phaseout of the tax on the sale of energy to farmers and manufacturers, and provides a tax credit for certain renewable energy property.

Establish Renewable Energy and Energy Efficiency Portfolio Standard. – The following REPS provisions become effective January 1, 2008. The cost recovery provisions under the REPS apply only to costs that are incurred on and after January 1, 2008.

The act defines "renewable energy resource" as a solar electric, solar thermal, wind, hydropower, geothermal, or ocean current or wave energy resource; a biomass resource, including agricultural waste, animal waste, wood waste, spent pulping liquors, combustible residues, combustible liquids, combustible gases, energy crops, or landfill methane; waste heat derived from a renewable energy resource and used to produce electricity or useful, measurable thermal energy at a retail electric customer's facility; or hydrogen derived from a renewable energy resource. "Renewable energy resource" does not include peat, a fossil fuel, or nuclear energy resource.

The act establishes a REPS in North Carolina as follows:

Electric Public Utilities. – Each electric public utility (investor-owned public utility that sells electric power to retail electric customers) in the State must meet the REPS according to the following schedule:

| Calendar Year | REPS Requirement |
|----------------------|---|
| 2012 | 3% of 2011 North Carolina retail sales |
| 2015 | 6% of 2014 North Carolina retail sales |
| 2018 | 10% of 2017 North Carolina retail sales |
| 2021 and thereafter | 12.5% of 2020 North Carolina retail sales |

Electric Membership Corporations and Municipalities. – Each electric membership corporation and municipality that sells electric power to retail electric customers in the State must meet the REPS according to the following schedule:

| Calendar Year | REPS Requirement |
|----------------------|---|
| 2012 | 3% of 2011 North Carolina retail sales |
| 2015 | 6% of 2014 North Carolina retail sales |
| 2018 and thereafter | 10% of 2017 North Carolina retail sales |

Use of Solar Energy Resources. – For calendar year 2018 and each calendar year thereafter, at least 0.2% of the total electric power in kilowatt-hours sold to retail electric customers in the State must be supplied by a combination of new solar electric facilities and new metered solar thermal energy facilities that use solar hot water, solar absorption cooling, solar dehumidification, solar thermally driven refrigeration, or solar industrial process heat. Electric power suppliers must comply with these requirements according to the following schedule:

| Calendar Year | Requirement for Solar Energy Resources |
|----------------------|---|
| 2010 | 0.02% |
| 2012 | 0.07% |
| 2015 | 0.14% |
| 2018 | 0.20% |

Use of Swine Waste Resources. – For calendar year 2018 and each calendar year thereafter, at least 0.2% of the total electric power in kilowatt-hours sold to retail electric

customers in the State must be supplied by swine waste. Electric power suppliers must comply with these requirements according to the following schedule:

| Calendar Year | Requirement for Swine Waste Resources |
|----------------------|--|
| 2012 | 0.07% |
| 2015 | 0.14% |
| 2018 | 0.20% |

Use of Poultry Waste Resources. – For calendar year 2014 and each calendar year thereafter, at least 900,000 megawatt-hours of the total electric power sold to retail electric customers in the State must be supplied by poultry waste. Electric power suppliers must comply with these requirements according to the following schedule:

| Calendar Year | Requirement for Poultry Waste Resources |
|----------------------|--|
| 2012 | 170,000 megawatt-hours |
| 2013 | 700,000 megawatt-hours |
| 2014 | 900,000 megawatt-hours |

Cost Cap. – The recovery of costs that would be incurred by an electric power supplier to comply with the REPS requirements could not exceed an amount equal to the per-customer annual charges in the following schedule:

| Customer Class | 2008-2011 | 2012-2014 | 2015 and thereafter |
|-------------------------|------------------|------------------|----------------------------|
| Residential per account | \$10.00 | \$12.00 | \$34.00 |
| Commercial per account | \$50.00 | \$150.00 | \$150.00 |
| Industrial per account | \$500.00 | \$1,000.00 | \$1,000.00 |

Adoption of Rules by the Utilities Commission. – The Utilities Commission (Commission) must adopt rules to implement the REPS requirements that specifically:

- Provide for the monitoring of compliance with and enforcement of the REPS requirements.
- Include a procedure to modify or delay the REPS requirements, in whole or in part, if the Commission determines that it is in the public interest to do so and the public utility demonstrates that it has made a reasonable effort to meet the REPS requirements.
- Ensure that energy credited toward compliance with the provisions of the act not be credited toward any other purpose.
- Establish standards for interconnection of renewable energy facilities and other non-utility owned generation with a generation capacity of 10 megawatts or less to a public utility's electric distribution system.
- Ensure that the owner and operator of each renewable energy facility that delivers electric power to an electric power supplier is in substantial compliance with all federal and State laws, regulations, and rules for the protection of the environment and conservation of natural resources.
- Consider whether it is in the public interest to adopt rules for electric public utilities for net metering of renewable energy facilities with a generation capacity of one megawatt or less.
- Track and account for renewable energy certificates.

Reports, Evaluation, and Analysis. – No later than October 1 of each year, beginning October 1, 2008, the Commission must submit a report on the activities taken by the Commission to implement and by electric power suppliers to comply with the REPS requirements to the Governor, the Environmental Review Commission (ERC), and the Joint Legislative Utility Review Committee.

The Environmental Management Commission (EMC) may establish a procedure for evaluating renewable energy technologies; establish standards to ensure that renewable energy technologies do not harm the environment, natural resources, cultural resources, or public health, safety, or welfare of the State; and, to the extent that there is not an environmental regulatory program, establish a regulatory program to implement these protective standards.

No later than September 1, 2008, the Commission must prepare and submit an analysis of whether rate structures, policies, and measures, including decoupling, in place in other states and countries that promote a mix of generation involving renewable energy sources and demand reduction should be implemented in North Carolina to the Governor, the Environmental Review Commission, and the Joint Legislative Utility Review Committee.

No later than October 1 of odd-numbered years, beginning October 1, 2009, the Commission must submit to the Governor, the ERC, and the Joint Legislative Utility Review Committee a report on the actual results of the costs allocation established by this act.

Federal Action. – The act provides that if the federal government imposes requirements similar to the REPS requirements on electric power suppliers in the State, the Commission will determine the applicability of federal and State requirements so as to apply the more stringent requirements. The Commission would adopt rules to establish a procedure as an alternative to the procedure set out in G.S. 62-133 to annually adjust the rates of electric public utilities to allow timely recovery of all reasonable costs of compliance with the federal and State requirements.

Demand-Side Management and Energy Efficiency Measures. – S.L. 2007-397 defines "demand-side management" as activities, programs, or initiatives undertaken by an electric power supplier or its customers to shift the timing of electricity use from peak to nonpeak demand periods. "Demand-side management" includes load management, electric system equipment and operating controls, direct load control, and interruptible load. The act defines "energy efficiency measure" as an equipment, physical, or program change implemented after January 1, 2007, that results in less energy used to perform the same function. "Energy efficiency measure" includes, but is not limited to, energy produced from a combined heat and power system that uses non-renewable energy resources. "Energy efficiency measure" does not include demand-side management.

S.L. 2007-397 directs electric power suppliers to implement demand-side management and energy efficiency measures to establish the least cost mix of demand reduction and generation measures that meet the electricity needs of its customers. An electric power supplier may petition the Commission to approve an annual rider to its rates, to recover all reasonable and prudent costs incurred for adoption and implementation of demand-side management and energy efficiency measures adopted and implemented after January 1, 2007. The Commission must assign the costs of measures only to the class of customers that directly benefit from the measures. No costs of demand-side management or energy efficiency programs would be assigned to an industrial customer that has or will implement its own demand-side management and energy efficiency measures. Recoverable costs would include all capital costs, including cost of capital and depreciation expenses, administrative costs, implementation costs, incentive payments to program participants, and operating costs.

The demand-side management and energy efficiency measures provisions became effective August 20, 2007. The cost recovery provisions for demand-side management and energy efficiency measures apply only to costs that are incurred on and after August 20, 2007.

Amend Cost Recovery Procedures for Electric Power Suppliers. – The following cost recovery provisions become effective January 1, 2008:

Recovery of Additional Costs under the Annual Fuel Charge. –The act shifts the recovery of certain costs incurred by an electric public utility from recovery through the rate base to recovery through the annual fuel charge adjustment. The new costs that are recoverable under this provision are:

- The cost of ammonia, lime, limestone, urea, dibasic acid, sorbents, and catalysts consumed in reducing or treating emissions. These costs will be adjusted for gains or losses resulting from the sale of by-products produced in the generation process.
- The total delivered non-capacity related costs, including all related transmission charges, of all purchases of electric power by the electric public utility.
- The capacity costs associated with purchases of electric power from qualifying cogeneration facilities and qualifying small power production facilities.
- Except for those costs recovered pursuant to the new REPS requirement statute, the total delivered costs of purchases of power from renewable energy facilities and new renewable energy facilities pursuant to the REPS requirement or any similar federal requirement.
- Cost recoverable under the fuel charge would be adjusted for gains or losses resulting from the sale of fuel, and other fuel related costs components.

The fuel clause amendments apply only to fuel and fuel related costs incurred on and after January 1, 2008.

Ongoing Review of Construction Costs and Inclusion of Construction Costs in Rates. –

Prior to this act, an electric public utility was responsible for bearing the construction costs of a generating facility until the facility began operation. In the first general rate case after the facility went into service, if the Commission found the facility to be used and useful, the total facility costs, excluding any imprudently incurred costs, were included in rates charged to customers. There was one exception to this system of construction cost recovery; prudently incurred expenses for construction work in progress may have been included in the rate base if the Commission finds that it was in the public interest and necessary to the utility's financial stability. If a facility was abandoned before it was completed, the Commission could authorize the electric public utility to recover the costs of the incomplete facility, excluding any imprudently incurred costs, by amortizing these costs over a period of years, with no return on the unamortized balance.

This act alters these procedures for construction cost recovery as follows:

- A certificate for the construction of a coal or nuclear facility will be granted only if the applicant demonstrates and the Commission finds that energy efficiency measures, demand side management, renewable energy resource generation, combined heat and power generation, or any combination of these, will not create a more cost-effective and reliable generation system and that the construction and operation of such a facility is in the public interest.
- Once a construction certificate has been granted by the Commission, a public utility may not cancel construction of a generating facility without receiving approval from the Commission. If the Commission finds that completion of the generating facility is no longer in the public interest, the Commission may modify or revoke the certificate.
- A public utility must submit an annual progress report on construction to the Commission, including any revisions in the cost estimate for the construction. The Commission may conduct an ongoing review of construction of the facility. If the Commission disapproves any part of the revised cost estimate or finds that the incurrence of the cost of that portion of the construction of the facility then under review was unreasonable or imprudent, the Commission may modify or revoke the certificate.
- The public utility will recover through rates in a general rate case the actual costs it has incurred in constructing a generating facility in reliance on a construction certificate as provided below, unless new evidence is discovered (i) that could not have been discovered by due diligence at an earlier time and (ii) that reasonably tends to show that a previous determination by the Commission that a material item of cost had been just and reasonable and prudently incurred was erroneous.
 - Whether under construction or completed, if the construction of the facility:

- Has been subject to ongoing review, the reasonable and prudent costs of construction approved by the Commission during the ongoing review will be included in the public utility's rate base.
- Has not been subject to ongoing review, the costs of construction will be included in the public utility's rate base if the Commission finds that the incurrence of these costs is reasonable and prudent.
- If the construction of a facility is cancelled and the facility:
 - Has been subject to ongoing review, the public utility will recover through rates in a general rate case the costs of construction approved by the Commission during the ongoing review that were actually incurred prior to cancellation, amortized over a reasonable time as determined by the Commission. The public utility will have the burden of proof to demonstrate that the material item of cost was in fact just and reasonable and prudently incurred. In the general rate case, the Commission will make any adjustment that may be required.
 - Has not been subject to ongoing review, the public utility will recover through rates in a general rate case the costs of construction that were actually incurred prior to cancellation and are found by the Commission to be reasonable and prudent, amortized over a reasonable time as determined by the Commission. In the general rate case, the Commission will make any adjustment that may be required.

The public utility has the burden of proof to demonstrate that the material item of cost was in fact just and reasonable and prudently incurred.

Recovery of Construction Costs for Out-of-State Electric Generating Facilities and Project Development Costs for Nuclear Facilities. – The act provides that upon petition by a public utility, the Commission would determine the need for and, if need is established, approve an estimate of the construction costs and construction schedule for an electric generating facility in another state. The construction cost estimate and the recovery of costs through a general rate case will be governed by the provisions that apply to facilities built in the State.

The act also provides for the treatment of project development costs for a nuclear facility as follows:

- The act defines "project development costs" as all capital costs associated with a potential nuclear electric generating facility, including the costs of evaluation, design, engineering, environmental analysis and permitting, early site permitting, combined operating license permitting, initial site preparation costs, and allowance for funds used during construction associated with such costs.
- A public utility may request that the Commission review the public utility's decision to incur project development costs for the construction of a nuclear electric generating facility. The Commission will approve the public utility's decision to incur project development costs if the public utility demonstrates by a preponderance of evidence that the decision to incur project development costs is reasonable and prudent.
- All reasonable and prudent project development costs, as determined by the Commission, incurred for the potential nuclear electric generating facility will be included in the public utility's rate base and will be fully recoverable through rates in a general rate case. If the public utility is allowed to cancel the project, the Commission will permit the public utility to recover all reasonable and prudently incurred project development costs in a general rate case amortized over a period equal to the period during which the costs were incurred, or five years, whichever is greater.

Recovery of Construction Work in Progress. – The act changes the standard by which the Commission may include construction work in progress in rates. Prior to this act, construction work in progress could be included only if the Commission determined that inclusion is in the public interest and necessary to the financial stability of the utility. The act allows inclusion of

construction work in progress if the construction is subject to ongoing review and Commission determines that expenditures are reasonable and prudent.

Adjust the public utility and electric membership corporation regulatory fees.

– The act provides that the percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is 0.12% for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 2007. The act also provides that the electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the 2007-2008 fiscal year is \$200,000. The adjustment in the public utility and electric membership corporation regulatory fees became effective July 1, 2007.

Phase out of sales taxes paid by farmers and manufacturers on electricity, piped natural gas, and other fuels. – phases out the current sales tax rate of 2.83% on sales of electricity to manufacturing industries and manufacturing plants for use in connection with their operation and to farmers to be used by them for farming purposes as follows:

- Effective October 1, 2007, reduces the rate from 2.83% to 1.8%.
- Effective July 1, 2008, reduces the rate from 1.8% to 1.4%.
- Effective July 1, 2009, reduces the rate from 1.4% to 0.8%.
- Effective July 1, 2010, exempts these sales from tax.

The act phases out the tax imposed on piped natural gas received by a manufacturer for use in connection with the operation of the manufacturing facility and on piped natural gas received by a farmer to be used for any farming purpose, other than preparing food, heating dwellings, and other household purposes. The phase out occurs from October 1, 2007, through July 1, 2010.

S.L. 2007-397 phases out the privilege tax imposed on a manufacturing industry or plant that purchases fuel to operate the industry or plant by reducing the tax rate as follows:

- Effective October 1, 2007, reduces the rate from 1% to 0.7%.
- Effective July 1, 2008, reduces the rate from 0.7% to 0.5%.
- Effective July 1, 2009, reduces the rate from 0.5% to 0.3%.
- Effective July 1, 2010, reduces the rate from 0.3% to 0.0%.

Establish renewable energy tax credit. – G.S. 105-129.16A provides a tax credit for investing in renewable energy property. This tax credit is not used by a nonprofit corporation that invests in renewable energy property, because the nonprofit organization does not owe any tax. THE ACT allows this tax credit to a taxpayer that makes an eligible contribution to a nonprofit organization organized under section 501(c)(3) of the Internal Revenue Code. An eligible contribution is a contribution designated by the taxpayer to be used for investing in renewable energy property and used by the nonprofit organization for investing in renewable energy property.

Renewable energy property includes the following machinery and equipment or real property:

- Biomass equipment that uses renewable biomass resources for biofuel production of ethanol, methanol, and biodiesel; anaerobic biogas production of methane utilizing agricultural and animal waste or garbage; or commercial thermal or electrical generation from renewable energy crops or wood waste materials. Renewable biomass resources are organic matters produced by terrestrial and aquatic plants and animals, such as standing vegetation, forestry and agricultural residues, landfill wastes, and animal wastes.
- Hydroelectric generators.
- Solar energy equipment.
- Wind equipment.

The tax credit is effective for taxable years beginning on or after January 1, 2008.

Severability Clause. – The act provides that if any section or provision of the act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of the act as a whole or any part of the act, other than the unconstitutional or invalid part. (GG, JH)

State Diesel Vehicles' Warranties/B-20 Fuel

S.L. 2007-420 ([SB 1277](#)). See **Transportation**.

Diesel School Buses to Use Minimum B-20 Fuel

S.L. 2007-423 ([SB 1452](#)) requires that certain school buses used to transport school children in North Carolina that are capable of using diesel fuel be capable of using diesel fuel with a minimum biodiesel fuel concentration of B-20 (defined as a blend of 20% biodiesel fuel and 80% petroleum-based diesel fuel). The act also requires that at least 2% of the total volume of fuel purchased annually for these buses be a minimum blend of B-20, to the extent that biodiesel fuel is available and compatible with the vehicles being used. This act applies to buses purchased by the State Board of Education, buses purchased by local boards of education, and buses purchased by private companies that contract to transport public school children.

This act becomes effective June 1, 2008, and applies to vehicles transferred or purchased on or after that date. (JM)

Community Colleges/Participate in Energy Loan Program

S.L. 2007-476 ([HB 177](#)). See **Education**.

Conserve Energy/Insulate Hot Water Plumbing

S.L. 2007-542 ([HB 1702](#)) provides that the North Carolina Building Code Council (Council) may consider adopting rules concerning energy efficiency that require all hot water plumbing pipes that are larger than ¼ inch to be insulated. This act requires the Council to study the extent to which hot waterlines should be insulated to achieve greater energy efficiency and to amend the North Carolina State Building Code as necessary to achieve those ends. The Council must report its findings and actions to the Environmental Review Commission and the 2008 General Assembly on or before April 1, 2008.

The provision of the act that requires the Council to report its findings became effective August 31, 2007. The provision of the act that authorizes the Council to consider adopting rules concerning energy efficiency becomes effective January 1, 2008, and applies to all new construction for which permits are issued on or after that date. (JM)

Energy Conservation in State Buildings

S.L. 2007-546 ([SB 668](#)) promotes the conservation of energy and water use in State, university, and community college buildings. The act requires new State, university, and community college buildings and major renovations of these buildings to be designed, constructed, and certified in accordance with specified energy and water efficient construction standards and prohibits the State from purchasing buildings that did not meet applicable energy efficiency standards at the time of construction or renovation. New terms defined in this act include:

- **ASHRAE** means the American Society of Heating, Refrigerating and Air Conditioning Engineers.
- **Major facility** means a construction project, funded in whole or in part by the State, larger than 20,000 gross square feet of occupied or conditioned space or a building renovation project when the cost is greater than 50% of the insurance value and the project is larger than 20,000 gross square feet of occupied or conditioned space.

Sustainable Energy Efficient Buildings Program. – The act establishes the Sustainable Energy Efficient Buildings Program (Program) to require all major facility projects to be designed, constructed, and certified to at least 30% greater energy efficiency standards than ASHRAE 90.1-2004, and all major renovations to be at least 20% greater energy efficiency than ASHRAE 90.1-2004. The act provides that:

- Water systems must be designed and constructed to use 20% less potable water than the indoor water use baseline after meeting the 2006 North Carolina Plumbing Code. Outdoor potable water or harvested ground water consumption must be reduced by 50% over conventional means. These provisions apply only to major facility projects that have not yet entered the schematic design phase.
- Public agencies must monitor and document ongoing operating savings and report annually to the State Construction Office of the Department of Administration (Department) on these savings. If the average building energy or water consumption over 2 years following beneficial occupancy is 85% or less than the performance goals established by the applicable standards, the designer, owner agency, contractor, Construction Manager at Risk, and commissioning agent must investigate, determine the cause of the shortfall, and recommend corrections or modifications to meet the performance goals.
- The required reports on ongoing operating savings and any report from the State Building Commission regarding the ASHRAE 90.1-2004 standard are to be consolidated by the Department into one report by November 1 of each year beginning in 2008 and submitted to the General Government Appropriations Subcommittees of the Senate and the House of Representatives, the Environmental Review Commission, and the Joint Legislative Commission on Governmental Operations. This consolidated report must include recommendations on the ongoing implementation of the Program, including a discussion of incentives and disincentives related to implementing the Program.

The act also:

- Establishes guidelines for administering the Program and authorizes the Department to develop and issue policies and technical guidelines to implement the Program for public agencies.
- Provides that public agencies may hold a preproposal conference for prospective bidders to discuss the standards. The Department also must create a sustainable, energy efficient buildings advisory committee to provide advice on the implementation of the Program, including recommendations regarding an education and training process for the Program and water and energy efficiency requirements.
- Requires that, after reviewing the committee's recommendations, the Department must develop levels of education and training requirements suitable for each of the following positions: (i) the chief financial officer of a public agency; (ii) the facility manager of each public agency responsible for the payment of the agency's utilities; (iii) the capital projects coordinator of a public agency; and (iv) architects and mechanical design engineers involved in the design of projects under the Program.

The act provides that when the Department, public agency, and the design team determine that the ASHRAE 90.1-2004 standard is not practicable for a major facility project, the State Building Commission (Commission) must determine if the standard is not practicable and, if not, which standard is practicable for the design and construction for that major facility project. If ASHRAE 90.1-2004 is not followed, the public agency and the Commission must include this information and the reasons to the Department in the required Program report. This act also requires the Department to determine whether other standards would better fulfill the intent of the Program. The Department also is specifically charged with following the development of improved energy standards by ASHRAE and whether these standards or any other standard is adopted by the State Building Code Council. The Department must report to the General Government Appropriations Subcommittees of the Senate and the House of Representatives, the

Environmental Review Commission, and the Joint Legislative Commission on Governmental Operations on the result of its monitoring no later than January 1, 2009, and again on or before January 1, 2010.

The act requires the Department to conduct a performance review of the Program's costs, savings, impacts on employee productivity, and effectiveness and to submit a preliminary report no later than December 1, 2010, and a final report no later than December 1, 2011, to the General Government Appropriations Subcommittees of the Senate and the House of Representatives, the Environmental Review Commission, and the Joint Legislative Commission on Governmental Operations. The act prohibits State agencies from purchasing any building, or a building that has had a major renovation, that was not designed and constructed to meet energy efficiency standards of a comparable State building or renovation of a State building in effect at the time the building was constructed or renovated. This prohibition does not apply to the purchase of a building having historic, architectural, or cultural significance or to buildings acquired by devise or bequest.

Implementation of Energy Conservation Measures. – The act requires the Department to administer and oversee the implementation of a program fully implementing the energy conservation measures in each State, university, and community college building no later than December 31, 2009. "Energy conservation measure" means a facility alteration, training, or services related to the operation of a facility, when the alteration, training, or services provide anticipated energy savings. Energy conservation measures that would be implemented under this act include all of the following:

- Lighting system changes.
- Water system changes.
- Review of heating, ventilation, and air-conditioning (HVAC) replacement equipment and training to ensure installation of programmable automated HVAC building systems is done properly.
- Review of minor motorized equipment subject to replacement to ensure replacement equipment has premium efficiency motors.
- The following retrofits that require no significant expenditure of funds:
 - Disconnection of drink vending machine lamps.
 - Use of power save features on office equipment.
 - Purchase of Energy Star equipment and appliances.

Develop/Update Standards. – The act requires the Department to develop or revise its architectural and engineering standards by February 1, 2008, to provide assistance in determining which energy conservation measures are best suited to the unique characteristics of each building. The Department must report to the Joint Legislative Commission on Governmental Operations and the Environmental Review Commission on its progress no later than February 1, 2008.

The requirements for the implementation of energy, water, or other utility conservation measures under this act do not apply for properties eligible for, nominated to, or entered on the National Register of Historic Places, pursuant to the National Historic Preservation Act of 1966.

Authority and Duties of State Agencies. – The act amends the statutes governing the authority and duties of State agencies to require the Department to develop a comprehensive program to manage energy, water, and other utility use and update the program annually. The energy consumption per gross square foot for all State buildings in total must be reduced by 20% by 2010 and 30% by 2015 compared to the 2003-2004 baseline. State agencies and universities must annually implement and update a management plan that is consistent with the State's program under this section. Each community college must submit an annual written report to the State Energy Office on its utility and consumption costs.

The Department, as part of the existing Facilities Condition and Assessment Program, must develop an energy audit and a procedure for conducting energy audits. Every five years, the Department must conduct an energy audit for each State agency or university facility. When conducting an energy audit, the Department must identify and recommend any State or

institution of higher learning facility as suitable for building commissioning to reduce energy consumption or suitable for the installation of an energy savings measure pursuant to a guaranteed energy savings contract. The Department may adopt architectural and engineering standards to meet this requirement.

The act requires the Department to establish and train an additional team to examine existing facilities of State agencies and State institutions of higher learning to identify and recommend energy conservation maintenance and operating procedures designed to reduce energy consumption, to conduct energy audits, and to identify facilities that are suitable for the installation of an energy savings measure under the Facilities Condition and Assessment Program.

Life-Cycle Cost Analysis. – The act amends laws to require a life-cycle cost analysis to commence at the schematic phase of the construction or renovation project and be updated or amended at the design development phase and the construction document phase. The State agency, university, or community college must submit the life-cycle cost analysis to the Department for certification at the schematic phase and again when it is updated or amended as needed.

The provisions of the act concerning the Sustainable Energy Efficient Buildings Program become effective October 1, 2008, and expires October 1, 2010. These provisions apply to contracts for the design of major facility projects that are entered into on or after October 1, 2008. The provisions of this act concerning life-cycle cost analysis apply to life-cycle cost analyses commenced, and contracts entered into for life-cycle cost analyses, on or after December 1, 2007. All other provisions of this act became effective August 31, 2007. (JH, JM)

Solid/Hazardous Waste

Hazardous Materials Task Force Recommendations

S.L. 2007-107 ([HB 36](#)) makes the following changes to improve the oversight of hazardous waste facilities as recommended by the Governor's Hazardous Materials Task Force:

- Imposes additional requirements applicable to hazardous waste facilities as follows:
 - Requires applicants for permits for commercial hazardous waste facilities to demonstrate financial responsibility for corrective action and for screening for potential off-site migration of contamination in the event of a release of hazardous waste or hazardous waste constituents into the environment. The provision also: (i) clarifies the methods by which an applicant or permit holder can establish financial assurance; (ii) clarifies who, in addition to an applicant or permit holder, is a guarantor of payment for closure, etc.; (iii) provides that assets used to meet financial assurance requirements must be in a form readily accessible to the Department of Environment and Natural Resources (DENR), and inaccessible to the permit holder except as approved by the Department; and (iv) authorizes DENR to submit an applicant's filings pertaining to financial responsibility to the State Treasurer for review and recommendations. This section became effective October 1, 2007.
 - Requires applicants for permits for hazardous waste facilities to seek input from local government and emergency response agencies on their contingency plans for the facilities. This section became effective June 26, 2007.
 - Requires operators of commercial hazardous waste facilities to maintain certain information at an off-site location and make the information accessible to DENR, local government, and emergency response agencies that have a role under contingency plans. This section became effective October 1, 2007.
 - Requires an applicant for a permit for a commercial hazardous waste facility to notify persons who reside or own property located within 1/4 mile of the proposed facility that an application has been filed, requires permit holders to

provide periodic notice to these persons that includes information concerning the emergency response plan for the facility, and requires that documentation of these notices be provided to DENR. This section became effective October 1, 2007.

- Requires DENR to consider, when determining the frequency of inspections at commercial hazardous waste facilities, changes in sensitive land use or population density that occurred during the previous year in the area located within one-fourth mile of any property boundary of such facilities. This section became effective June 26, 2007.
 - Requires commercial hazardous waste facilities to provide security and surveillance at the facility 24 hours a day, 7 days a week in order to monitor site conditions and to control entry to the site of the facility. This section became effective October 1, 2007.
 - Requires permits for commercial hazardous waste facilities to be subject to renewal at least every five years. This section became effective June 26, 2007.
 - Authorizes DENR to regulate facilities at which hazardous waste is stored for more than 24 hours, but less than 10 days, and directs DENR to study the need for further regulation of these facilities. This section became effective October 1, 2007.
 - Requires commercial hazardous waste facilities to install and maintain on-site wind monitors. This section became effective October 1, 2007.
 - Provides that a local zoning or land-use ordinance is presumed to be valid and enforceable to the extent the zoning or land-use ordinance imposes requirements, restrictions, or conditions that are generally applicable to development and requires the Office of the Governor to seek the advice of local units of government regarding the adequacy of current criteria the Secretary of Environment and Natural Resources must consider when deciding whether to preempt these local ordinances. This section became effective June 26, 2007.
- Authorizes State Medical Assistance Teams and the Epidemiology Section of the Division of Public Health of the Department of Health and Human Services (DHHS) to seek reimbursement for all reasonable deployment costs incurred in response to the release of hazardous material or hazardous waste into the environment. The act also directs the Department of Crime Control and Public Safety and DHHS to jointly study potential sources of permanent funding for the State Medical Assistance Teams.
 - Clarifies that municipal 911 data has the same confidentiality as county 911 data and that data contained in a reverse 911 emergency notification system is confidential.
 - Establishes a task force to review the State Building Code with respect to the regulation of facilities that store, treat, or dispose of hazardous materials. This section became effective July 1, 2007.
 - Requires DENR to establish a digital information exchange system for a hazardous chemicals inventory database. This section became effective July 1, 2007.
 - Requires DHHS to develop a model plan for public health response to events with a potential for chemical, biological, or radiological contamination. This section became effective July 1, 2007.
 - Authorizes the Board of Governors of The University of North Carolina to establish an Institute for Disaster Studies and authorizes The University of North Carolina to study the emission and transport of pollutants at fires at commercial hazardous waste facilities and the health and economic impacts of such fires. This section became effective July 1, 2007.
 - Makes clarifying, conforming, and technical changes to statutes governing hazardous waste.

Except as otherwise noted, the provisions of this act became effective June 26, 2007.

(GG, JLM)

Solid Waste Management Authority Property

S.L. 2007-131 ([HB 1456](#)). See **Local Government**.

Solid Waste Management Act of 2007

S.L. 2007-550 ([SB 1492](#)), as amended by S.L. 2007-543 ([SB 6](#)) does all of the following:

- Clarifies the circumstances under which the Department of Environment and Natural Resources (DENR) must deny a permit application for a solid waste management facility. This section became effective August 1, 2007, and applies to any application for a permit for a facility that is pending on that date.
- Provides that solid waste management permits are not transferable without the approval of DENR. This section became effective August 1, 2007.
- Increases the maximum penalties that may be imposed for nonhazardous and hazardous solid waste violations. This section became effective August 1, 2007, and applies to violations that occur on or after that date.
- Amends financial responsibility requirements for applicants and permit holders for solid waste management facilities as follows:
 - Adds definitions for "financial assurance," "financial qualification," and "financial responsibility." "Financial responsibility" encompasses both financial assurance and financial qualification.
 - With regard to financial responsibility, requires a permit holder to: (i) maintain financial responsibility in order to continue to hold a permit; (ii) provide any information requested by DENR concerning maintenance of financial responsibility; and (iii) notify DENR of any significant change in information that might affect financial responsibility. Based upon review of information provided, DENR may require a permit holder to reestablish financial responsibility and may modify or revoke a permit, or require issuance of a new permit.
 - "Financial qualification" refers to the ability of an applicant or permit holder to pay the costs of proper design, construction, operation, and maintenance of the facility. With regard to financial qualification, authorizes DENR, in its sole discretion, to require an applicant to:
 - Demonstrate its financial qualification for the design, construction, operation, and maintenance of a facility. If DENR requires a demonstration of financial qualification, the applicant or permit holder: (i) must provide an audited, certified financial statement; (ii) may do so through a combination of cash deposits, insurance, and binding loan commitments from a financial institution licensed to do business in the State and rated AAA by Standard & Poor's, Moody's Investor Service, or Fitch, Inc. If assets of a parent, subsidiary, or other affiliate of the applicant or a permit holder, or a joint venturer with a direct or indirect interest in the applicant or permit holder, are proposed to be used to demonstrate its financial qualification, then the party whose assets are to be used must be designated as a joint permittee with the applicant on the permit of the facility.
 - Provide cost estimates for site investigation; land acquisition, including financing terms and land ownership; design; construction of each five-year phase, if applicable; operation; maintenance; closure, and post-closure monitoring and maintenance of the facility to DENR.
 - "Financial assurance" refers to the ability of an applicant or permit holder to pay the costs of assessment and remediation in the event of a release of pollutants from a facility, closure of the facility in accordance with all applicable

requirements, and post-closure monitoring and maintenance of the facility. With regard to financial assurance:

- Requires an applicant and permit holder to establish financial assurance by a method or combination of methods that will ensure that sufficient funds for closure, post-closure maintenance and monitoring, and any corrective action that DENR may require, will be available during the active life of the facility, at closure, and for any post-closure period of time that DENR may require.
- The applicant or permit holder may establish financial assurance through insurance, irrevocable letters of credit, trusts, surety bonds, or any other financial device, or any combination of the foregoing, shown to provide protection equivalent to the financial protection that would be provided by insurance if insurance were the only mechanism used.
- Assets used to meet financial assurance requirements must be in a form readily accessible to DENR and inaccessible to the permit holder, except as approved by DENR.
- Requires that the owner or operator of a sanitary landfill establish financial assurance sufficient to cover a minimum of \$3 million in costs for potential assessment and corrective action at the facility, and gives DENR discretion to require financial assurance in a higher amount or increase the amount at any time based upon the types of waste disposed in the landfill, the projected amount of waste to be disposed in the landfill, the location of the landfill, potential receptors of releases from the landfill, and inflation. This provision applies to the owner or operator of a sanitary landfill when the permit is next subject to renewal after August 1, 2009.
- Authorizes the Commission for Health Services to adopt rules to allow a unit of local government or solid waste management authority to meet the financial responsibility requirements by either a local government financial test or a capital reserve fund requirement.
- Except as otherwise noted, these provisions concerning financial responsibility became effective August 1, 2007, and apply to any application for a permit for a solid waste management facility that is pending on that date.
- Clarifies and expands the scope of environmental compliance review requirements. This section became effective August 1, 2007, and applies to any application for a permit for a solid waste management facility that is pending on that date.
- Clarifies that a parent, subsidiary, or other affiliate of the applicant or parent, including any person with a direct or indirect interest in the applicant (other than a minority shareholder of a publicly traded corporation who has no involvement in the management or control of the corporation), is subject to financial responsibility and environmental compliance review. This provision became effective August 1, 2007, and applies to any application for a permit for a solid waste management facility that is pending on that date.
- Provides for siting of combustion products landfills in areas that formerly have been used for the storage or disposal of combustion products from coal-fired generating units at the same facility that generated the combustion products and technical requirements, including a double liner system, for these landfills. This section became effective August 1, 2007. Any permit issued for a combustion products landfill as described in this section will, for purposes of this provision, be considered to have been permitted on property described in a solid waste management facility permit that is in effect on August 1, 2007.
- Specifies additional technical requirements for solid waste management facilities. The act requires:

- DENR to conduct a study of environmental impacts (EIS) from the proposed facility and requires the applicant to pay all costs incurred by DENR in connection with the study.
- A buffer of at least 200 feet between any perennial stream or wetland and the nearest waste disposal unit of a sanitary landfill, except in certain circumstances.
- A sanitary landfill for the disposal of construction and demolition debris to be constructed with a liner system that consists of a flexible membrane liner over two feet of soil of specified permeability.
- A sanitary landfill to be constructed so that the post-settlement bottom elevation of the liner system, or the post-settlement bottom elevation of the waste if no liner system is required, is a minimum of four feet both above the seasonal high groundwater table and the bedrock datum plane contours.
- With respect to any sanitary landfill for which a liner is required, additional requirements for testing of geomembrane base liner systems for leaks and damage, and design and maintenance of leachate collection systems, lines, and pipes.
- A permit holder for a sanitary landfill to develop and implement a waste screening plan to ensure compliance with State laws and rules and any applicable local ordinances that prohibit the disposal of certain items in landfills.

The act prohibits:

- Construction of a waste disposal unit of a sanitary landfill in: A 100-year floodplain, except as authorized by variance; or a wetland, except in certain circumstances.
- Construction of a waste disposal unit of a sanitary landfill if, at the earlier of (i) the acquisition by the applicant or permit holder of the land or of an option to purchase the land on which the waste disposal unit will be located, (ii) the application by the applicant or permit holder for a franchise agreement, or (iii) at the time of the application for a permit, any portion of the proposed waste disposal unit would be located within five miles of the outermost boundary of a National Wildlife Refuge, one mile of the outermost boundary of a State gameland, or two miles of the outermost boundary of a component of the State Parks System. This provision (i) became effective August 1, 2007, and applies to any application for a permit for a solid waste management facility that is submitted on or after that date; and (ii) applies to any application for a permit for a solid waste management facility that is pending on August 1, 2007, on the basis of the boundaries of an applicable National Wildlife Refuge, State gameland, or component of the State Parks System as of August 1, 2007.
- Issuance of a permit for a sanitary landfill that authorizes: (i) a capacity of more than 55 million cubic yards of waste; (ii) a disposal area of more than 350 acres; and (iii) a maximum height, including the cap and cover vegetation, of more than 250 feet above the mean natural elevation of the disposal area.

The section pertaining to additional technical requirements for solid waste management facilities became effective August 1, 2007, and, with certain exceptions as set forth in the act, applies to any application for a permit for a solid waste management facility that is pending on that date.

- Requires that applicants for a permit for a sanitary landfill or for a transfer station conduct a traffic study of the impacts of the proposed facility. This section became effective August 1, 2007, and, with certain exceptions as set forth in the act, applies to any application for a permit for a solid waste management facility that is pending on that date.
- Clarifies the circumstances under which a unit of local government may collect a solid waste availability fee. This section became effective August 1, 2007.

- Authorizes units of local government to hire landfill liaisons. This section became effective August 1, 2007.
- Establishes a schedule of fees applicable to permits for solid waste management facilities to support the solid waste management program. Requires DENR to issue a draft permit decision on an application for a permit subject to a fee within one year after DENR determines the application is complete. This section became effective on August 1, 2007, and applies to any application for a permit for a solid waste management facility that is pending on that date, except that during the period August 1, 2007, through August 1, 2008, DENR must determine whether an application or a permit for a solid waste management facility is complete within 270 days after DENR receives the application for the permit.
- Establishes a solid waste disposal tax of \$2.00 per ton of waste to be imposed on the disposal of municipal solid waste in landfills in the State and on the transfer of municipal solid waste for disposal outside the State in order to provide funds for: (i) 50% for the assessment and remediation of pre-1983 landfills; (ii) 18.75% to cities in the State on a per capita basis and 18.75% to counties in the State on a per capita basis, to be used by a unit of local government solely for solid waste management programs and services. Under this provision, persons who reside within a city would not be counted in the population of the county or counties in which the city is located; and (iii) 12.5% grants to State agencies and units of local government to initiate or enhance local recycling programs and to provide for the management of difficult to manage solid waste, including abandoned mobile homes and household hazardous waste.

One designated use of the funds is remediation of pre-1983 landfills ("orphan" landfills.) The act requires the Secretary of Environment and Natural Resources to assess these landfills, determine their priority for remediation, and to develop and implement a remedial action plan for each landfill that requires remediation. The act provides that with regard to these landfills, the Secretary may not seek cost recovery: (i) from a local government for assessment and remedial action performed; and (ii) from any other potentially responsible party if the Secretary develops and implements a remedial action for the site. If any potentially responsible party fails to cooperate with the assessment and implementation of control and mitigation measures, the Secretary may seek cost recovery for assessment and remedial action. The Secretary will develop and implement a remedial action plan only if funds are available to pay the cost of implementation.

This section becomes effective July 1, 2008.

- Enacts provisions related to the recycling of discarded computer equipment. The act:
 - Requires each manufacturer of computer equipment sold in the State to:
 - Register with DENR.
 - Pay a \$10,000 initial registration fee and a \$1,000 annual renewal registration fee. The proceeds of the fees will be credited to the Computer Equipment Management Account, a non-reverting account established within DENR. A manufacturer of computer equipment that sells 1,000 items of computer equipment or less per year is exempt from the requirement to pay these fees. This provision becomes effective January 1, 2009.
 - Submit a plan to DENR for the recycling or reuse of computer equipment produced by the manufacturer and discarded by households in the State. This provision becomes effective October 1, 2009.
 - Pay all costs associated with the development and implementation of its plan. This provision becomes effective January 1, 2009.
 - Submit a report to the Department by January 31 of each year. This provision becomes effective February 1, 2011.

- Requires computers sold in the State to include a label identifying the manufacturer. This provision becomes effective January 1, 2009.
 - Allows manufacturers to participate in collective recovery plans with other manufacturers. This provision becomes effective January 1, 2009.
 - Prohibits manufacturers not in compliance with requirements from selling computer equipment to the State and to political subdivisions of the State. This provision becomes effective July 1, 2009.
 - Requires DENR to: (i) develop and maintain a list of manufacturers in compliance with the applicable provisions; (ii) develop and implement a public education program on recycling of discarded computer equipment and provide technical assistance to local governments and manufacturers; and (iii) submit a report on the recycling of discarded computer equipment to the Environmental Review Commission no later than April 1st of each year. This section becomes effective January 1, 2009.
 - Requires computer equipment collectors that participate in the program to ensure that discarded computer equipment is consolidated at central locations, properly stored, and either held for pickup by a manufacturer or delivered to a facility designated by a manufacturer. This section becomes effective January 1, 2010.
- Directs DENR to develop a proposal for a recycling program for fluorescent lamps.
 - Directs the ERC to study issues related to the franchise of solid waste management facilities by units of local government and issues related to transportation of solid waste by rail or barge.
 - Provides that an applicant for a permit for a sanitary landfill may be eligible for reimbursement of the reasonable costs of preparation of a permit application incurred prior to August 1, 2006, if the permit would be denied as a result of the required setbacks for solid waste management facilities from National Wildlife Refuges, State gamelands, and components of the State Parks System.

To be eligible for reimbursement under this provision, the applicant must submit a request to DENR for reimbursement no later than December 31, 2007, that demonstrates all of the following:

- The application for a permit to construct a sanitary landfill was submitted to DENR on or before August 1, 2006.
- The applicant obtained a landfill franchise from the local government with jurisdiction over the site of the proposed landfill on or before August 1, 2006.
- DENR did not grant the permit application in whole or in part.
- DENR did not deny the permit application before August 1, 2007.
- The applicant did not withdraw the permit application before August 1, 2007.
- That the applicant had a reasonable expectation that the application for a permit would have been approved but for the enactment of the required setbacks for solid waste management facilities from National Wildlife Refuges, State gamelands, and components of the State Parks System.

The costs eligible for reimbursement are those that are necessary for the preparation of the permit application and that are reasonably incurred. These costs may include site studies, facility plans, construction and engineering plans, construction quality assurance plans, geologic and hydrologic investigations, operation plans, wildlife or wildlife management studies, closure and post-closure plans, information required by DENR to satisfy financial assurance and financial responsibility requirements, and other information required by DENR in the permit review. These costs also may include the reasonable fees of environmental consultants, engineers, geologists, other professionals whose services were necessary to prepare the permit application or to respond to information requests

from DENR, and legal costs to obtain a landfill franchise or other approval from the local government with jurisdiction over the site of the proposed sanitary landfill.

Costs not eligible for reimbursement include the costs of acquiring interests in land for construction of the proposed sanitary landfill or legal or lobbying costs incurred in attempting to influence an administrative or legislative body.

DENR must review a request for reimbursement and notify the applicant and the Secretary of Revenue of the costs approved for reimbursement under this provision. The Secretary of Revenue must reimburse the approved costs from the proceeds of the solid waste disposal tax subject to availability of funds.

The act also provides that an applicant for a permit for a sanitary landfill who accepts reimbursement of costs under this section waives the right to seek reimbursement of those costs under any other provision of law and requires that, prior to receiving any reimbursement, the applicant must execute a covenant not to sue the State of North Carolina or any political subdivision of the State for any costs as described in the act.

These provisions pertaining to reimbursement of applicants for permits for sanitary landfills became effective August 31, 2007.

- Provides that if any section or provision of the act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision would not affect the validity of the act as a whole or any part of the act other than the part declared to be unconstitutional or invalid.

Except as otherwise noted, the provisions of this act became effective August 31, 2007.
(GG, JLM)

Water Quality/Quantity/Groundwater

Clean Water Grants

S.L. 2007-185 ([HB 1370](#)) provides that a planning grant or technical assistance grant made by the Clean Water Management Trust Fund for a regional wastewater collection system or a regional wastewater treatment works is not subject to the high-unit-cost threshold. High-unit-cost projects result in an estimated average household user fee for water and sewer service in the area served by the project in excess of the high-unit-cost threshold. High-unit-cost threshold is defined as either 1.5% of the median household income in an area that receives both water and sewer service or 3/4 % of the median household income in an area that receives only water or only sewer service.

This act became effective July 5, 2007, and applies to applications for planning grants and technical assistance grants received by the Clean Water Management Trust Fund on or after January 1, 2007. (JM)

Limit Impervious Surfaces for Vehicle Parking

S.L. 2007-323, Sec. 6.22(a) ([HB 1473](#), Sec. 6.22(a)) amends stormwater runoff rules and programs by requiring that any area designed for use as a vehicle parking area, except for covered vehicle parking areas or multilevel vehicle parking areas, not exceed 80% built-upon area, as defined in S.L. 2006-246. The remaining area designed for use as a vehicle parking area must meet:

- Design requirements for a permeable pavement system, as determined in guidance documents prepared by the Department of Environment and Natural Resources (Department).

- Other design requirements for stormwater management approved by the Department, including, but not limited to, the use of (i) grass and other pervious surfaces and (ii) bioretention ponds, cisterns, and other water retention devices.

This section becomes effective October 1, 2008, and applies to any area designed to be used for vehicular parking for which an application for a building permit, a request for a zoning reclassification, or a subdivision plat is filed in the city or county in which the area is located on or after that date. (JM)

Bernard Allen Memorial Emergency Drinking Water Fund

S.L. 2007-323, Secs. 12.2(a) and 12.2(b) ([HB 1473](#), Secs. 12.2(a) and 12.2(b)) make clarifying and substantive amendments to the Emergency Drinking Water Fund (Fund). The Fund is renamed the "Bernard Allen Memorial Emergency Drinking Water Fund" under the control and direction of the Department of Environment and Natural Resources (Department). The Fund is a nonreverting, interest-bearing fund consisting of monies appropriated by the General Assembly or made available to the Fund from any other source and investment interest credited to the Fund. Improved springs are added to the sources of drinking water covered by the Fund. The Fund may be used by the Department to pay the costs of testing private drinking water wells and improved springs for suspected contamination up to once every three years and for the provision of alternative drinking water supplies to persons whose drinking water well or improved spring is contaminated. Alternative drinking water supply includes the repair or replacement of a contaminated well or the connection to a public water supply.

The Fund may not be used to provide:

- Alternative water supply to households with incomes greater than 300% of the federal poverty level.
- Alternative drinking water supplies unless the concentration of one or more contaminants in the private drinking water well or improved spring exceeds the Maximum Contaminant Level, or the federal drinking water action level as defined in the Code of Federal Regulations.
- Temporary water supplies in any calendar quarter until all needs for permanent replacement water supplies that have been identified in that calendar quarter have been met through hookups to public water supplies, repair, or replacement of contaminated wells. The provision of permanent replacement water supplies must be given preference over the provision of temporary water supplies.

The Department, in consultation with the Commission for Health Services and local health departments, must report no later than October 1 of each year, beginning in 2008, to the Environmental Review Commission, the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources, and the Fiscal Research Division on the implementation of these sections. The report must include the purpose and amount of all expenditures from the Fund during the prior fiscal year, a discussion of the benefits and deficiencies of the Fund, and may include recommendations for any legislative action.

This section became effective July 1, 2007. (JM)

Nutrient Offset Program Transition

S.L. 2007-438 ([HB 859](#)) provides for the transition of the Nutrient Offset Payment Program from a fee-based program to a program based on the actual costs of providing nutrient offsets.

Background. – During the 1999 Regular Session, the General Assembly established the Riparian Buffer Protection Program to provide alternatives for persons who otherwise would be required to maintain riparian buffers. The General Assembly also directed the Environmental Management Commission (EMC) to establish a schedule of compensatory mitigation fees for the

program. In January 2006, the EMC adopted a revised schedule of compensatory mitigation fees. There were a number of concerns expressed about the amount of increase in these nutrient offset payment fees. In response, the General Assembly enacted legislation during the 2006 Short Session to establish temporary nutrient offset payment fees in lieu of the fee schedule adopted by the EMC and directed the Environmental Review Commission (ERC) to study issues related to the nutrient offset payment program. The ERC entered into a contract with Research Triangle Institute, International (RTI), to provide consultant services for a study of the costs associated with providing nutrient controls adequate to offset point source and nonpoint source discharges of nitrogen and other nutrients. The ERC received the final report from RTI in June of 2007. In the final report RTI recommended:

- A nutrient offset payment factor for nitrogen in the Neuse River Basin of \$25.77 per pound of nitrogen.
- A nutrient offset payment factor for nitrogen in the Tar-Pamlico River Basin of \$19.70 per pound of nitrogen.
- A nutrient offset payment factor for phosphorous in the Tar-Pamlico River Basin of \$26.02 per tenth of a pound of phosphorus.
- That a 10% fee be added to the nutrient offset payments to cover the costs of program administration.

The act establishes the following nutrient offset payment fees:

- For nitrogen in the Neuse River Basin, \$28.35 per pound of nitrogen.
- For nitrogen in the Tar-Pamlico River Basin, \$21.67 per pound of nitrogen.
- For phosphorous in the Tar-Pamlico River Basin, \$28.62 per tenth of a pound of phosphorous.

This fee schedule will expire September 1, 2009.

The act requires the Department of Environment and Natural Resources (DENR) to develop and implement a plan to transition the nutrient offset program from a fee-based program to a program based on the actual costs of providing nutrient credits no later than September 1, 2009. DENR will report on its progress in developing and implementing the new fee structure to the ERC on September 1, 2008, and March 1, 2009.

The act provides that nutrient offset credits may be obtained through nutrient offset projects provided by organizations that are not affiliated with DENR. This act also provides that nutrient offset projects must be located within the same eight digit Cataloging Unit, designated by the United States Geological Survey, in which the associated nutrient loading takes place.

This act became effective September 1, 2007, and applies to all nutrient offset payments. (GG, JH)

Amend Interbasin Transfer Laws

S.L. 2007-518 ([HB 820](#)) repeals the existing process and establishes a new process for applying for a certificate for an interbasin transfer and for determining whether such a certificate should be issued.

Study. – The Environmental Review Commission (ERC), with the assistance of the Department of Environment and Natural Resources (DENR), will study the allocation of surface water resources and their availability and maintenance in the State, including issues related to the transfer of water from one river basin to another and the withdrawal of water for consumptive use. The ERC may submit an interim report to the 2008 Regular Session of the General Assembly and will submit a final report of its findings and recommendations, including any legislative proposals, to the 2009 General Assembly.

The Division of Water Resources of DENR, in consultation with the ERC, will prepare a new river basin map that defines the extent to which river basins in North Carolina extend into adjacent states.

Certificate Required. – A person is required to obtain a certificate from the Environmental Management Commission (Commission) in order to transfer two million gallons of

water or more per day from one river basin to another. A petition to extend or renew a certificate is treated as a new petition.

Notice of Intent to File a Petition. – The notice requirements for obtaining a certificate are as follows:

- An applicant must prepare a notice of intent to file a petition that includes a nontechnical description of the applicant's request and identifies the proposed water source.
- Within 90 days of filing the notice of intent, the applicant must hold at least one public meeting in the source river basin upstream from the proposed point of withdrawal, at least one public meeting in the source river basin downstream from the proposed point of withdrawal, and at least one public meeting in the receiving river basin to provide information to interested parties and the public regarding the nature and extent of the proposed transfer and to receive comment on the scope of the environmental documents.
- The applicant must provide at least 30 days' notice of the public meetings by:
 - Publishing notice in the North Carolina Register.
 - Publishing notice in a newspaper of general circulation in many of the potentially affected areas in North Carolina and adjacent states.
 - Giving notice by first class mail to potentially affected state and local governments, water users in North Carolina and adjacent states, and persons who have requested notice.

Environmental Documents and Public Hearing. – An environmental assessment must be prepared for every petition for a certificate for an interbasin transfer, and an environmental impact statement must be prepared for every petition for a certificate for an interbasin transfer from one major river basin to another. An environmental impact statement must include a comprehensive analysis of the impacts that would occur in the source river basin and the receiving river basin if the petition for a certificate is granted. The environmental impact statement must also include an evaluation of alternatives to the proposed interbasin transfer and a description of measures to mitigate any adverse impacts that may arise from the proposed interbasin transfer.

Within 30 days of the completion of the draft environmental impact document, the Commission will hold a public hearing on it. Notice of the hearing on the draft environmental document will be given as provided for notice of intent to file a petition, except that notice will be given in the Environmental Bulletin rather than the North Carolina Register. The Commission may not act on the petition until the Commission determines that the environmental document is complete and adequate.

Petition. – An applicant for a certificate must petition the Commission. The petition must be in writing and contain information on the nature and extent of the transfer, including:

- A description of the facilities to be used to transfer the water; a description of the proposed uses of the water to be transferred.
- A description of water quality in the source and receiving river basins; a description of the water conservation measures used by the applicant.
- A description of all sources of water within the receiving river basin.
- A description of existing, planned, or reasonably foreseeable water transfers and withdrawals from the source river basin.
- A demonstration that the proposed transfer would not impair existing uses of water within the source river basin.
- The applicant's future water supply needs and the present and reasonably foreseeable future needs of other uses within the river basin, and the applicant's water supply plan.
- Any other information deemed necessary by the Commission.

Settlement Discussions. – Upon the request of the applicant, any interested party, or DENR, or upon its own motion, the Commission may appoint a mediation officer. The mediation

officer must make a reasonable effort to initiate settlement discussions between the applicant and all other interested parties.

Draft Determination and Public Hearing on the Draft Determination. – Within 90 days after the Commission determines that the environmental document is adequate or the applicant submits its petition for a certificate, whichever occurs later, the Commission will issue a draft determination on whether to grant the certificate. The draft determination will be based on the same criteria and include the same conditions and limitations, findings of fact, and conclusions of law that would be required in a final determination. Notice of the draft determination will be given as provided for notice of intent to file a petition. Within 60 days of the issuance of the draft determination, the Commission will hold a public hearing on the draft determination. At least one hearing will be held in the affected area of the source river basin and at least one hearing will be held in the affected area of the receiving river basin. The Commission will give at least 30 days' written notice of the public hearing as provided for notice of intent to file a petition.

Final Determination: Factors to be Considered. – In determining whether a certificate may be issued for the transfer, the Commission will consider specifically a number of factors, including:

- The necessity and reasonableness of the amount of surface water proposed to be transferred and its proposed uses.
- The present and reasonably foreseeable future detrimental effects on the source river basin; the cumulative effect on the source major river basin of existing and projected water transfer or consumptive water uses.
- The present and reasonably foreseeable beneficial and detrimental effects on the receiving river basin; all reasonable alternatives to the proposed transfer.
- Any other facts and circumstances that the Commission finds reasonably necessary to implement the interbasin transfer law.

Final Determination: Information to be Considered. – In determining whether a certificate may be issued for the transfer, the Commission will consider the petition, the environmental document, all oral and written comment submitted, the water quality of the source river basin and the receiving river basin, and any other information that the Commission determines to be relevant and useful.

Final Determination: Burden and Standard of Proof; Specific Findings. – The Commission will grant a certificate for a water transfer if the Commission finds that the applicant has established by a preponderance of the evidence that: The benefits of the proposed transfer outweigh the detriments of the proposed transfer; the detriments have been or will be mitigated to the maximum degree practicable; the amount of the transfer does not exceed the amount of the projected shortfall under the applicant's water supply plan after first taking into account all other sources of water that are available to the applicant; and there are no reasonable alternatives to the proposed transfer.

Final Determination: Certificate Conditions and Limitations. – The Commission may grant the certificate, in whole or in part, or deny the certificate. The Commission may impose any conditions or limitations on a certificate that the Commission finds necessary. The certificate must include a number of conditions, including:

- A water conservation plan; a drought management plan.
- The maximum amount of water that may be transferred on a daily basis.
- A provision that the Commission may amend the certificate under certain conditions.
- A provision that the Commission shall amend the certificate under certain conditions.
- A requirement that the certificate holder report on the quantity of water transferred during each calendar quarter.
- A provision that prohibits the resale of transferred water except under certain conditions.

Statement of Policy. – It is the public policy of the State to maintain, protect, and enhance water quality within North Carolina; that the reasonably foreseeable future water needs

in the receiving river basin are subordinate to the reasonably foreseeable future water needs in the source river basin; and that the cumulative impact of transfers from a source river basin would not result in a violation of the State and federal antidegradation policies.

Severability Clause. – If any section or provision of THE ACT is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision would not affect the validity of the act as a whole or any part of THE ACT other than the part declared to be unconstitutional or invalid.

Effective Date. – The act, as amended by S.L. 2007-484 ([SB 613](#)), Sec 43.7C, became effective August 31, 2007. Generally, it applies to any petition for a certificate for an interbasin transfer where the preparation of an environmental assessment or an environmental impact statement was begun on or after that date. For a petition for a certificate for an interbasin transfer to supplement ground water supplies in the 15 counties designated as the Central Coastal Plain Capacity Use Area, S.L. 2007-518 becomes effective January 1, 2011. Prior to January 1, 2011, a petition for a certificate for such an interbasin transfer would be considered and acted upon by the Commission, pursuant to the procedures and standards set out in G.S. 143 215.221 on July 1, 2007. (GG, JH)

Promote Innovative Water Protection Efforts

S.L. 2007-549 ([SB 1468](#)) authorizes the use of monies in the Clean Water Management Trust Fund to finance projects to clean up or prevent surface water pollution also to be used to finance innovative efforts, including pilot projects, to improve stormwater management, to reduce pollutants entering the State's waterways, to improve water quality, and to research alternative solutions to the State's water quality problems.

This act became effective August 31, 2007. (JM)

Various Transportation Changes/Study

S.L. 2007-551 ([HB 1005](#)). See **Transportation**.

Studies

New/Independent Studies/Commissions

Hazardous Materials Task Force Recommendations

S.L. 2007-107, Sec. 4.1 ([HB 36](#), Sec. 4.1) establishes the Regulation of Hazardous Materials Facilities Task Force to study issues related to the treatment, storage, and disposal of hazardous materials and review all current fire code regulations regarding the commercial treatment, storage, and disposal of hazardous materials, to ensure that the State Building Code addresses the needs and safety of the citizens of the State. The Task Force must submit a report of its findings and recommendations, including legislative proposals, to the 2008 Regular Session of the 2007 General Assembly, the Governor, the North Carolina Building Code Council, and the Environmental Review Commission on or before April 1, 2008. The Task Force will terminate upon filing its report. This section became effective June 26, 2007.

In addition, Sec. 5.3(b) of the act authorizes the Board of Governors of The University of North Carolina to establish an Institute for Disaster Studies. This provision became effective July 1, 2007. (JLM)

Referrals to Existing Commissions/Committees

Limit Impervious Surfaces for Vehicle Parking

S.L. 2007-323, Sec. 6.22(b) ([HB 1473](#), Sec. 6.22(b)) provides that the Environmental Review Commission (ERC) may study issues related to the use of pervious surfaces for vehicle parking areas, including the costs associated with the use of pervious surfaces, the impact to the environment of stormwater runoff, and the practices of other states with regard to stormwater best management practices. The ERC may report its findings and recommendations, including any legislative proposals, to the 2007 Regular Session of the General Assembly when it reconvenes in 2008.

This section became effective July 1, 2007. (JM)

Amend Interbasin Transfer Laws

S.L. 2007-518, Sec. 1(a) ([HB 820](#), Sec. 1(a)) directs the Environmental Review Commission (ERC), with the assistance of the Department of Environment and Natural Resources (DENR), to study the allocation of surface water resources and their availability and maintenance in the State, including issues related to the transfer of water from one river basin to another and the withdrawal of water for consumptive use. The ERC may submit an interim report to the 2008 Regular Session of the General Assembly and will submit a final report of its findings and recommendations, including any legislative proposals, to the 2009 General Assembly.

This section became effective August 31, 2007. (JH)

Solid Waste Management Act of 2007

S.L. 2007-550, Sec. 18 ([SB 1492](#), Sec. 18) directs the Environmental Review Commission to: (i) study issues related to the franchise of solid waste management facilities by units of local government; (ii) study, with the assistance of the Department of Justice, issues related to the transportation of solid waste by rail or barge, including the extent to which regulation of the transportation of solid waste by rail or barge by state governments may be preempted by federal law. The ERC must report its findings and recommendations, including any legislative proposals, to the 2008 Regular Session of the General Assembly.

This section became effective August 31, 2007. (JLM)

Referrals to Departments, Agencies, Etc.

Hazardous Materials Task Force Recommendations

S.L. 2007-107, Sec. 1.8(d) ([HB 36](#), Sec. 1.8(d)) directs the Department of Environment and Natural Resources to study the need for further regulation of hazardous waste transfer facilities, including whether to require these facilities to obtain a permit, pay permit fees, provide contingency plans, and demonstrate financial responsibility. DENR must report its findings and recommendations, including any legislative proposals, to the Environmental Review Commission on or before February 15, 2008. This section became effective October 1, 2007.

In addition, Sec. 5.3(b) of the act authorizes The University of North Carolina to study the emission and transport of pollutants at fires at commercial hazardous waste facilities and the health and economic impacts of such fires. This provision became effective July 1, 2007. (JLM)

Advisability of Adding Deep River State Trail to State Parks System

S.L. 2007-323, Sec. 12.9 ([HB 1473](#), Sec. 12.9) requires the Division of Parks and Recreation (Division) of the Department of Environment and Natural Resources to study the advisability of the General Assembly authorizing the addition of the Deep River State Trail to the State Parks System. The Division must consider the costs over the next five years of land acquisition, park development, and park operations. The Department must report the results of this study to the Joint Legislative Commission on Governmental Operations by March 1, 2008.

This section became effective July 1, 2007. (JM)

Promote Renewable Energy/Baseload Generation

S.L. 2007-397, Secs. 4(c) and 14 ([SB 3](#), Secs. 4(c) and 14) require the following studies:

- Section 4(c) provides that no later than September 1, 2008, the Utilities Commission must prepare and submit an analysis of whether rate structures, policies, and measures, including decoupling, in place in other states and countries that promote a mix of generation involving renewable energy sources and demand reduction should be implemented in North Carolina to the Governor, the Environmental Review Commission, and the Joint Legislative Utility Review Committee. This section became effective August 20, 2007.
- Section 14 provides that no later than October 1 of odd-numbered years, beginning October 1, 2009, the Utilities Commission must submit to the Governor, the Environmental Review Commission, and the Joint Legislative Utility Review Committee a report on the actual results of the costs allocation established by S.L. 2007-397 ([SB 3](#).) This section became effective August 20, 2007. (JH)

Amend Interbasin Transfer Laws

S.L. 2007-518, Sec. 1(b) ([HB 820](#), Sec. 1(b)) directs the Division of Water Resources of the Department of Environment and Natural Resources, in consultation with the Environmental Review Commission, to prepare a new river basin map that defines the extent to which river basins in North Carolina extend into adjacent states.

This section became effective August 31, 2007. (JH)

Major Pending Legislation

Electronics Recycling

The Solid Waste Management Act of 2007 (S.L. 2007-550, [SB 1492](#)) enacted provisions related to the recycling of discarded computer equipment. The act did not, however, provide for recycling of other electronic devices, such as televisions. [HB 1777](#) (Second Edition) would establish a program for the recovery of televisions (as well as other electronic devices) for reuse or recycling. (JLM)

Underground Storage Tanks

[HB 1010](#) (First Edition) and [SB 1554](#) (First Edition) would address funding and administration of the Leaking Petroleum Underground Storage Tank (UST) Cleanup Program, including provisions as follows: (1) provide additional funds for the cleanup of releases and

discharges of petroleum from USTs by increasing the fees paid by owners and operators of commercial USTs, (2) provide for expedited assessment and cleanup of releases and discharges from petroleum USTs by requiring DENR to establish a pilot program to evaluate the use of site-specific cleanup standards, (3) provide for various studies and reports, and (4) to make other improvements to the UST program. (JLM)

Steep Slope Legislation

Recently, several counties in the western part of the State have considered or adopted ordinances to regulate development on steep slopes. Concerns over the safety of development on mountain slopes arose after deaths and property damage caused by landslides resulting from Hurricanes Frances and Ivan in western North Carolina in September 2004. Stakeholder groups in western North Carolina expressed interest in enactment of statewide legislation to consistently regulate site-planning, design, and construction of artificial slopes in mountainous areas in order to promote safe and stable development on steep slopes.

[HB 1756](#) (First Edition) would (1) require local governments to adopt ordinances to regulate site planning, design, and construction of artificial slopes in mountainous areas to promote safe and stable slopes for development and to reduce the likelihood of slope failures on developed or disturbed land in order to protect human safety and property, (2) direct the Sedimentation Control Commission to assist local governments in development and implementation of safe slope construction programs, and (3) provide for disclosure of landslide hazards to purchasers of properties located in areas vulnerable to landslides as indicated on maps prepared by the North Carolina Geological Survey. (JLM)

For a complete list of the studies and reports authorized by the 2007 Session of the 2007 General Assembly, please refer to the Appendix contained in this publication.

Chapter 12

Finance

Cindy Avrette (CA), Judy Collier (JC), Dan Ettefagh (DE),
Heather Fennell (HF), Trina Griffin (TG), Martha Walston (MW)

Enacted Legislation

Amend Bank and Trust Company Assessments

S.L. 2007-55 ([SB 658](#)). See **Business and Commerce**.

Bonds – Expand Special Purpose Projects

S.L. 2007-128 ([SB 966](#)) adds three projects to the list of special projects for which the North Carolina Capital Facilities Financing Agency may issue bonds:

- Facilities for the provision of material salvage and recycling services, the proceeds of which are used to provide for low, moderate, or affordable housing.
- Facilities for the provision of research conducted by a nonprofit corporation organized by two or more accredited universities whose main campuses are located in North Carolina.
- Facilities for housing the international headquarters of a nonprofit scholarly society that is a member of the Scholarly Societies Project.

This act became effective June 27, 2007. (CA)

2007 Continuing Budget Authority

S.L. 2007-145 ([HB 2044](#)) extended the sunset on the additional ¼ cent State sales tax rate until August 1, 2007. The extension kept the State sales tax rate at 4.25% until August 1, 2007. S.L. 2007-323 repealed the sunset, thus retaining the 4.25% State sales tax rate permanently.

This act became effective July 29, 2007. (CA)

Revised Distribution of Scrap Tire Disposal Tax

S.L. 2007-153 ([SB 1472](#)) changes the distribution of the proceeds of the scrap tire disposal tax in the following three ways:

- Increases from 5% to 8% of the net tax proceeds the amount the Secretary of Revenue credits to the Solid Waste Management Trust fund.
- Decreases from 27% to 22% of the net tax proceeds the amount the Secretary credits to the Scrap Tire Disposal Account.
- Increases from 68% to 70% of the net tax proceeds the amount the Secretary distributes to the counties on a per capita basis, based on the most recent annual population estimates certified by the State Budget Officer.

This act became effective July 1, 2007. (DE)

Rental Car Fee Reform

S.L. 2007-235 ([SB 1118](#)). See **Consumer Protection**.

Streamlined Sales Tax Changes

S.L. 2007-244 ([HB 257](#)) was a recommendation of the Revenue Laws Study Committee. It does the following:

- Updates the reference to the Streamlined Sales Tax Agreement to include the latest amendments to that Agreement, June 23, 2007.
- Defines “bundled transactions” and modifies the definition of “sales price” to keep North Carolina in compliance with the national Streamlined Sales Tax Agreement.
- Recognizes for-hire boats as commercial fishing operations eligible for the sales tax exemption for items sold for use in commercial fishing.
- Makes conforming and technical changes.

This act became effective October 1, 2007. (DE)

See **Agriculture** for the summary of the remaining portions of the act.

Increase Register of Deeds' Pension

S.L. 2007-245 ([HB 676](#)). See **Retirement**.

Raise Project Limits/Electrical/General Contractors

S.L. 2007-247 ([HB 1338](#)). See **Occupational Boards and Licensing**.

Modify Tax on Property Coverage Contract

S.L. 2007-250 ([SB 238](#)) does four things:

- Reduces the additional tax rate applicable to gross premiums on insurance contracts for property coverage from 0.85% to 0.74%, effective January 1, 2008.
- Increases the percentage of the tax proceeds derived from the additional fire and lightning tax rate allocated to the Volunteer Fire Department Fund from 20% to 30%. This change reduces the amount of the tax proceeds allocated to the General Fund.
- Increases the cap on the grants from the Volunteer Fire Department Fund and changes the qualifications for grants from the Volunteer Fire Department Grant Program, to enable more volunteer fire departments to qualify for grants.
- Modifies the distribution of money to the local firemen's relief grant funds so that the distribution more closely resembles the current distribution.

This act becomes effective January 1, 2008. (CA)

See **Insurance** for the summary of Sec. 2 of the act.

Certain Local Governments' Investments

S.L. 2007-255 ([SB 221](#)). See **Local Government**.

Correction Enterprises

S.L. 2007-280 ([HB 648](#)). See **Courts, Justice, and Corrections**.

Property Tax Commission Terms

S.L. 2007-308 ([HB 1555](#)). See **State Government**.

Conservation Tax Credit Modifications

S.L. 2007-309 ([HB 463](#)) does four things:

- Equalizes the cap for the conservation tax credit for corporations and pass-through entities at \$500,000.
- Requires a taxpayer claiming the credit to support the claim's represented value of the real property donation.
- Narrows the conservation purposes which qualify property for the credit.
- Provides that a married couple filing jointly is entitled to the same tax credit cap as two unrelated individuals making an equivalent donation of property.

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

2007 Appropriations Act

Erosion and Sedimentation Control Plan Fee Increase

S.L. 2007-323, Sec. 30.1 ([HB 1473](#), Sec. 30.1) increases the fee for review of an erosion and sedimentation control plan from \$50 to \$65. The funds derived from the fee increase will be used to hire seven new inspectors in the Sediment and Erosion Control Division. There are currently 24 inspectors. The fee is paid once by anyone performing land disturbing activities. The fee is charged per acre of disturbed land.

This section became effective August 1, 2007, and applies to applications submitted on or after that date. (CA)

University Cancer Research Fund/Tobacco Tax Increase

S.L. 2007-323, Sec. 6.23 ([HB 1473](#), Sec. 6.23) raises the excise tax levied on tobacco products other than cigarettes from 3% to 10%, with the Secretary of Revenue remitting the revenue generated by the increased rate to the University Cancer Research. This Fund is a special revenue fund in the Office of the President of The University of North Carolina. Allocations from the Fund are made in the discretion of the Cancer Research Fund Committee but may be used only for the purpose of cancer research under University of North Carolina Hospitals or the Lineberger Comprehensive Cancer Center. The Cancer Research Fund Committee is a seven-member committee with five ex officio members appointing the remaining two members, who must hold a leadership position in a nationally prominent cancer program. The five standing members are (i) the President of the University of North Carolina, who serves as the Chair of the committee; (ii) the Director of the Lineberger Comprehensive Cancer Center; (iii) the Dean of the University of North Carolina School of Medicine; (iv) the Dean of the University of North Carolina School of Public Health; and (v) the Dean of the University of North Carolina School of Pharmacy.

This section became effective October 1, 2007. (DE)

Increase Court Fees and Amend the Access to Civil Justice Act

S.L. 2007-323, Sec. 30.8 ([HB 1473](#), Sec. 30.8) increases court fees, increases earmarking for the legal services program by approximately \$1 million, and makes changes to the legal services program. The additional revenue generated by the fee increases will be used to increase staff at the district and superior court levels, to increase judicial salaries, and to replace outdated technology. The section increases court fees as follows:

- District court costs increased: (last increased in 2005)
 - Civil – \$64.00 to \$73.00

- Magistrates – \$53.00 to \$63.00
 - Criminal – \$85.50 to \$95.50
 - Superior court costs increased: (last increased in 2005)
 - Civil – \$79.00 to \$93.00
 - Criminal – \$92.50 to \$102.50
 - 20 day failure fee (Traffic) – \$50.00 to \$100.00
 - 20-day failure fee (New) – \$100.00
 - Superior Court Estates – \$40.00 to \$50.00 (last increased in 2005)
 - Criminal record check – \$10.00 to \$15.00
 - Fee for foreclosures
 - \$60.00 to \$75.00
 - Increase maximum fee from \$300.00 to \$500.00
 - Out-of-State Attorney Fee – \$125.00 to \$225.00
- This section became effective August 1, 2007. (CA)

Increase and Clarify Certain Court Costs

- S.L. 2007-323, Sec. 30.10 ([HB 1473](#), Sec. 30.10) does the following:
- Clarifies that court costs in civil actions apply to additional and subsequent actions filed by amendment to cases brought under the Domestic Violence statute.
 - Clarifies that the fee applicable to estates applies to the value of newly acquired assets.
 - Provides that the \$2.00 per first page copying cost applies to the first page of a document.
 - Increases the fee for restoration of a license revoked for implied consent offenses from \$50 to \$100.
 - Repeals the \$2 maximum fee applicable to establishing facts relating to birth by persons who do not have a birth certificate and by persons of unknown parentage. These cases are considered "special proceedings." The court costs associated with special proceedings would become applicable: approximately \$50.

This section became effective August 1, 2007, and applies to costs assessed on or after that date. (CA)

Establish Processing Fee for Limited Driving Privilege

S.L. 2007-323, Sec. 30.11 ([HB 1473](#), Sec. 30.11), as amended by S.L. 2007-345, Sec. 9.1(b) and (c) ([HB 714](#), Sec. 9.1(b) and (c)). See **Courts, Justice and Corrections**.

Internal Revenue Code Update

S.L. 2007-323, Sec. 31.1 ([HB 1473](#), Sec. 31.1) updates the reference to the Internal Revenue Code used in defining and determining certain State tax provisions from January 1, 2006, to January 1, 2007. Updating the reference to the Code effectively made the following tax policy changes:

- Extended the enhanced small business expensing thresholds.
- Extended the deduction for higher education expenses.
- Extended the deduction for qualified expenses of elementary and secondary school teachers.
- Excluded up to \$3,000 of otherwise taxable distributions from a government pension plan of retired public safety officers, when the money is used to pay for health insurance premiums.

This section became effective July 1, 2007, and is applicable for taxable years beginning on or after January 1, 2007. (CA)

Maintain Current Sales Tax Rate

S.L. 2007-323, Sec. 31.2 ([HB 1473](#), Sec. 31.2) makes permanent the State sales tax rate at 4.25%. Prior to October 16, 2001, the general rate of State sales tax was 4%. Effective October 16, 2001, the general rate was raised to 4.5%. The general rate was set for reduction back to 4% on July 1, 2007. S.L. 2006-66 reduced the rate by ¼ cent earlier than was required, so that the State sales tax rate became 4.25%, effective December 1, 2006. S.L. 2007-145 extended the sunset of the remaining ¼ cent additional State sales tax rate from July 1, 2007, to August 1, 2007. This section eliminates the scheduled reduction, making the 4.25% State sales tax rate permanent.

This section became effective July 31, 2007. (DE)

Earned Income Tax Credit

S.L. 2007-323, Sec. 31.4 ([HB 1473](#), Sec. 31.4) establishes a refundable State earned income tax credit. The credit is equal to 3.5% of an individual's federal earned income tax credit. The Internal Revenue Code provides an earned income tax credit for individuals who work and whose adjusted gross income does not exceed a specified amount. The credit is intended to offset some of the increases in living expenses and social security taxes and provide an incentive for low-income families to work, instead of collect welfare. The amount of the credit may exceed the amount of tax owed by the taxpayer. If the credit allowed exceeds the amount of tax imposed, the excess is refundable to the taxpayer.

This section becomes effective for taxable years beginning on or after January 1, 2008, and it expires for taxable years beginning on or after January 1, 2013. (CA)

Reenact Long-Term Care Credit

S.L. 2007-323, Sec. 31.5 ([HB 1473](#), Sec. 31.5) reenacts the individual income tax credit for premiums paid on long-term care insurance, which expired in 2004. The credit amount is equal to 15% of the premium paid each year on a long-term care insurance policy. The credit may not exceed \$350 for each policy for which the credit is claimed. The credit differs from the former credit in that, to be eligible to claim it, a taxpayer's adjusted gross income must not exceed a stated amount. For married taxpayers filing jointly, the income limitation is \$100,000.

This section becomes effective for taxable years beginning on or after January 1, 2007, and expires for taxable years beginning on or after January 1, 2013. (CA)

Adoption Tax Credit

S.L. 2007-323, Sec. 31.6 ([HB 1473](#), Sec. 31.6) creates an individual income tax credit for adoption-related expenses. The amount of the credit is equal to 50% of the taxpayer's federal adoption tax credit amount. The federal adoption tax credit amount may be up to \$10,960 per eligible child for the 2006 taxable year. The amount of the credit is reduced based upon the taxpayer's modified adjusted gross income. For the 2006 taxable year, the tax credit phase-out ranges from \$164,410 to \$204,410. Both the credit amount and the income phase-out ranges are indexed to inflation. The credit may not exceed the amount of tax owed by the taxpayer; however, like the federal tax credit, the State tax credit could be carried forward for five years.

This section is effective for taxable years beginning on or after January 1, 2007, and expires for taxable years beginning on or after January 1, 2013. (CA)

Privilege Tax on Software Publishers' Machinery and Equipment

S.L. 2007-323, Sec. 31.7 ([HB 1473](#), Sec. 31.7) subjects certain purchases of machinery and equipment by software publishing companies to a privilege tax under Article 5F of Chapter 105 of the General Statutes, thereby exempting those purchases from the 6.75% State and local sales tax. The amount of the privilege tax is 1% of the sales price of each article of machinery and equipment, limited to \$80 per article. The privilege tax applies to the following purchases:

- The purchase must be by a software publishing company in industry group 5112 of NAICS.
- The purchase must be of equipment or an attachment or repair part for equipment that is capitalized by the company for tax purposes under the Code, that is used by the company for research and development of tangible personal property, and that would be considered mill machinery under G.S. 105-187.51.

This section became effective October 1, 2007, and applies to sales occurring on or after that date. (DE)

Enhance Tax Credit for Research and Development Expenditures

S.L. 2007-323, Sec. 31.8 ([HB 1473](#), Sec. 31.8) expands the existing tax credit for taxpayers with qualified research and development expenses. The amount of the credit is equal to a percentage of the qualifying expenses. The applicable percentage increases are as follows:

- For small business taxpayers, from 3% to 3.25% of the qualifying expenses.
- For expenses with respect to research performed in a development tier one area, from 3% to 3.25% of the qualifying expenses.
- For expenses other than those incurred by small business taxpayers or incurred for research performed in a development tier one area, the applicable percentage increases are:
 - From 1% to 1.25% for expenses up to \$50 of the qualifying expenses.
 - From 2% to 2.5% for expenses over \$50 million and up to \$200 million of the qualifying expenses.
 - From 3% to 3.25% for expenses over \$200 million of the qualifying expenses.
- For North Carolina university research expenses, from 15% to 20% of the qualifying expenses.

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

Modify Tax Credit for Constructing Renewable Fuel Facilities

S.L. 2007-323, Sec. 31.9 ([HB 1473](#), Sec. 31.9) modifies the enhanced credit for constructing renewable fuel production facilities in two ways.

- The credit may be claimed against the franchise tax, as well as the income tax.
- A taxpayer who claimed the enhanced tax credit and later fails to meet the requirements of the enhanced credit may take the non-enhanced credit for constructing renewable fuel production facilities. The taxpayer who forfeits the enhanced credit must pay the additional avoided taxes and interest on the avoided taxes from the original due date of the taxes. Taxpayers have 30 days after the date the taxpayer no longer qualifies for the enhanced credit to pay the additional taxes, otherwise the total amount is subject to the penalties provided by statute.

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

Expand Sales and Use Tax Refund for Certain Aircraft Manufacturers

S.L. 2007-323, Sec. 31.10 ([HB 1473](#), Sec. 31.10) expands the definition of aircraft manufacturing to include the manufacturing and assembling of specified aircraft parts, as well as the manufacturing or assembling of complete aircraft. Aircraft manufacturers may qualify for a refund of sales and use taxes paid on building materials and supplies, fixtures, and equipment that are installed in the construction of, and become part of, the real property of the aircraft manufacturing industrial facility. To qualify for the refund, the owner of an aircraft-manufacturing industrial facility must invest at least \$50 million in facility construction located in development tier one areas or at least \$100 million for all other facilities.

This section became effective July 1, 2007. (DE)

Amend Sales Tax Holiday

S.L. 2007-323, Sec. 31.14 ([HB 1473](#), Sec. 31.14) amends the sales tax holiday by providing that school instructional materials with a sales price of \$300 or less are exempt from sales tax during the first weekend of August. Under prior law, the term "school supplies" included school instructional materials. However, school supplies are subject to a \$100 cap. This section removes school instructional materials from the general category of school supplies and gives it a larger dollar cap.

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

Cap the Variable Wholesale Component of the Motor Fuels Tax Rate for Two Years

S.L. 2007-323, Sec. 31.15 ([HB 1473](#), Sec. 31.15) extends the cap on the variable wholesale component of the motor fuels tax rate. A motor fuel excise tax is imposed on all motor fuels sold, distributed, or used in the State. The rate of tax consists of a flat rate of 17.5¢ per gallon, plus a variable wholesale component equal to the greater of 7% of the average wholesale price of motor fuel during a base 6-month base period or 3.5¢ per gallon. In 2006, the General Assembly capped the variable wholesale component of the motor fuels tax at 12.4¢ per gallon, the wholesale rate for the period of January 1, 2006, through January 30, 2006, for a total rate of 29.9¢ per gallon.

This section of the act extends the existing cap for 2 years, capping the variable wholesale component of the motor fuels tax rate at 12.4¢ per gallon for the period July 1, 2007, through June 30, 2009, for a total rate of 29.9¢ per gallon.

This section became effective July 31, 2007. (HF)

State Assume Medicaid Responsibility

S.L. 2007-323, Sec. 31.16 ([HB 1473](#), Sec. 31.16) provides that the State assumes the counties' share of the nonfederal share of Medicaid costs over a three-year period, beginning October 1, 2007. To provide the financial resources to assume these costs, this section phases out the third ½¢ local sales tax and makes a corresponding increase in the State sales tax rate.

Effective October 1, 2007, the State will assume 25% of the counties' share of the nonfederal share of Medicaid costs. To help offset the cost of this assumption, the ADM funding

formula for the Public School Building Capital Fund is reduced for fiscal year 2007-2008 only. The act provides that a county must use a portion of the funds available to it, as a result of the assumption by the State of part of the county's Medicaid payments, for public school capital outlay purposes. The amount it must use for these purposes is the difference between what it would receive from the Fund, based on its Average Daily Membership (ADM), and the adjusted amount it actually received.

Effective July 1, 2008, the State will assume 50% of the counties' share of the nonfederal share of Medicaid costs. To help offset the cost of this assumption, the act repeals the per capita portion ($\frac{1}{4}\%$) of the local third $\frac{1}{2}\%$ sales tax, effective October 1, 2008. The State sales tax rate is increased accordingly to 4.5%, effective October 1, 2008. The act provides that counties must hold the municipalities in the county harmless from repeal of this $\frac{1}{4}\%$ local tax. The Secretary of Revenue is directed to reduce each county's allocation of local sales tax revenue by the hold harmless amount and to redistribute that amount to the respective municipalities. It also provides a hold harmless provision for counties, if a county's repealed sales tax amount for a fiscal year does not equal, or exceed, the amount of its Medicaid service costs assumed by the State for that fiscal year by \$500.

Effective July 1, 2009, the State will assume the entire nonfederal share of Medicaid costs. To help offset the cost of this assumption, the remaining $\frac{1}{4}\%$ of the third $\frac{1}{2}\%$ local sales tax rate is repealed, effective October 1, 2009, and the State sales tax rate is correspondingly increased by $\frac{1}{4}\%$, effective October 1, 2009. The allocation of the second $\frac{1}{2}\%$ local sales tax is changed from per capita to point of collection. Beginning October 1, 2009, $1\frac{1}{2}\%$ of the 2% local tax will be allocated on a point of collection basis, and the remaining $\frac{1}{2}\%$ will be allocated on a per capita basis. (DE)

Local Option County Taxes

S.L. 2007-323, Sec. 31.17 ([HB 1473](#), Sec. 31.17) creates two new taxes, of which counties may choose one to levy if a majority of those voting in a referendum vote for the levy of the tax.

- The first option is a land transfer tax on transfers of land within the county. The rate of tax may be up to .4% of the greater of the value of, or consideration paid, for the property, and the rate must be an increment of .1%. The land transfer tax is in addition to the excise stamp tax on conveyances of land, and land exempt from the stamp tax is also exempt from the land transfer tax. Administration of the tax is also analogous to administration of the stamp tax.
- Counties, as an alternative to the land transfer tax, may levy a $\frac{1}{4}\%$ sales and use tax. The rate of tax is .25% of the sales price of the item, in addition to all other State and local sales and use taxes, except for purchases of food exempt from tax under G.S. 105-164.13B. The adoption, levy, collection, administration, and repeal of this sales and use tax is in accordance with the first 1¢ local sales and use tax (Article 39 of Chapter 105 of the General Statutes).

This section became effective July 31, 2007. (DE)

Alternative for Addressing a Corporation's Attempt to Avoid State Taxes through the use of a Real Estate Investment Trust (REIT)

S.L. 2007-323, Sec. 31.18 ([HB 1473](#), Sec. 31.18) limits a corporation's ability to use captive real estate investment trusts (REITs) to avoid State taxes, by disallowing the dividend paid deduction when an REIT is a captive REIT. An REIT is an organization that uses the pooled capital of many investors to purchase and manage real estate. An REIT that is owned or controlled by a single entity is commonly referred to as a captive REIT.

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

Enhance 529 Plan Income Tax Deduction

S.L. 2007-323, Sec. 31.19 ([HB 1473](#), Sec. 31.19) makes three changes to the income tax deduction for contributions made to the Parental Savings Trust Fund, created by the General Assembly last session:

- Removes the January 1, 2011, sunset of the deduction.
- Increases the maximum annual deduction amount allowable to an individual taxpayer for contributions to the Parental Savings Trust Fund from \$2,000 to \$2,500. In the case of a married couple filing a joint return, it increases the maximum deduction amount from \$4,000 to \$5,000.
- Removes the income limitations for taxable years 2007 through 2011.

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

(CA)

Sales Tax Refund – Research Supplies

S.L. 2007-323, Sec. 31.20 ([HB 1473](#), Sec. 31.20) allows a sales and use tax refund to a taxpayer who is engaged in analytical services within the State. The term "analytical services" means testing laboratories or medical laboratories that are included in national industry 541380 or 621511 of NAICS. The allowable refund is equal to 50% of the eligible amount of sales and use tax paid on tangible personal property consumed or transformed in analytical service activities. The eligible amount of sales and use tax paid is the amount by which the tax paid in the fiscal year exceeds the amount paid in fiscal year 2006-2007.

This section became effective July 31, 2007, and applies to purchases made on or after that date. (DE)

Work Opportunity Tax Credit

S.L. 2007-323, Sec. 31.21 ([HB 1473](#), Sec. 31.21) provides a State income tax credit to a taxpayer who is allowed a Work Opportunity tax credit (WOTC) under the Internal Revenue Code. The amount of the credit is equal to 6% of the amount of credit allowed under the Code. The credit may be claimed against the franchise tax or the income tax. The taxpayer must elect the tax against which a credit will be claimed when filing the return; the election is binding. The credit allowed may not exceed 50% of the tax against which it is claimed. Any unused portion of the credit may be carried forward for five years. The carryforward amount must be claimed against the same tax.

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

Datacenter Sales Tax Exemption

S.L. 2007-323, Sec. 31.22 ([HB 1473](#), Sec. 31.22) reduces the tax paid on certain purchases of machinery and equipment located and used at eligible datacenters, by exempting the purchases from the 6.75% sales tax and imposing a 1% privilege tax on the sales price, subject to an \$80 cap. An eligible datacenter is a facility that meets certain facility, investment, wage, and health insurance requirements. The machinery and equipment purchased must be located and used at the datacenter, capitalized for tax purposes under the Code, and used to provide datacenter services or for the generation, transformation, transmission, distribution, or management of electricity. Forfeiture of the tax savings may occur if the conditions for the favorable tax treatment are not met.

This section became effective October 1, 2007, and applies to sales made on or after that date. (DE)

Tax Incentive for Railroad Intermodal Facility

S.L. 2007-323, Sec. 31.23 ([HB 1473](#), Sec. 31.23) provides tax credits and sales and use tax exemptions and refunds for a taxpayer who constructs or leases and puts into operation an eligible railroad intermodal facility. A railroad intermodal facility is a facility whose primary purpose is to transfer freight between a railroad and another mode of transportation. An "eligible" railroad intermodal facility is one whose cost of construction exceeds \$30 million.

This income tax credit is effective for taxable years beginning on or after January 1, 2007. The sales tax provisions become effective January 1, 2007, and apply to sales made on or after that date. (CA)

Firefighter/Rescue Squad Tax Deduction

S.L. 2007-323, Sec. 31.24 ([HB 1473](#), Sec. 31.24) creates a State income tax deduction for an individual who meets all three of the following conditions:

- Works as an unpaid member.
- For either a volunteer fire department or a volunteer rescue or emergency medical services squad.
- Attends 36 hours of training during the taxable year.

The amount of the deduction is \$250. An individual may claim only one deduction in a single taxable year. In the case of a married couple filing a joint return, each spouse must qualify separately for the deduction.

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

2007 Budget Technical Corrections Act

S.L. 2007-345 ([HB 714](#)) makes the following technical corrections to the revenue provisions S.L. 2007-323, the budget bill:

- Section 9.1 makes several clarifications to the new processing fee for limited driving privilege. It clarifies that:
 - A person would pay a civil filing fee under 7A-305(a) only if a new civil file needs to be opened. This clarification preserves current practice and procedure. (Effective December 1, 2007)
 - The fee must be remitted to the State Treasurer and used for support of the General Court of Justice. (Effective August 1, 2007, and applies to costs assessed on or after that date)
 - Someone seeking a limited driving privilege pays the \$100 processing fee only once, not twice. (Effective December 1, 2007)
- Section 14.3 conforms the effective date of an administrative provision with the relevant tax law provision. The budget requires the Department of Revenue to include language in its booklets for the individual income tax return that identified the availability of State and federal earned income tax credits. This provision becomes effective for taxable years beginning on or after January 1, 2007. Section 31.4 of the budget enacts a State earned income tax credit, effective for taxable years beginning on or after January 1, 2008. The amendment conforms the effective date of Section 24.3 to Section 31.4 by changing the effective date of Section 24.3 to January 1, 2008.

- Section 14.5 clarifies that the administrative provisions in Article 39 regarding lump-sum contracts will apply to the local option county sales tax. (Effective August 6, 2007)
- Section 14.6 rewrites the sales tax exemption for research supplies to fulfill the intent of providing an incentive to existing companies to increase their work in the State. As written, the provision rewards new businesses to the detriment of existing businesses. (Effective July 1, 2007, and applies to purchases made on or after that date)
- Section 14.7 clarifies that the costs of construction for purposes of the tax credit for constructing a railroad intermodal facility includes the costs of constructing and equipping rail tracks to the facility that are necessary to access and support facility operations. (Effective for taxable years on or after January 1, 2007)

Unless otherwise specified, this act became effective August 6, 2007. (CA)

Sales Tax Exemption for Baked Goods

S.L. 2007-368 ([SB 1240](#)) exempts bread, rolls, and buns that otherwise meet the definition of a prepared food from the State sales tax when sold at a bakery thrift store. A "bakery thrift store" is defined as a retail outlet of a bakery that sells at wholesale over 90% of the items it makes and sells at the retail outlet day-old bread, rolls, and buns returned to it by retailers that acquired those items from the bakery.

This act became effective October 1, 2007, and applies to sales made on or after that date. (DE)

Interest on Illegally Levied Exactions

S.L. 2007-371 ([SB 1152](#)). See **Local Government**.

Coordinate Statewide Enhanced 911 System

S.L. 2007-383 ([HB 1755](#)). See **State Government**.

University of North Carolina Non-Appropriated Capital Projects

S.L. 2007-394 ([SB 1241](#)). See **Education**.

Modifications to Project Development Financing Act

S.L. 2007-395 ([SB 1196](#)) allows local governments to use the proceeds of project development financing debt instruments to provide parks and recreation facilities, community college facilities, and school facilities. It also removes the requirement that the base valuation of a development financing district be increased as the result of an increase in valuation due to revaluation.

This act became effective August 20, 2007. (CA)

Promote Renewable Energy/Baseload Generation

S.L. 2007-397, Sec. 10 through 12 ([SB 3](#), Sec. 10 through 12) phase out the tax on electricity, piped natural gas, and fuel used by manufacturers to operate their industries, and by farmers in their farming operations, over a four-year period, beginning October 1, 2007.

Section 10. – This section phases out the current sales tax rate of 2.83% on sales of electricity to manufacturing industries and manufacturing plants for use in connection with their operation, and to farmers to be used by them for farming purposes, as follows:

- Effective October 1, 2007, reduces the rate from 2.83% to 1.8%.
- Effective July 1, 2008, reduces the rate from 1.8% to 1.4%.
- Effective July 1, 2009, reduces the rate from 1.4% to 0.85%.
- Effective July 1, 2010, exempts these sales from tax.

Section 11. – This section phases out the tax imposed on piped natural gas received by a manufacturer for use in connection with the operation of the manufacturing facility, and on piped natural gas received by a farmer to be used for any farming purpose, other than preparing food, heating dwellings, and other household purposes. The excise tax on piped natural gas is structured as a "declining block," that decreases as the amount of therms of piped gas consumed in a month increases. This section reduces the declining block rate for piped natural gas received by a manufacturer or farmer over a four-year period, beginning October 1, 2007. These end-users will be exempt from the tax, effective July 1, 2010.

Section 12. – This section phases out the privilege tax imposed on a manufacturing industry or plant that purchases fuel to operate the industry or plant by reducing the tax rate over a four-year period: from 1% to 0.7%, effective October 1, 2007; from 0.7% to 0.5%, effective July 1, 2008; from 0.5% to 0.3%, effective July 1, 2009; and from 0.3% to 0%, effective July 1, 2010.

For a complete summary of this act, see **Environment and Natural Resources**. (CA)

Promote Renewable Energy/Baseload Generation

S.L. 2007-397, Sec. 13 ([SB 3](#), Sec. 13) allows a tax credit to certain contributors. The General Statutes provide a tax credit for investing in renewable energy property. This tax credit is not used by a nonprofit corporation that invests in renewable energy property, because the nonprofit organization does not owe any tax. Section 13 allows this tax credit to a taxpayer who makes an eligible contribution to a nonprofit organization organized under section 501(c)(3) of the Code. An eligible contribution is a contribution designated by the taxpayer to be used for investing in renewable energy property and used by the nonprofit organization for investing in renewable energy property. The amount of the credit is equal to a portion of the credit for investing in renewable energy property that the nonprofit organization would be allowed, if the nonprofit organization was subject to tax.

This section becomes effective for taxable years beginning on or after January 1, 2008.

For a complete summary of this act, see **Environment and Natural Resources**. (CA)

Extend Qualified Business Venture Tax Credit

S.L. 2007-422 ([HB 1598](#)) extends the sunset on the tax credits for qualified business investments, from January 1, 2008, to January 1, 2011. It also extends the time for which a credit application may be filed, from September 15 to October 15. The qualified business investment tax credits may not exceed \$7 million a year. Demand for the credit exceeded \$7 million in 2006 and is expected to continue to be equal to, or greater than, the cap in future years.

The extension of the application filing deadline becomes effective January 1, 2008, and applies to applications filed on or after that date. The remainder of the act became effective August 23, 2008. (CA)

Quarterly Escrow Deposits/Affiliated Tobacco Dealers

S.L. 2007-435 ([HB 1460](#)) does two different things:

- First, it requires certain tobacco product manufacturers who chose not to participate in the Master Settlement Agreement (NPM) to make their escrow deposits on a quarterly basis, rather than an annual basis. Requiring more frequent payments, from a free cash flow standpoint, puts pressure on NPMs to make sure they are collecting enough revenue from their cigarette sales to be able to comply with the escrow payment obligations. Several states have begun to require NPMs to make quarterly payments, to better ensure compliance with the MSA. The quarterly escrow payment obligation applies to the following NPMs:
 - An NPM that has not previously established and funded a qualified escrow fund in North Carolina.
 - An NPM that has not made any escrow deposits for more than one year.
 - An NPM that has failed to make a timely and complete escrow deposit in any prior calendar year.
 - An NPM that has failed to pay any judgment.
 - Any NPM that the Attorney General has reasonable cause to believe may not make its full required escrows deposit by April 15 of the year following the year in which the cigarette sales are made.

This part of the act becomes effective January 1, 2008.

- Second, the act defines the term "integrated wholesale dealer" as a wholesale dealer who is an affiliate of a manufacturer of other tobacco products and is the only person to whom the manufacturer sells its products. The act also provides that an integrated wholesale dealer is treated like a manufacturer for purposes of allowing relief from paying the excise tax on other tobacco products (OTP). The excise tax on OTP is paid by the wholesale dealer or retail dealer who first acquires or otherwise handles OTP. A manufacturer who is not a retail dealer and who ships other tobacco products to either a wholesale dealer or a retail dealer may apply to the Secretary to be relieved of paying the tax. Once granted permission, a manufacturer may choose not to pay the tax, which would result in the tax being paid by the wholesale or retail dealer.

This part of the act became effective October 1, 2007.

An example of an integrated wholesale dealer is Conwood Sales, which is an affiliate of Reynolds American, Inc., and one of its subsidiaries, Conwood Company. Under prior law, Conwood Sales would be required to pay the excise tax on the products it receives from Conwood Company, because it is a wholesale dealer and the first company in the State to handle the products produced by its affiliate, Conwood Company. Accordingly, if Conwood Company, as the manufacturer, received permission from the Secretary of Revenue to be relieved of paying the excise tax on the products it produces, this permission would not apply to Conwood Sales. Under this act, Conwood Company and Conwood Sales would be considered the same entity for purposes of paying the excise tax on OTP. Therefore, if Conwood Company receives permission to be relieved of paying the excise tax on other tobacco products, then that permission applies to Conwood Sales, as well, because Conwood Sales is an integrated wholesale dealer of Conwood Company. The result is that the wholesale and retail dealers who purchase products from Conwood Sales would pay the excise tax. (CA)

Small Business Contractor Act

S.L. 2007-441 ([HB 1181](#)). See **Business and Commerce**.

Historic Rehabilitation Tax Credit

S.L. 2007-461 ([HB 1259](#)) repeals the sunset of a tax credit for owners of a pass-through entity. As a general rule, a pass-through entity must allocate a tax credit among its owners on the basis of the owners' pro rata share of ownership. However, under North Carolina law, a pass-through entity may allocate the historic tax credit for income-producing property among its owners at its discretion. This manner of allocating the tax credit allows the credit to be utilized more fully, since it can be redistributed to North Carolina investors with State income tax liability. The provision of State law allowing this allocation would have expired for taxable years beginning on or after January 1, 2008. This act repeals the sunset so that the credit may continue to be allocated among the owners of a pass-through entity at the entity's discretion.

This act became effective August 28, 2007. (CA)

Amend Combined Motor Vehicle Registration and Property Tax System

S.L. 2007-471 ([HB 1688](#)). See **Transportation**.

Property Tax – School Capital Leases

S.L. 2007-477 ([HB 63](#)) excludes from property tax all real and personal property that is subject to a capital lease and used as a public school facility. The act was a recommendation of the House Select Committee on Public School Construction.

This act is effective for taxes imposed for taxable years beginning on or after July 1, 2007. (MW)

Enact Waterfront Access Study Committee Recommendations

S.L. 2007-485, Sec. 1 ([SB 646](#), Sec. 1) provides property tax relief to working waterfront property by classifying such property as a special class of property to be appraised, assessed, and taxed on the basis of its value in its present use, as opposed to its true value.

Section 1 of this act is effective for taxes imposed for taxable years beginning on or after July 1, 2009. (MW)

The remainder of this act does not affect North Carolina tax laws and is summarized in **Environment and Natural Resources, Agriculture and Wildlife, and Transportation**.

Sudan (Darfur) Divestment Act

S.L. 2007-486 ([HB 291](#)). See **State Government**.

Spay/Neuter Funding

S.L. 2007-487 ([SB 684](#)). See **Agriculture and Wildlife**.

Reform Tax Appeals

S.L. 2007-491 ([SB 242](#)) substantially revises the process for the review of disputed tax matters, to provide taxpayers with the opportunity for an independent hearing outside the Department of Revenue prior to paying the tax. These revisions include administrative review by the Office of Administrative Hearings, elimination of the Tax Review Board, and referral of tax cases to Business Court. With the elimination of the Tax Review Board, the act authorizes the Secretary of Revenue to approve a multistate corporation's request to use an alternative apportionment formula for franchise and corporate income tax purposes. It also extends by one month the due date for filing corporate income and franchise tax returns and makes various changes to the tax collection statutes.

Generally, the new procedures for disputing tax matters become effective January 1, 2008, and apply to assessments of tax that are not final as of that date, and to claims for refund pending on or filed on or after that date. The provisions relating to a federal determination are effective for taxable years beginning on or after January 1, 2007. The corporate income and franchise tax filing extension is effective for taxable years beginning on or after January 1, 2008. (TG)

Property Tax and Present Use Value Changes and Studies

S.L. 2007-497 ([HB 1499](#)) provides the following residential property tax relief:

- Increases the amount of the appraised value excluded from the property homestead exclusion, from the greater of \$20,000 or 50% of the appraised value of the residence, to the greater of \$25,000 or 50% of the appraised value of the residence.
- Increases the income eligibility limit of the property tax homestead exclusion to \$25,000, and clarifies the definition of "income" used to determine this limit.
- Creates a property tax circuit breaker system that defers property taxes on certain owner-occupied homes. An owner who qualifies for both the property tax homestead exclusion and the property tax homestead circuit breaker may elect to take only one of these forms of property tax relief.

The act also provides present-use value property tax status to agricultural land that is used as an aquatic species farm.

The act authorizes the Revenue Laws Study Committee to study the following issues:

- Whether to index the excluded appraised value limit in property tax homestead exclusion and, if so, which index to use.
- Whether to extend present-use value benefits to property that is used for wildlife conservation.
- Ways to address the inability of landowners to pay escalating property taxes, while continuing to use their property for farming or other non-developmental purposes.

The changes in the property tax homestead exclusion are effective for taxes imposed for taxable years beginning on or after July 1, 2008. The property tax circuit breaker system is effective for taxes imposed for taxable years beginning on or after July 1, 2009. The present-use value taxation of aquatic species farms is effective for taxes imposed for taxable years beginning on or after July 1, 2008. The authority of the Revenue Laws Study Committee to study non-developmental property became effective August 30, 2007. (MW)

Baler Twine Exemption from Sales Tax

S.L. 2007-500 ([HB 487](#)) adds baler twine to the list of items that are exempt from sales and use tax, if they are sold to a farmer for use by the farmer in the planting, cultivating, harvesting, or curing of farm crops, or in the production of dairy products, eggs, or animals.

This act became effective October 1, 2007, and applies to sales made on or after that date. (DE)

Economic Development Modifications

S.L. 2007-515 ([HB 1595](#)). See **Local Government**.

Motor Fuel Tax Exemption for Biodiesel

S.L. 2007-524 ([SB 1272](#)) exempts biodiesel fuel from the excise tax on motor fuel, if the fuel is produced by an individual for use in a private passenger vehicle that is registered in that individual's name. For the purposes of this Article, biodiesel is defined as any fuel, or mixture of fuels, derived in whole, or in part, from agricultural products or animal fats or wastes from these products or fats.

This act became effective October 1, 2007 (HF)

Revenue Laws and Motor Fuels Tax Technical Changes

S.L. 2007-527 ([SB 540](#)) makes technical, clarifying, and administrative changes to the revenue laws, the motor fuels tax laws, and related statutes. These changes were a recommendation of the Revenue Laws Study Committee.

Except as otherwise specified, this act became effective August 31, 2007. (TG)

Amend Solid Waste Management Act of 2007

S.L. 2007-543, Sec. 2 ([SB 6](#), Sec. 2) amends the distribution of the solid waste disposal tax. In place of the 37.5% distribution to local government units that provide solid waste management services directly to residents, it allocates 18.75% to cities in the State on a per capita basis, and 18.75% to counties in the State on a per capita basis, to be used by a unit of local government solely for solid waste management programs and services.

This section becomes effective July 1, 2008. (DE)

See **Environment and Natural Resources** for the summary of the remaining portions of the act.

Solid Waste Management Act of 2007

S.L. 2007-550, Sec. 14 ([SB 1492](#), Sec. 14) establishes a solid waste disposal tax of \$2.00 per ton of waste, to be imposed on the disposal of municipal solid waste in landfills in the State and on the transfer of municipal solid waste for disposal outside the State. The revenue generated by the tax will be distributed and used as follows:

- 50% to the Inactive Hazardous Sites Cleanup Fund.
- 37.5% to units of local government that provide solid waste management services directly to its residents.
- 12.5% to the Solid Waste Management Trust Fund.

This section becomes effective July 1, 2008. For a more complete summary of this act, see **Environment and Natural Resources**. (DE)

Various Transportation Changes/Debt Capacity Study

S.L. 2007-551, Sec. 1 ([HB 1005](#), Sec. 1). See **Transportation**.

Studies

See **Appendix A** for information on the following committees:

- Economic Development Incentives (Joint Select Committee).
- Fiscal and Modernization Study Committee (State and Local).
- Revenue Laws Study Committee.

Major Pending Legislation

Simplify Gift Tax

[HB 235](#) would simplify the State gift tax by eliminating the tax on many gifts, by eliminating different tax rates based on the relationship between the donor and donee, and by more closely tying the State gift tax to the federal gift tax.

Modernize Corporate Income Tax Filing

[HB 462](#) and [SB 357](#) would change the way North Carolina determines the net income of a corporation. Under current law, a corporation files as a separate entity. Under this proposal, a corporation that is part of an affiliated group engaged in a single trade or business would file a combined report, and its net income would be based upon the combined income of the group apportioned to this State.

Present-Use Value System Modifications

[HB 1889](#) would allow land used for wildlife conservation purposes to be taxed for property tax purposes at its present-use value.

Financing Capital Projects

[SB 1201](#) would provide permanent sources of funding to address the State's infrastructure needs, and require the annual debt affordability study to include debt capacity for highway funds.

Fairness in Property Tax Values/Lien on Mobile Home

[SB 1309](#) would change the eight-year property tax valuation cycle to a four-year cycle and authorize a county to postpone a scheduled four-year reappraisal, if the county's sales assessment ratio exceeds .90. It would also treat mobile homes the same as other homes, for property tax purposes, and create a new way to value low-income and moderate-income housing.

Income Tax Modernization

[SB 1547](#) would broaden the individual income tax base and lower the individual income tax rates.

For a complete list of the studies and reports authorized by the 2007 Session of the 2007 General Assembly, please refer to the Appendix contained in this publication.

Chapter 13

Health and Human Services

Susan Barham (SB), Erika Churchill (EC), Kory Goldsmith (KG),
Shawn Parker (SP), Ben Popkin (BP)

Enacted Legislation

Division of Environmental and Natural Resources Embargo Authority for Food or Drink

S.L. 2007-7 ([HB 124](#)) makes two changes to existing public health law regarding the embargo of contaminated or adulterated food or drink. First, the act expands the breadth of the law to include food or drink in establishments that are subject to rules of the Commission for Health Services (day care centers and county jails). Second, the act adds the Director of the Division of Environmental Health or the Director's designee to those authorized to exercise embargo authority, and adds the Director (or designee) and local health directors to those who may authorize the removal or disposal of embargoed goods.

The act became effective April 4, 2007. (BP)

Emergency Department Data Sharing

S.L. 2007-8 ([HB 123](#)) authorizes the State Health Director to share emergency department data with the Centers for Disease Control and Prevention in order to detect and investigate certain types of public health threats (disease epidemics, terrorist incidents, etc.). Data collected and shared is privileged and confidential. The act directs the Department of Health and Human Services to enter into an agreement with the Center to ensure its compliance with State confidentiality provisions.

The act became effective April 4, 2007. (BP)

Repeal Chiropractic Special Provision

S.L. 2007-24 ([HB 502](#)) repeals a State law provision which prohibited an insurer from imposing, as a limitation on treatment or level of coverage, a co-payment amount charged to the insured for chiropractic services that is higher than the amount charged to the insured for the services provided by a duly licensed primary care physician for comparable medically necessary treatment services. For health benefit plan policies issued or renewed on or after October 1, 2007, insurers may charge the insured a higher co-payment for services provided by chiropractors than the co-payment charged for services provided by primary care physicians for comparable medically necessary treatment.

This act became effective October 1, 2007. (SP)

North Carolina Institute of Medicine Membership

S.L. 2007-25 ([SB 666](#)) removes the 100-member limit and directs the Board of Directors of the North Carolina Institute of Medicine to determine the total membership in its bylaws.

This act became effective April 25, 2007, and applies to appointments made on or after that date. (SP)

Clarify Authority of Social Services Commission

S.L. 2007-30 ([HB 697](#)) directs the Social Services Commission to adopt rules establishing educational requirements for executive directors and staff of maternity homes, child placing agencies, and residential child care facilities.

This act became effective April 28, 2007. (SP)

Schools Provide Information on Cervical Cancer

S.L. 2007-59 ([SB 260](#)). See **Education**.

Rename Food Stamp Program

S.L. 2007-97 ([SB 836](#)) renames the "Food Stamp Program" as the "Food and Nutrition Services Program" to reflect the use of electronic benefit transfer cards. The act replaces in the General Statutes the terms "food stamp," "food stamps," and "food stamp program," with appropriate substitute terms to conform to the change.

This act became effective June 20, 2007. (SP)

Immunization Certificate for College Students

S.L. 2007-99 ([SB 982](#)). See **Education**.

University of North Carolina Smoke-Free

S.L. 2007-114 ([SB 862](#)). See **Education**.

Public Health Information Access

S.L. 2007-115 ([HB 353](#)) permits the State Health Director to examine, review, or obtain copies of records containing privileged medical information, or other medical information protected by Health Insurance Portability and Accountability Act (HIPAA) provisions, when the State Health Director deems the information to be "necessary to prevent, control, or investigate a disease or health hazard that may present a clear danger to the public health." Information collected remains confidential and may be released only in certain specific situations (such as for the prevention or control of a disease or public health hazard).

The act also clarifies that health care providers may release protected medical information to law enforcement officers, in certain limited circumstances, and remain in compliance with HIPAA. Finally, the act allows health care providers to refuse to collect blood or urine, if doing so would endanger either the donor or the collector of the blood or urine.

The act became effective June 27, 2007. (BP)

See **Criminal Law and Procedure** for additional information on this act.

Flexible Compensation Plan

S.L. 2007-117, Sec. 3 ([SB 1119](#), Sec. 3). See **State Government**.

Medicaid Special Fund

S.L. 2007-117, Sec. 7 ([SB 1119](#), Sec. 7) amends current State law governing special funds to establish the Medicaid Special Fund, a nonreverting fund, in the Department of Health and Human Services. The act requires the Department to transfer federal Medicaid disproportionate share gains into the Medicaid Special Fund annually after payments are made to hospitals. Funds are available for expenditure only after an act of appropriation of the General Assembly.

This section became effective July 1, 2007. (SB)

See **State Government** for the summary of the remaining sections of the bill.

Information on Lawful Abandonment

S.L. 2007-126 ([HB 485](#)). See **Education**.

Insurers to Cover Rx in Emergencies

S.L. 2007-133 ([HB 748](#)) requires that health benefit plans, the Teachers' and State Employees' Comprehensive Major Medical Plan (and any of its optional plans or programs), and stand-alone prescription drug plans provide at least one refill of a prescription for individuals residing in a county where a state of disaster or a state of emergency has been declared. The obligation is triggered and may be extended in 30-day increments by the Commissioner of Insurance by issuing a Bulletin Advisory to all insurers licensed in the State, and providing a copy of the Bulletin to the State Pharmacy Board.

The act became effective June 27, 2007. (BP)

Anesthesiologist Assistants Licensure

S.L. 2007-146 ([HB 1492](#)). See **Occupational Boards and Licensing**.

Division of Services for the Deaf and Hard of Hearing Communication Services Assistive Equipment Loan Program

S.L. 2007-149 ([SB 834](#)) modifies the communication services loan program provided by the Division of Services for the Deaf and the Hard of Hearing to expand the types of communication and alerting equipment made available to qualified individuals. The act directs the Division to provide consultative and training services to persons utilizing the equipment and reduces the lease period for this communication equipment from a maximum of five years to a maximum of two years.

The act requires all public safety offices, health care facilities (including all hospitals and urgent care facilities and 911 emergency number systems) to obtain telecommunication devices that are the functional equivalent to the loaned equipment and to continually operate and staff the equipment during hours of operation.

This act becomes effective June 29, 2007. (SP)

Rename Mental Health, Developmental Disabilities, and Substance Abuse Services Facilities

S.L. 2007-177 ([HB 625](#)) reorganizes State statutes to rename, as follows, the State facilities under the jurisdiction of the Secretary of Health and Human Services:

- Psychiatric Hospitals
 - Cherry Hospital
 - Dorothea Dix Hospital*
 - John Umstead Hospital*
 - Broughton Hospital
- Developmental Centers
 - Caswell Developmental Center
 - J. Iverson Riddle Developmental Center
 - Murdoch Center
- Alcohol and Drug Treatment Centers
 - Walter B. Jones Alcohol and Drug Abuse Treatment Center
 - Julian F. Keith Alcohol and Drug Abuse Treatment Center
 - R.J. Blackley Alcohol and Drug Abuse Treatment Center
- Neuro-Medical Treatment Center
 - Black Mountain Neuro-Medical Treatment Center
 - O'Berry Neuro-Medical Treatment Center
 - Longleaf Neuro-Medical Treatment Center
- Residential Programs for Children
 - Whitaker School
 - Wright School

The act provides Central Regional Hospital will be added under Psychiatric Hospitals, and both Dorothea Dix Hospital and John Umstead Hospital will be removed when Dorothea Dix Hospital is closed and is no longer serving psychiatric patients.

This act became effective July 5, 2007. (SP)

Name Change/Division of Facility Services/Commission for Health Services

S.L. 2007-182 ([HB 720](#)) renames the Division of Facility Services as the Division of Health Service Regulation, to better reflect the functions and duties performed by the Division. The act also renames the Commission for Health Services as the Commission for Public Health, to better reflect the functions and duties performed by the Commission. The act directs the Revisor of Statutes to replace the terms appropriately in the North Carolina General Statutes

This act became effective July 5, 2007. (SP)

Public Health Technical Changes

S.L. 2007-187 ([SB 583](#)) makes the following changes to the Public Health Chapter of the General Statutes:

- Clarifies that the term "Department" means Department of Environment and Natural Resources (DENR) and the term "Secretary" means Secretary of Environment and Natural Resources in the Sanitary Districts portion of the statutes.
- Provides that the annual immunization reports required under State law must be filed by the school to the Department of Health and Human Services by November 1 of each year.
- Directs DENR to establish within the Division of Public Health a comprehensive statewide injury prevention program.
- Authorizes, in the event that no licensed physician accepts appointment, the Chief Medical Examiner to appoint as acting county medical examiner a licensed physician assistant, a nurse, a coroner, or an individual who has taken an approved course of training. The acting county medical examiner would have all the duties and authority

of the physician medical examiner, but would not be authorized to perform autopsies.

- Requires each county to provide an appropriate facility for the examination and storage of bodies under the jurisdiction of the Chief Medical Examiner.

This act became effective July 8, 2007. (SP)

Assault on a Disabled Person in an Institutional Setting

S.L. 2007-188 ([HB 554](#)). See **Criminal Law and Procedure**.

Prohibit Smoking in Government Buildings

S.L. 2007-193 ([HB 24](#)). See **State Government** and **Local Government**.

Public Health Authority Changes

S.L. 2007-229 ([HB 1132](#)) allows members of public health authority boards to receive per diem and reimbursement for subsistence and travel costs, in accordance with policies set by the county commissioner members of the public health authority board on which they serve. The act also allows public health authorities to finance the purchase of real and personal property in the same manner as currently provided by law for counties and cities.

The act became effective July 18, 2007. (BP)

Tobacco Free Schools

S.L. 2007-236 ([SB 1086](#)). See **Education**.

Prescription Orders/Electronic Image

S.L. 2007-248 ([HB 1369](#)). See **Business and Commerce**.

Mental Health Equitable Coverage

S.L. 2007-268 ([HB 973](#)). See **Insurance**.

Disability History and Awareness Month

S.L. 2007-274 ([SB 753](#)). See **Education**.

Amend Child Welfare Laws to Comply with Federal Laws

S.L. 2007-276 ([HB 698](#)) amends the existing requirement that a juvenile or the juvenile's guardian ad litem, and the juvenile's parent, guardian, custodian, or caretaker be given an "opportunity" to be heard at various custody hearings. The provision gives those persons the "right" to be heard. Federal law now requires that caregivers have the "right" to be heard, instead of just an "opportunity". The act also extends court reviews of a juvenile's placement until a decree of adoption. The act also changes the definition of "criminal history" in the adoption and foster care placement statutes to conform to the federal requirements. However, pending felony indictments will still be a part of the "criminal history" definition, but misdemeanors will not.

This act becomes effective October 1, 2007. (EC)

Tissue Bank Referrals/Funeral Directors

S.L. 2007-297 ([HB 1400](#)). See **Occupational Boards and Licensing**.

University of North Carolina Hospitals and Statewide Accounts Receivable

S.L. 2007-306 ([HB 646](#)) amends current law governing debt collection practices of the University of North Carolina (UNC) Health Care System, as recommended by the UNC Board of Governors to the 2007 General Assembly. Specifically, the act does the following:

- Provides that a person's employment with a State agency, a board of education, or a community college, may not be terminated because the employee owes money to the UNC Health Care System for health care services.
- Carves out debt owed by patients to the UNC Health Care System from the category of "unpaid billings due to a State agency," which are required by statute to be turned over to the Attorney General's office for collection within ninety days of becoming delinquent. The act specifies that accounts owed by patients to the UNC Health Care System may be turned over to the Attorney General's office for collection, but no longer requires that it be done within ninety days.
- Exempts money owed to the UNC Health Care System for health care services from the statutory requirement to impose interest and penalties on past-due accounts.
- Removes the \$7,500 cap on expenditures that the UNC Health Care System may use to assist patients unable to meet post-discharge health-related requirements (transportation from the facility upon discharge, payment for an after-care facility bed, or for medically appropriate services or equipment).

The act became effective July 28, 2007. (BP)

University Cancer Research Fund

S.L. 2007-323, Sec. 6.23 ([HB 1473](#), Sec. 6.23). See **Finance**.

Board of Governors' Medical Scholarships

S.L. 2007-323, Sec. 9.4 ([HB 1473](#), Sec. 9.4). See **Education**.

Board of Governors' Dental Scholarships

S.L. 2007-323, Sec. 9.5 ([HB 1473](#), Sec. 9.5). See **Education**.

Graduate Nurse Scholarship Loans for Full-Time Nursing Faculty in the North Carolina Community College System

S.L. 2007-323, Sec. 9.6 ([HB 1473](#), Sec. 9.6). See **Education**.

Department of Health and Human Services Payroll Deduction for Child Care Services

S.L. 2007-323, Sec. 10.4 ([HB 1473](#), Sec. 10.4). See **Labor and Employment**.

Non-Medicaid Reimbursement Changes

S.L. 2007-323, Sec. 10.5 ([HB 1473](#), Sec. 10.5) directs that providers of medical services, under programs other than Medicaid, be reimbursed at rates no more than those under the North Carolina Medical Assistance Program. The section authorizes the Department of Health and Human Services to negotiate with medical services providers for rates as close as possible to Medicaid rates for contracts or agreements for medical services and purchases of medical equipment and other medical supplies. when those services cannot be provided when limited to the Medicaid rate.

This section became effective July 1, 2007. (SP)

Community Health Centers

S.L. 2007-323, Sec. 10.6 ([HB 1473](#), Sec. 10.6) appropriates \$7 million for Community Health Grants. The funds are to be allocated to federally qualified health centers and those health centers that meet the requirements for federally qualified health centers, State-designated rural health centers, free clinics, public health departments, and other nonprofit organizations that provide primary and preventive medical services to uninsured or medically indigent patients. The section provides the funds are to be used to:

- Increase access to preventative and primary care services by uninsured or medically indigent patients in existing or new health center locations.
- Establish community health center services in counties where no such services exist.
- Create new services or augment existing services provided to uninsured or medically indigent patients, including primary care and preventative medical services, dental services, pharmacy, and behavioral health.
- Increase capacity necessary to serve the uninsured by enhancing or replacing facilities, equipment, or technologies.

The section directs the sum of \$375,000 of allocated funds must be used to provide a cost of operations increase to eligible school-based and school-linked adolescent health centers.

This section also contains a study that is summarized in the **Studies** portion of this Chapter.

This section became effective July 1, 2007. (SP)

Funds to Assist Rural Hospitals

S.L. 2007-323, Sec. 10.7 ([HB 1473](#), Sec. 10.7) specifies that \$2 million be appropriated for the 2007-2008 fiscal year by the Appropriations Act of 2007 to the Department of Health and Human Services, Office of Rural Health and Community Care, be allocated to small rural hospitals in need of assistance with the operations and maintenance of the hospital. Funds may be used for either of the following:

- Capital and operational needs of small rural hospitals.
- Conducting pilot demonstration programs addressing issues critical to long-term survivability of rural hospitals. Specific criteria for disbursement of funds and monitoring and evaluation of pilot programs will be developed by advisory groups convened by the Office of Rural Health and Community Care for this purpose.

The Office of Rural Health and Community Care is directed to report on allocation 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, and the Fiscal Research Division not later than March 1, 2008.

The act became effective July 1, 2007. (BP)

Quality Improvement Consultation Program for Adult Care Homes

S.L. 2007-323, Sec. 10.12 ([HB 1473](#), Sec. 10.12). See **Senior Citizens**.

Child Care Subsidy Rates

S.L. 2007-323, Sec. 10.15 ([HB 1473](#), Sec. 10.15). See **Children and Families**.

Community-Focused Eliminating Health Disparities Initiative

S.L. 2007-323, Sec. 10.22 ([HB 1473](#), Sec. 10.22) directs the Department of Health and Human Services to allocate \$2.5 million to the Community-Focused Health Disparities Initiative to provide grants-in-aid to local public health departments, American Indian tribes, and faith-based and community-based organizations. The grants' purpose to close the gap in the health status of African-Americans, Hispanics/Latinos, and American Indians, as compared to the health status of white persons. These grants must focus on the use of preventive measures to support healthy lifestyles. The areas of focus on health status must be infant mortality, HIV-AIDS and sexually transmitted infections, cancer, diabetes, and homicides and motor vehicle deaths.

The section appropriates an additional \$500,000 in nonrecurring funds to the Division of Public Health, for the Health Disparities Initiative to be awarded as a grant-in-aid to honor the memory of the following recently deceased members of the General Assembly: Bernard Allen, John Hall, Robert Holloman, Howard Hunter, Jeanne Lucas, and William Martin. These funds are to be used for concerted efforts to address large gaps in health status among North Carolinians who are African-American, as well as disparities among other minority populations in North Carolina. These efforts must include the following:

- Providing enhanced education and outreach to minority populations on the prevention, diagnosis, and treatment of heart disease, breast cancer, diabetes, obesity, hypertension, sickle cell anemia, and HIV infection.
- Addressing cultural and communication barriers to quality care by improving interpersonal processes between clinicians and patients.

The Secretary of Health and Human Services is directed to send to each grantee organization a letter stating that the award is made in honor of the memory of and in recognition of the recent deaths of Senators Robert Holloman, Jeanne Lucas, and William Martin, and Representatives Bernard Allen, John Hall, and Howard Hunter.

The section directs the Department to conduct a comprehensive evaluation of all grantees with regard to fulfilling the goals of the program and 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 March 1, 2008.

This section became effective July 1, 2007. (SP)

Health Promotion and Disease Prevention Inventory and Plan

S.L. 2007-323, Sec. 10.25 ([HB 1473](#), Sec. 10.25) directs the Department of Health and Human Services (Department) to create an inventory of all current health promotion and disease prevention activities. The inventory must include State and local health department activities that address tobacco-use prevention and cessation, obesity, improved nutrition and diet, physical exercise, public awareness and education concerning asthma, cancer, diabetes, heart disease, stroke, and accomplishment of the goals of the federal government's Healthy People 2010 Report.

The section further directs the Department to adopt a plan to combine the resources for such activities into a single funding stream allocation to be distributed to local health departments. The Department must develop a formula that will distribute these funds on an equitable basis and that takes into consideration the following factors for areas served by each local health department:

- Rate of infant mortality.
- Rate of adolescent pregnancy.
- Rates of cancer, heart disease, and diabetes.
- Number of persons without health insurance.
- Median income.
- Percent of county population enrolled in Medicaid.
- Percent of the population that is minority.

The section requires the Department to report on the inventory and the plan to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division by February 1, 2008.

This section became effective July 1, 2007. (SP)

Child Support Program/Enhanced Standards

S.L. 2007-323, Sec. 10.28 ([HB 1473](#), Sec. 10.28). See **Children and Families**.

Intensive Family Preservation Services Funding and Performance Enhancements

S.L. 2007-323, Sec. 10.33 ([HB 1473](#), Sec. 10.33). See **Children and Families**.

Medicaid

S.L. 2007-323, Sec. 10.36 ([HB 1473](#), Sec. 10.36) implements the following changes in State Medicaid operations and funding:

- Phases out the county share of nonfederal cost of Medicaid services and of federal Medicare Part D clawback payments, according to the following timeframe:
 - Until October 1, 2007 – State pays 85%, county pays 15%.
 - Effective October 1, 2007 – State pays 88.75%, county pays 11.25%.
 - Effective July 1, 2008 – State pays 92.5%, county pays 7.5%.
 - Effective July 1, 2009 – State pays 100%, county pays 0%
- Authorizes the Division of Medical Assistance (Division) to undertake cost-containment programs, including volume purchase plans, hospital preadmissions, and prior approval for certain surgeries.

- Directs the Division to provide incentives to counties that recover fraudulently spent Medicaid funds.
 - Prohibits the Department of Health and Human Services (Department) from changing medical policy affecting the amount, sufficiency, duration, and scope of health care services provided unless the Division first has conducted a five-year fiscal analysis documenting increased costs associated with the change and has submitted its analysis for Departmental review. Requires additional review and approval by the Office of State Budget and Management before implementation of any policy change that would require more than \$3 million in any given fiscal year.
 - Directs the Department to impose prior authorization on all personal care services, effective October 1, 2007.
 - Prescription Drugs – implements the following:
 - Requires that generic, rather than brand-name drugs, be dispensed, except when the use of the brand-name drug is prescribed as medically necessary.
 - Authorizes the Department to establish authorizations, limitations, and reviews for specific drugs, drug classes, brands or quantities, but prohibits limitations from being placed on brand name drugs in cases where the brand name drug is deemed medically necessary by the prescriber.
 - Sets "professional services fee" paid for drugs prescribed at higher levels for generic (\$5.60) than for brand-name (\$4.00) drugs.
 - Prohibits imposition of prior authorization requirements on medications prescribed for treatment of mental illness or HIV/AIDS.
 - Directs the Department to report on implementation of these drug provisions by January 1, 2008, and quarterly thereafter to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services and the Fiscal Research Division.
 - Provider payments and visits – Limits payment only to Medicaid-enrolled providers that purchase performance bonds or some similar financial guarantee arrangement, while allowing for waivers to be granted in certain instances.
 - Authorizes the Department, with the approval of the Director of the Budget, to waive service limitations, eligibility requirements, and payment bases to conduct pilot programs for prepaid health plans, contracting for services, managed care plans, or community-based services programs. Also authorizes the Department to establish co-payments for Medicaid services, as permitted by federal law and regulation.
- The act became effective July 1, 2007. (BP)

North Carolina Kids' Care

S.L. 2007-323, Sec. 10.48 ([HB 1473](#), Sec. 10.48) directs that \$368,000 of funds appropriated for the 2007-2008 fiscal year to the Department of Health and Human Services, Division of Medical Assistance, be used to produce a report that identifies the most cost-efficient and cost-effective method for developing and implementing a program of comprehensive health care benefits within available funding for children ages 0 through 18 in families with annual incomes between 200% and 300% of the federal poverty level. The act specifies 8 areas of interest that must be addressed by the report and requires that an interim report be delivered no later than January 1, 2008, and a final report no later than February 1, 2008, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division.

The act then directs that \$7 million of funds appropriated to the Department of Health and Human Services for the 2007-2008 fiscal year be used to implement the program expanding

access to health insurance for children above 200% of the federal poverty level, effective July 1, 2008.

The act became effective July 1, 2007. (BP)

Increase Availability of Substance Abuse Treatment and Crisis Services

S.L. 2007-323, Sec. 10.49(b) ([HB 1473](#), Sec. 10.49(b)) amends the law which governs how local public agencies [Local Management Entities (LMEs)] that manage mental health, developmental disabilities, and substance abuse services can draw down funds from the State. The general law requires that services be billed on a "fee for service" basis.

With regard to substance abuse and crisis services, this provision allows an LME to choose whether to receive a pro rata portion (grant) of its annual budget for those services, bill on a fee for service basis, or some combination of the two. The LME must be able to account for how funds are spent if the LME chooses to receive some or all of the funds in a grant form.

This section became effective July 1, 2007. (KG)

Clarify Certain Functions of Local Management Entities (LMEs)

S.L. 2007-323, Sec. 10.49(l), as amended by S.L. 2007-484, Sec. 43.7 ([HB 1473](#), Sec. 10.49(l), as amended by S.L. 2007-484, Sec. 43.7) specifies the particular activities that a local management entity (LME) is responsible for carrying out with regard to care coordination. Care coordination is described as involving individual client care decisions at critical treatment junctures. It must be provided by clinically trained professionals with the authority and skills necessary to determine appropriate diagnosis and treatment, approve treatment and service plans, link clients with other resources, and facilitate resolution of conflicts between providers and clients.

This section became effective July 1, 2007. (KG)

Allocation of Crisis Services Funds

S.L. 2007-323, Sec. 10.49(q) ([HB 1473](#), Sec. 10.49(q)) provides that funds that are available for crisis services do not have to be allocated according to the broad disability categories of mental illness, developmental disabilities, and substance abuse services, or between adult and child/adolescent age groupings.

This section became effective July 1, 2007. (KG)

Revisions to the Mental Health Trust Fund

S.L. 2007-323, Sec. 10.49(w1) ([HB 1473](#), Sec. Sec. 10.49(w1)) makes revisions to how funds may be spent in the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding. The changes delete the use of these funds to develop discharge plans, pursuant to the Supreme Court decision in Olmstead v. L.C. and E.W. It also deletes the use of the funds to construct, repair, or renovate State operated facilities. The funds now must be allocated to area programs, and the Department of Health and Human Services (DHHS) must report annually to the Fiscal Research Division on how the funds are spent.

This section became effective July 1, 2007. (KG)

Developmental Center Downsizing

S.L. 2007-323, Sec. 10.50 ([HB 1473](#), Sec. 10.50) requires the Department of Health and Human Services (Department) to ensure that the downsizing of the State's Developmental Centers is continuously based on residents' needs and the availability of community based services with a targeted goal of 4% each year. The Department must implement cost containment and reduction strategies to ensure the corresponding financial and staff downsizing of each facility. The Department must manage the client population of the Developmental Centers in order to ensure that placements for Intermediate Care Facilities for the Mentally Retarded (ICF/MR) level of care must be made to appropriate community-based settings. Admissions to a State operated ICF/MR facility is permitted only as a last resort and only upon approval of the Department. The corresponding budgets for each of the Developmental Centers must be reduced, and positions must be eliminated as the census of each facility decreases. Mental retardation center positions may not be transferred to other units within a facility or assigned non-direct care activities such as outreach.

This section also explains how the Department must apply savings that result from reductions in beds or services. The Secretary of Health and Human Services must update the current plan to ensure that there are sufficient developmental disability/mental retardation regional centers to correspond with service catchment areas. The Department must report on the update of the plan not later than April 1, 2008, and it must report the final plan, including recommendations for legislative action, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division not later than April 1, 2009.

The Department must report on its progress in complying with this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

The Department must submit the progress report no later than January 15, 2008, and submit a final report no later than May 1, 2009.

This section became effective July 1, 2007. (SP)

Delivering Community Mental Health, Developmental Disabilities, and Substance Abuse Services

S.L. 2007-323, Sec. 10.51 ([HB 1473](#), Sec. 10.51) provides the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (MH/DD/SAS) of the Department of Health and Human Services with policy directives to guide Department activities in providing community services to certain populations.

The section directs the Division to work with area mental health authorities and county programs to identify and eliminate administrative and fiscal barriers to the provision of community-based MH/DD/SA services that are caused by existing State and local policies and procedures, with the following goals:

- Providing services to adults and children in priority or target populations.
- Providing services to children in need of medically necessary services to prevent out-of-home placement.
- Providing services in the community to adults remaining in State institutions.

The section also directs the Department to "rework the revised system of allocating State and federal funds to area mental health authorities and county programs to better reflect projected needs . . . rather than historical allocation practices and spending patterns." This section specifies that the following be included in the reworked allocations:

- Each Local Management Entity's current and proposed allocations.
- Clear formulas for new allocations and detailed methodologies for developing the formulas.

- Plans for moving to the new allocation formulas. The Department may implement the reworked allocation system only after it has been reviewed and approved by the 2007 General Assembly, Regular Session 2008.

The section further directs area MH/DD/SAS authorities and county programs to use all funds appropriated for and necessary to provide MH/DD/SA services to meet the need for these services. If excess funds remain after the needs have been fully met, then 1/2 of excess funds will be transferred to the Trust Funds of Mental Health, Developmental Disabilities, and Substance Abuse Services. If excess funds remain from those appropriated for the Comprehensive Treatment Services Program for children, however, 1/2 of this excess will be carried forward and may be used only for services for children and adolescents.

The Department is directed to report on progress in implementing these changes to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on October 1, 2007, and February 1, 2008.

The act became effective July 1, 2007. (BP)

Services to Multiply Diagnosed Adults

S.L. 2007-323, Sec. 10.52 ([HB 1473](#), Sec. 10.52) sets forth guiding principles for the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (MH/DD/SAS), of the Department of Health and Human Services (Department), to provide services to adults with multiple diagnoses. The act also directs the Department to provide treatment services that are medically necessary and to implement utilization review of services provided. The act further requires that the Department implement certain cost-reduction strategies and prohibits the use of State funds to purchase single-family or other residential dwellings to house multiply diagnosed adults.

The act requires that the Department report on implementation of these provisions on May 1, 2008, and on May 1, 2009, to the Senate Appropriations Committee on Health and Human Services; the House of Representatives Appropriations Subcommittee on Health and Human Services; the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services; and the Fiscal Research Division.

The act became effective July 1, 2007. (BP)

State Health Plan Changes Effective for Fiscal Year 2007–2008

S.L. 2007-323, Sec. 28.22 ([HB 1473](#), Sec. 28.22). See **Insurance**.

State Assume Medicaid Responsibilities

S.L. 2007-323, Secs. 31.16.1 - 16.4 ([HB 1473](#), Secs. 31.16.1 - 16.4). See **Finance**.

Amend Practice of Medicine Laws

S.L. 2007-346 ([HB 818](#)). See **Occupational Boards and Licensing**.

Coordinate Statewide Enhanced 911 System

S.L. 2007-383 ([HB 1755](#)). See **State Government**.

Temporary Department of Health and Human Services Exemption/Recreation Therapy Act

S.L. 2007-389 ([SB 768](#)). See **Occupational Boards and Licensing**.

Sex Offenders/Test for Sexually Transmitted Diseases

S.L. 2007-403 ([HB 118](#)). See **Criminal Law and Procedure**.

Uniform Graduated Co-payment for Mental Health, Developmental Disabilities, and Substance Abuse Services

S.L. 2007-410 ([HB 628](#)) does the following:

- Directs the Secretary of Health and Human Services to adopt rules for implementing a co-payment graduated schedule to be used by local management entity (LME) and contractual provider agencies.
- Requires the schedule to be developed to require a co-payment for services identified by the Secretary and provides that families with an income 300% or greater of the family poverty level are eligible for services with the co-payment.
- Directs the Secretary to identify all services that are funded by or through the Department's budget that do not have income-base criteria for eligibility and to develop and submit to the General Assembly by November 1, 2007, a proposal for implementing this type of criteria for the identified programs.
- Provides that the LME is responsible for determining the applicability of the co-payment for individuals that have been authorized by the LME to receive services and requires that funds collected from co-payments for LME services are to be used to provide services to individuals in targeted populations. (Effective July 1, 2007)

Except as noted, this act became effective August 21, 2007. (SP)

Criminal Background Reviews – Emergency Medical Services Personnel

S.L. 2007-411 ([HB 535](#)) provides for criminal background reviews by the Department of Health and Human Services (DHHS) of individuals who apply for, seek to renew, or hold, Emergency Medical Services (EMS) credentials. At the request of the Department, the Emergency Medical Services Disciplinary Committee will review criminal background information and make a recommendation regarding the eligibility of an individual to obtain, renew, or maintain his or her credentials. The Department and the Disciplinary Committee will keep all criminal background information confidential. The Medical Care Commission will adopt rules to implement the criminal background reviews, including rules to establish a reasonable fee to offset the actual costs of obtaining criminal history information, from the Department of Justice.

The act became effective October 1, 2007. (BP)

Medicaid Hardship/Estate Recovery/Data Share

S.L. 2007-442 ([HB 1537](#)) amends the Medicaid estate recovery provisions to allow the Department of Health and Human Services (Department) to continue as a fifth class creditor, amends the law regarding required data sharing by health insurers and the Department, and codifies the provisions setting forth the Medicaid hardship waiver process.

Medicaid Estate Recovery Plan. – This portion of the act amends the law which allowed the Department to impose liens against real property for Medicaid estate recovery. The act repeals the four sections:

- The provision which pertained to the postponement of estate recovery in cases of undue hardship.
- The provision which provided direction when estate recovery is not cost effective.
- The provision which added a notice of estate recovery.
- The provision which required county departments of social services to provide information and assistance.

The act further amends the Medicaid Estate Recovery Plan to allow the Department to recover from the estates of recipients of medical assistance an equitable amount of the State and federal shares of the cost paid for the recipient. It also amends medical care services listed under the definition of "medical assistance," to specify that medical care services paid for by the North Carolina Medicaid Program, on behalf of the recipient if the recipient is 55 years of age or older, no longer include Medicare premiums, private duty nursing, home health aide services, home health therapy, and speech pathology services. The law now includes prescription drugs (replacing the requirement that prescription drugs must be related to nursing facility services or home and community-based services.) It also grants the Department the authority to adopt rules to waive whole or partial recovery when the recovery would be inequitable, would work an undue hardship, or because it would not be administratively cost-effective.

Data Sharing. – This portion of the act amends the requirements of insurers to provide certain information to the Department. It adds the following definitions:

- "Subscriber" – means the policyholder or covered person of the insurance.
- "Applicant" – means an applicant or former applicant of medical assistance benefits.
- "Recipient" – means a present or former recipient of medical assistance benefits.
- "Request" – means any inquiry by the Department or Division of Medical Assistance (Division) for the purpose of determining the existence of insurance, where the Department or Division may have expended public assistance benefits.

It also allows information to be provided to the Division, or its authorized contractor, to determine what period the individual or the individual's spouse or dependents may be (or may have been) covered by a health insurer, and the nature of the coverage that is, or was, provided by the health insurer.

Medicaid Hardship. – This final portion of the act amends the Medicaid laws by adding a new section regarding a waiver of the transfer of assets penalty due to hardship. The act makes the following changes:

- *Notice of the Right to Request a Waiver.* - Prior to the imposition of a period of ineligibility for long-term care services because of an asset transfer (penalty period), the county Department of Social Services (DSS) must notify the individual of their right to request a waiver of the penalty period because it will cause an undue hardship.
- *Process for Medicaid Applicant.* - The determination of whether to waive the penalty period must be processed as part of the Medicaid application and subject to application processing standards set forth in the administrative rules, when a waiver of penalty period due to undue hardship is requested by a Medicaid applicant requesting Medicaid pay for institutional care.
- *Process for Medicaid Recipient.* - When an ongoing Medicaid recipient applies for institutional care, or is receiving Medicaid payment for institutional care, receives notice of the right to request a waiver of the penalty period because it will cause an undue hardship, the recipient has 12 calendar days from the date of the notice to request a waiver. The process for the waiver request is as follows:
 - Five work days from receipt of a request for waiver, the county DSS must notify the individual in writing of the information and documentation necessary for approving the waiver.

- Twelve calendar days from the date of the notice above, the individual must provide the necessary information and documentation to establish the undue hardship.
 - At the end of the first 12 calendar-day period, if the necessary information and documentation has not been received by the county DSS, the DSS must notify the individual of the necessary information and documentation, and the individual will be given an additional 12 calendar days to provide information.
 - If the individual fails to request a waiver within 12 calendar days, the county DSS must impose the transfer of assets penalty.
 - By the end of the second 12 calendar-day notice, if the necessary information and documentation has not been received by the county DSS, the DSS will deny the request for waiver and notify the individual of the denial.
 - The county DSS must make a determination of whether the imposition of the penalty period would cause an undue hardship to the individual if the DSS receives the necessary information and documentation within the specified time frames. The county DSS must complete the determination and notify the individual that: 1) an undue hardship exists and the waiver is approved, or 2) an undue hardship does not exist and the request for a waiver has been denied. During the determination process, if the county DSS identifies the need for additional information and documentation, the individual must be notified in writing and given a new period of time to provide the information.
- Under the changes, a facility in which an institutionalized individual is residing may request an undue hardship waiver on behalf of the individual with the written consent of the individual or the personal representative of the individual.
 - This portion of the act also provides that, while the determination on a request for a waiver is pending, Medicaid is prevented from making payments for nursing facility services or intermediate care facility for the mentally retarded services to hold a bed for the individual. If an individual is institutionalized and receiving Medicaid payment for services, Medicaid will maintain the same level of services until the last day of the month after the later of the expiration of the 10-day workday period following the notice required by law, or the date the decision of a local appeal hearing described in the law is issued if the individual requests an appeal, whichever comes later.
 - Undue hardship. – This portion of the act provides that undue hardship exists if the imposition of the penalty period would deprive the individual of medical care, such that health or life would be endangered, or of food, clothing, shelter, or other necessities of life. The individual must provide the information and documentation necessary to demonstrate to the Director of the county DSS, or designee, the following:
 - The individual currently does not have alternative source of income or resources available to provide the medical care or food, clothing, shelter, or other necessities of life that the individual would be deprived of due to the imposition of the penalty.
 - The individual or person acting on his or her behalf, is making a good faith effort to pursue all reasonable means to recover the transferred asset, or the fair market value of it, which may include seeking the advice of an attorney and pursuing legal remedies, and cooperating with any attempt to recover the transferred asset or the fair market value.

With regard to undue hardship, the following definitions apply:

- "Health or life would be endangered" – means a medical doctor with knowledge of the individual's medical condition certifies in writing that in his or her professional opinion, the individual will be in danger of death or the individual's health will suffer irreparable harm if a penalty period is imposed.

- "Other necessities of life" – includes basic, life-sustaining utilities, including water, heat, electricity, phone, and other items or activities that without which the individual's health or life would be endangered.
- "Income" – means all income of the individual and to the community spouse, less an amount for the community spouse equal to the minimum monthly maintenance needs allowance as determined under federal law, without regard to any required adjustment, plus 50% of other income in excess of the minimum monthly maintenance needs allowance.
- "Resources" – means all resources of the individual and of the community spouse, except for the excluded home, the equity of a motor vehicle up to \$30,000, other personal property, and an amount of other resources for the community spouse, equal to 60% of the community spouse resource allowance as determined under federal law, which is not less or greater than the amount specified under federal law.
- Other changes relative to this provision include:
 - The specification that an undue hardship does not exist when the application of a transfer of assets penalty merely causes the individual an inconvenience or restricts his or her lifestyle.
 - A requirement that during a penalty period that has been waived, due to undue hardship, an acquisition by the individual of new or increased income or resources will be treated as a change in situation and evaluated pursuant to rules adopted by the Department of Health and Human Services.
 - The disapproval of an Administrative Code provision, which had been adopted by the Department of Health and Human Services on January 19, 2007, and approved by the Rules Review Commission on March 15, 2007.
 - Uncodified language that provides that, unless required by federal law, the Department of Health and Human Services, Division of Medical Assistance must limit notification of estate recovery to the application process for Medicaid and to the period following the death of the recipient.

Reporting Requirement. – The act requires the Department of Health and Human Services to report by April 15, 2008, 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 Health and Human Services. The report must include the following information:

- For the previous 24 months, the total expenditure for personal care services for each year, and the total expenditure for each setting in which personal care services were provided.
- For the period beginning October 1, 2007, the total number of deceased recipients that received personal care services, the average expenditure for personal care services for those recipients, and the average value of the estate of those recipients.
- For the period beginning October 1, 2007, for each estate against which recovery is sought for the provision of personal care services, the total amount of personal care services provided, and the value of the estate.
- Recommendations, if any, by the Department for a threshold to begin recovery from the estate of a deceased recipient of personal care services.

This act became effective August 23, 2007. (TM)

Licensure Changes Relating to Hospitals, Adult Care Homes, and Mental Health Facilities

S.L. 2007-444 ([HB 772](#)) makes a number of changes relating to the laws regulating the licenses of hospitals, adult care homes, and persons employed in mental health facilities or as medication aides as follows:

Licensed Hospitals. – The act authorizes the Secretary of the Department of Health and Human Services (Department) to suspend admissions in a hospital or a particular service or unit of a hospital where conditions are considered dangerous to the health and safety of its patients, after considering the following factors:

- The character and degree of impact the conditions would have on a patient's health and safety.
- The character and degree of impact the suspension would have on the functionality of the hospital and its ability to serve current patients and the community.
- If all other reasonable means for correcting the problem have been exhausted.

The act further provides that the facility may contest any adverse action on its license within 20 days after the Department mails notice. The act directs the Department to provide consultation to assist the hospital in correcting any conditions that led to a suspension of admissions or specific services, in an effort to lift the suspension as soon as the Secretary is satisfied that the condition has improved.

The act authorizes the Division of Health Service Regulation (Division) [formerly Division of Facility Services] to temporarily waive rules pertaining to hospitals during times of emergencies declared in accordance to the laws of the North Carolina Emergency Management Act, or upon request of an emergency management agency, to the extent necessary to allow the facility to provide temporary shelter and services. The section provides the Division the authority to identify which rules and to what extent they may be waived in advance of an emergency.

Licensed Mental Health Facilities. – The act amends the law to allow private entities to conduct the required State criminal history check for potential employees of licensed mental health facilities.

Medication Aides. – The act makes technical corrections relating to Medication Aides and the Health Care Personnel Registry.

Licensed Adult Care Homes. – The act prohibits a new license from being issued due to a change of ownership of an adult care home, if outstanding fees, fines, or penalties imposed by the State against the home have not been paid. The section requires investigations of violations at an adult care home must be completed within 60 days.

This act became effective August 23, 2007. (SP)

Smoking Prohibited Inside Long Term Care Facilities

S.L. 2007-459 ([HB 1294](#)) prohibits smoking inside long-term care facilities, including adult care homes, nursing homes, skilled nursing facilities, State psychiatric hospitals, and other licensed facilities that provide long-term care services. The act requires owners, managers, or operators of a long-term care facility to do the following:

- Conspicuously post a sign stating that smoking is prohibited.
- Direct any person smoking inside the facility to extinguish any lighted tobacco product.
- Provide written notice to individuals upon admittance that smoking is prohibited inside the facility and obtain the signature of the individual or the individual's representative acknowledging receipt of the notice.

The act directs home care agencies to prohibit their employees from smoking while providing services in an individual's home. The home care agency is required to inform its clients about the prohibition. Any owner, manager, or operator of facilities or home care agency not

complying with the act can be fined by the Department of Health and Human Services an administrative penalty of up \$200 per violation.

The provision relating to State psychiatric hospitals becomes effective January 1, 2008; the remainder of the act became effective October 1, 2007. (SP)

Child Support Collection Fee

S.L. 2007-460 ([HB 825](#)) requires the Department of Health and Human Services to impose an additional fee for child support collection services. Any child support collection and paternity determination services provided to individuals who receive public assistance must also be made available to any individual who is not receiving public assistance, if that individual properly applies for that service and pays a one-time, nonrefundable application fee of \$25. The fee is reduced to \$10 if the individual applying for the services is indigent.

With the change, the State must impose an annual fee of \$25 for each case in which services are furnished to an individual who has never received assistance under a State program funded under Title IV-A of the Social Security Act and for whom the State has collected and disbursed to the family at least \$500 of support in a federal fiscal year. The child support agency must retain the fee from support collected on behalf of the individual. However, the child support agency cannot retain the fee from the first \$500 collected and must use the fee to support the ongoing operation of the program.

This act became effective August 28, 2007. (EC)

Silver Alert System/Missing Persons Alert

S.L. 2007-469 ([HB 38](#)). See **Senior Citizens**.

Adult Care Home or Nursing Home/Expedited Certificate of Need

S.L. 2007-473 ([HB 1685](#)). See **Senior Citizens**.

Advisory Commission on Hospital Infection Control and Disclosure

S.L. 2007-480 ([HB 1738](#)) establishes a 13-member Advisory Commission on Hospital Infection Control and Disclosure (Commission) to prepare State agencies, hospitals, and the public for the reporting and disclosure of hospital-acquired infection incidence rates.

The act directs the Commission to do the following:

- Be involved in the development of all aspects of the methodology used for collecting, analyzing, and disclosing information on incidence rates to the public.
- To develop a process to ensure information and data on hospital-acquired infection incidence rates is reviewed and validated prior to being disseminated to the public.
- To include safeguards to be implemented to protect against unauthorized use, dissemination of invalid data, and identifying information.

The act directs the Commission to provide an interim report to the General Assembly on or before May 1, 2008, and terminate upon submitting a final report to the 2009 General Assembly upon its convening. The final report must include recommendations and proposed legislation.

This act became effective August 29, 2007. (SP)

Advance Directives/Health Care Power of Attorney

S.L. 2007-502 ([HB 634](#)) amends laws related to the Health Care Powers of Attorney (HCPOA), Advance Directives/Living Wills, and Guardianship statutes. This act makes revisions to statutes which authorize living wills, health care powers of attorney, and instructions for mental health treatment. The purpose is to remove certain ambiguities and provide better statutory forms.

Regarding Health Care Powers of Attorney, the act makes the following changes:

- Provides that either a living will or a HCPOA may provide that the HCPOA takes precedence over a living will, and that provision will not create a conflict between the two documents. Also clarifies that if a living will does not speak directly to a medical condition and the HCPOA does, then the HCPOA controls.
- Amends a number of the definitions related to HCPOAs. Also changes the terminology throughout the Article from "life-sustaining procedures" to "life-prolonging measures." These are defined as medical procedures or interventions which, in the judgment of the attending physician, only serve to postpone artificially the moment of death by sustaining, restoring, or supplanting a vital function.
- Makes it clear that if a health care agent has the authority to make decisions regarding the disposition of the principal's remains, those decisions are limited to incurring reasonable costs and does not give the health care agent broader authority over the principal's estate or financial affairs.
- Clarifies that a health care provider may rely upon the authority of a health care agent contained in a HCPOA, whether the HCPOA is executed in another jurisdiction, is executed under the previous statutory form, or does not use the statutory form but does comply with applicable laws. The health care provider may rely upon the HCPOA until receiving actual notice of its revocation.
- Repeals the original statutory HCPOA form and replaces it with one that attempts to be more user friendly. The new statutory form does not affect the use of previously executed HCPOAs.

Regarding Advance Directives or Living Wills, the Act makes the following changes:

- Expressly recognizes military advance directives.
- Defines a "Declaration" as any signed, witnessed, dated, and notarized document that otherwise meets the requirements of the Article. The witnesses must not have any interest in the declarant's estate or be an employee of the health care provider.
- It repeals the definition of "extraordinary means" and substitutes "life-prolonging measures" as that term is defined in the HCPOA statutes. It also repeals the term "persistent vegetative state."
- Allows an attending physician to withhold life-prolonging measures if the declarant has properly executed a living will and the attending physician determines that all of the following circumstances exist:
 - The declarant has an incurable or irreversible condition that will result in the declarant's death in a relatively short period of time.
 - The declarant is unconscious and, to a high degree of medical certainty, will never regain consciousness, or suffers from advanced dementia or any other condition resulting in the substantial loss of cognitive ability and, to a high degree of medical certainty, is not reversible.
 - The declarant's condition is confirmed by another physician, if one is reasonably available.
 - The Living Will states that the declarant understands that the document authorizes the attending physician to withhold life-prolonging measures.
- Repeals the original statutory form for an Advanced Directive and replaces it with one intended to be more user friendly.

- Clarifies that a Declaration may be revoked orally or in writing without regard to a declarant's mental or physical condition.
- Provides immunity to a health care provider who acts in accordance with a revoked declaration, unless the health care provider has actual knowledge of the revocation. It also extends the protections to a Declaration that is executed in another jurisdiction, and one that does not conform to the statutory form. It also prohibits a health care agent from revoking a declaration, unless the HCPOA explicitly grants the agent that authority.
- Allows a physician to decline to honor a Declaration, if doing so would violate the physician's conscience or the conscience-based policy of the facility where the declarant is being treated. It also allows a physician to decline to honor a Declaration if, after reasonable inquiry, there are reasonable grounds to question the genuineness or validity of the document.

The act also contains several studies that are summarized in the **Studies** portion of this Chapter.

This act became effective October 1, 2007. (KG)

Extend First Commitment Pilot Program Clarify Local Management Entity Functions /Administration

S.L. 2007-504, as amended by S.L. 2007-484, Sec. 43.7 ([HB 627](#), as amended by S.L. 2007-484, Sec. 43.7) makes a number of changes to the laws relating to State and local public agencies that manage mental health, developmental disabilities, and substance abuse services [Local Management Entities (LMEs)]. These changes include:

- Extends the "First Commitment Pilot Program" an additional 5 LMEs for 3 more years (for a total of 10 LMEs). The Program allows certain Master's level professionals to conduct the initial examination of a person to determine whether the person is a threat to themselves or others.
- Clarifying that LME administrative functions may be implemented only by an LME, unless the LME contracts with a third party.
- Effective July 1, 2007, holding harmless for one year a LME that falls below the catchment area requirements (6 counties or a population of at least 200,000) due to a loss of counties participating in the LME.
- Allowing an LME with 8 or more counties to have a governing board of up to 30 members.
- Prohibiting an individual who contracts with an LME for the delivery of services from being a board member during the term of the contract.
- Requiring the Secretary of the Department of Health and Human Services (DHHS) to develop a model LME business plan.
- Directing the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services (Commission) to adopt rules related to the uniform portal process, the monitoring and endorsement of providers, and the provision of technical assistance by LMEs to providers.
- Requiring that any waiver issued by the Secretary allowing an LME to provide services must be for at least 1 year, unless the LME requests a shorter waiver.
- Adding two attorneys to the appointments by the General Assembly to the Commission.

The act also contains a study that is summarized in the **Studies** portion of this Chapter.

The provisions related to the Secretary developing a model business plan and the Commission adopting rules became effective October 1, 2007. The provisions clarifying LME administrative functions became effective July 1, 2007. The remainder of the act became effective August 30, 2007. (KG)

State Health Plan/Plan Year Change

S.L. 2007-521 ([HB 1593](#)). See **Insurance**.

Establish Health Insurance Risk Pool

S.L. 2007-532 ([HB 265](#)). See **Insurance**.

Organ and Tissue Donation/The Heart Prevails

S.L. 2007-538 ([HB 1372](#)) enacts the Revised Uniform Anatomical Gift Act (UAGA) as drafted by the National Conference of Commissioners on Uniform State Laws (NCCUSL) in 2006. The most significant changes are as follows:

- Individual choice to make an anatomical gift, as evidenced by a "heart" symbol on the person's driver's license, will be sufficient to establish intent to donate without verifying that choice with another person. A symbol on a driver's license would not be sufficient to make a donation of tissue.
- Removes the requirement that a donor card be signed by two disinterested witnesses.
- Allows a valid donation by having one's name included on a donor registry.
- Creates the concept of a "refusal," which is a record that expressly states one's intent to bar other persons from making an anatomical gift on one's behalf.
- Allows persons 16 and older to make valid donations, but parents of a child who is 16 or 17 may revoke a donation or a refusal.
- Unless specified otherwise, priority will be given to use anatomical gifts for transplantation or therapy, if suitable, then for use for research or education.
- Directs hospitals to enter into "agreements or affiliations" with procurement organizations.
- Creates a Class H felony for sale or purchase of body parts, or for falsification of donor records.

This act became effective October 1, 2007. (KG)

The act also contains a study that is summarized in the **Studies** portion of this Chapter.

Penalty Review/Long-Term Care Changes

S.L. 2007-544 ([SB 56](#)). See **Senior Citizens**.

Studies

Study Respite Care

S.L. 2007-39 ([HB 424](#)). See **Senior Citizens**.

Study Issues Relating to Adult Care Homes Residents with Mental Illness

S.L. 2007-156 ([SB 164](#)). See **Senior Citizens**.

Community Health Centers Changes

S.L. 2007-323, Sec. 10.6(d) ([HB 1473](#), Sec. 10.6(d)) directs the Office of Rural Health and Community Care to work with the North Carolina Community Health Center Association and the North Carolina Public Health Association to study and present recommendations for continuing funds to support the expansion of community health centers, State-designated rural health centers, and public health departments to serve more of the State's uninsured and indigent population. The Office must submit the report to the 2008 Regular Session of the 2007 General Assembly upon its convening. (Effective July 1, 2007)

Evaluation of Educational Services to Students with Hearing and Visual Impairments

S.L. 2007-323, Sec. 10.20 ([HB 1473](#), Sec. 10.20) directs the Department of Health and Human Services and the Department of Public Instruction to evaluate the current service delivery model for deaf and blind students, including:

- Special needs of the students resulting from additional disabilities other than hearing and visual impairments.
- Training needs of professional staff.
- Access to assistive technology.
- Curriculum content.

The departments are further directed to determine if the management of the State's schools for the deaf and blind should be transferred to be under the purview of the Department of Public Instruction, to develop a plan to reduce institutional capacity at these facilities, and report their findings to the General Assembly by April 1, 2008.

This section became effective July 1, 2007. (SP)

Substance Abuse Services in North Carolina Task Force

S.L. 2007-323, Sec. 10.53A ([HB 1473](#), Sec. 10.53A) directs the North Carolina Institute of Medicine (IOM) to convene a task force to study substance abuse services in North Carolina. The Task Force must:

- Identify the continuum of services needed for treatment of substance abuse services, including, but not limited to, prevention, outpatient services, residential treatment, and recovery supports.
- Identify evidence-based models of care or promising practices in coordination with the North Carolina Practice Improvement Collaborative for the prevention and treatment of substance abuse, and develop recommendations to incorporate these models into the current substance abuse service system of care.
- Examine different financing options to pay for substance abuse services at the local, regional, and State levels.
- Examine the adequacy of the current and future substance abuse workforce, including, but not limited to, credentialed substance abuse counselors, availability of substance abuse workers throughout the State, and reimbursement levels.
- Develop strategies to identify people in need of substance abuse services, including people who are dually diagnosed as having mental health and substance abuse problems.
- Examine barriers that people with substance abuse problems have in accessing publicly funded substance abuse services and explore possible strategies for improving access.
- Examine current outcome measures and identify other appropriate outcome measures to assess the effectiveness of substance abuse services, if necessary.

- Examine the economic impact of substance abuse in North Carolina. If data are available, the Task Force must estimate the impact of substance abuse on the court system, health care system, social services, and worker productivity.

The section requires the Task Force to submit an interim report upon the convening of the 2008 General Assembly and a final report not later than the convening of the 2009 General Assembly.

This section became effective July 1, 2007. (SP)

Study Older Adult Programs/Various Counties

S.L. 2007-355 ([SB 448](#)). See **Senior Citizens**.

Advance Directives/Health Care Power of Attorney

S.L. 2007-502, Secs. 18 and 19 ([HB 634](#), Secs. 18 and 19) require two studies related to end-of-life issues. First, the sections direct the Legislative Research Commission to study the issue of whether North Carolina should amend its laws to allow for a person to require that medical care be provided. The Commission would be required to report to the 2008 Session of the 2007 General Assembly. Second, it directs the North Carolina Institute of Medicine to study issues related to providing end-of-life medical care in North Carolina. The purpose is to determine whether the statutory changes to advance directives and health care powers of attorney impact the type and quality of care, whether the patient or the patient's or the patient representative's wishes are being honored, and whether there is any change to the number of persons who request continued treatment at the end of their lives. The Institute must report its findings no later than January 20, 2013, to the 2013 General Assembly, the North Carolina Bar Association, and the North Carolina Medical Society.

These sections became effective October 1, 2007. (KG)

Extend First Commitment Pilot Program Clarify Local Management Entity Functions /Administration

S.L. 2007-504, Sec. 2.6, as amended by S.L. 2007-484, Sec. 43.7 ([HB 627](#), Sec. 2.6, as amended by S.L. 2007-484, Sec. 43.7) directs the Joint Legislative Oversight Committee for Mental Health, Developmental Disabilities, and Substance Abuse Services (LOC) to study whether the rule making authority for the Secretary and the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services should be modified to eliminate any duplication, conflict, or lack of clarity.

This section became effective August 30, 2007. (KG)

Organ and Tissue Donation/The Heart Prevails

S.L. 2007-538, Sec. 13 ([HB 1372](#), Sec. 13) directs the General Statutes Commission to review statutes related to organ donations to determine whether any additional conforming changes are needed as a result of the adoption of the Revised Uniform Anatomical Gift Act.

This section became effective October 1, 2007. (KG)

For a complete list of the studies and reports authorized by the 2007 Session of the 2007 General Assembly, please refer to the Appendix contained in this publication.

Chapter 14

Insurance

Kory Goldsmith (KG), Tim Hovis (TH), Shawn Parker (SP), Ben Popkin (BP)

Enacted Legislation

Automobile Insurance

Penalties for Insurance Rate Evasion Fraud

S.L. 2007-443, Secs. 1-4, 6, 7, as amended by S.L. 2007-481, Sec. 7 ([HB 729](#), Secs. 1-4, 6, 7, as amended by SB 1147, Sec. 7) make it a Class 3 misdemeanor and allow for imposition of a fine of up to \$1,000 for an applicant for automobile insurance to intentionally deceive the insurer by misrepresenting whether the applicant is eligible to be insured in North Carolina, or if the person assists, solicits, or conspires with another to fraudulently obtain auto insurance. The act also requires insurers to take reasonable steps to verify that the information provided by the applicant is correct, as to the applicant's address or the address where the applicant's automobile is principally garaged. If an applicant provides fraudulent information as to his or her status, the insurer may refuse to issue a policy, cancel or refuse to renew a policy, or deny coverage for any bodily injury or property damage. The act places an obligation upon insurers and their employees, as well as all licensees, to notify the Commissioner of Insurance of any violations of these requirements.

The effective date clause of the act (Section 7) and the section authorizing the termination of insurance policies, when the named insured is no longer eligible to be insured in the State (such as for nonpayment of premiums, or if the motor vehicle is not principally garaged in the State), became effective August 23, 2007. The remaining provisions of the act become effective January 1, 2008. (BP)

See **Transportation** for a summary of section 5 of the bill.

Health and Life Insurance

Mental Health Equitable Coverage

S.L. 2007-268 ([HB 973](#)) requires insurers that provide group health benefit plans to provide benefits for all mental illnesses that are "no less favorable than benefits for physical illness generally."

Limits (deductibles, co-payments, annual, and lifetime dollar limits, etc.) imposed on mental health benefits must be identical to those applied to physical illnesses, except that mental illnesses not among a group of nine "serious mental illnesses" specified in the bill, may differ in duration. For these "other mental illnesses," insurers must provide coverage for at least 30 combined inpatient and outpatient days and 30 office visits per year.

There are nine mental illnesses for which the act requires full parity. No limits on benefits, including durational limits, may differ from those limits applicable to that plan's coverage of physical illness or injury for the following:

- Bipolar disorder.
- Major depressive disorder.
- Obsessive compulsive disorder.
- Paranoid and other psychotic disorder.
- Schizoaffective disorder.

- Schizophrenia.
- Post-traumatic stress disorder.
- Anorexia nervosa.
- Bulimia.

The act also amends several statutes governing non-discrimination against mentally ill individuals, and specifically excludes from the act's provisions certain limited diagnoses or treatments relating to sexual dysfunctions not due to organic disease and "treatment or studies leading to or in connection with sex changes or modifications."

The act becomes effective July 1, 2008, and applies to health benefit plans that are delivered, issued for delivery, or renewed on or after that date. (BP)

Revise Life and Health Insurance Laws

S.L. 2007-298 ([HB 731](#)) amends a variety of statutes related to life and health insurance. Effective January 1, 2008, the act creates a new Part dealing with the suitability of annuity transactions. It creates a duty upon insurers and insurance producers to have reasonable grounds for believing that any recommended annuity product is suitable for the consumer. It specifically does not create an individual cause of action by the consumer.

It requires insurance producers and insurers to put in place procedures to supervise recommendations made regarding the purchase of annuity contracts and to keep relevant records for at least five years. It also allows the North Carolina Commissioner of Insurance to order appropriate corrective actions, if a consumer is harmed by a violation of the Part, and provides that an insurer violating this Part is subject to license revocation or suspension and the payment of monetary penalties or restitution. It also makes a violation of this Part an unfair and deceptive act or practice. Other provisions require that an annuity contract may be issued only upon request by the applicant and prohibits a surrender fee if a death benefit for an annuity is delivered during the surrender period.

The act also does all of the following:

- Creates a provision for individual health insurance policies regarding creditable coverage that is parallel to the provisions that apply to group health insurance policies under the Health Insurance Portability and Accountability Act. It also includes short-term, limited duration health insurance coverage for purposes of creditable coverage.
- Provides that if a group life insurance policy allows a person to continue to receive coverage after leaving the group, then the insurer may not impose different underwriting or health requirements.
- Adds continuing care providers, viatical settlement providers, and professional employer organizations to the list of regulated entities that are prohibited from including in any contract a stipulation concerning the court or jurisdiction in which any suit or action on a contract may be brought.

Except as otherwise indicated, this act became effective October 1, 2007. (KG)

Transfer Seniors Health Insurance Information Program (SHIIP) Funds to Department of Insurance

S.L. 2007-323, Sec. 10.8 ([HB 1473](#), Sec. 10.8) directs that \$250,000 of the funds appropriated to the Department of Health and Human Services, Office of Rural Health and Community Care for the 2007-2008 fiscal year, be transferred to the Department of Insurance. The funds must be allocated to the Seniors Health Insurance Information Program to provide additional resources for community-based outreach and enrollment efforts to assist seniors in enrollment in the NCRx Program and Medicare Part D.

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

Employment Security Commission Funds

S.L. 2007-323, Sec. 13.4 ([HB 1473](#), Sec. 13.4). See **Civil Law and Procedure**.

State Health Plan Changes Effective for Fiscal Year 2007-2008

S.L. 2007-323, Sec. 28.22 ([HB 1473](#), Sec. 28.22) makes the following changes to the State Health Plan for the 2007-2008 fiscal year:

- Requires the Teachers' and State Employees' Comprehensive Major Medical Plan to provide an annual enrollment period in the Indemnity Plan and the optional PPO plan for the July 1, 2007, to June 30, 2008, Plan year. Provides that Plan member changes to coverage type or selection of benefit coverage under the Indemnity Plan or optional PPO program during an enrollment period became effective October 1, 2007. Also requires that at least 45 days prior to October 1, 2007, the Plan must provide to all Plan members sufficient information on premiums, cost-sharing, and benefits to enable the member, or other eligible participant, to make an enrollment election effective October 1, 2007.
- Increases the deductible in the indemnity plan for an employee, retired employee, and/or his or her dependents from \$350 to \$450, and increases the aggregate maximum from \$1,050 to \$1,350 per employee and child(ren) or employee and family coverage contract in any fiscal year.
- Increases the prescription drug co-payment from \$25 to \$30 for each preferred branded prescription, and specifies that co-payments apply to the Plan's optional programs.
- Increases from the first \$15 to the first \$25 the amount the indemnity plan does not pay of allowable charges for each home, office, or skilled nursing facility visit.
- Provides that the provisions for chemical dependency and mental health benefits apply to all optional programs or plans in effect under the Teachers' and State Employees' Comprehensive Major Medical Plan and its successor plans.
- Specifies that optional plans must not limit the number of visits for covered services for physical therapy, occupational therapy, and speech therapy.
- Requires the Plan's management staff, beginning in 2007 and annually thereafter, to conduct multiple presentations each year to Plan members and association groups representing active and retired employees across all geographic regions of the State. The presentations must provide detailed information about benefits, limitations, premiums, and co-payments, and must be designed not only to present information about the Plan, but to hear and respond to Plan members' questions and concerns. These meetings must be held in locations that afford reasonable convenient access to Plan members.
- Requires the Executive Administrator of the Teachers' and State Employees' Comprehensive Major Medical Plan and the Department of Health and Human Services, Division of Medical Assistance, to meet to discuss the administration of North Carolina Health Choice, in view of the implementation of the State Health Plan for Teachers and State Employees, effective July 1, 2008. The meetings must address all issues that may arise regarding the administration of North Carolina Health Choice under the State Health Plan, including provider payment rates and collection of applicable premiums and co-payments. The Executive Administrator and the Department are required to report to the Committee on Employee Hospital and Medical Benefits not later than February 1, 2008, with recommendations on statutory or other changes necessary to ensure effective administration of North Carolina Health Choice.

- Requires the Committee on Employee Hospital and Medical Benefits to hold one or more meetings to review current law as it applies to the Teachers' and State Employees' Comprehensive Major Medical Plan (Indemnity Plan) and to the State Health Plan for Teachers and State Employees (PPO and optional programs). Not later than May 1, 2008, the Committee must report its recommendations to the 2007 General Assembly, Regular Session 2008, and provide copies of the report and recommendations to the cochairs of the House of Representatives Committee on Appropriations and the cochairs of the Senate Committee on Appropriations.

This section became effective July 1, 2007. (TM)

State Health Plan Changes Effective Beginning with the 2008-2009 Fiscal Year

S.L. 2007-323, Sec. 28.22A ([HB 1473](#), Sec. 28.22A) makes the following changes to the State Health Plan:

- Changes statutory references from "Comprehensive Major Medical Plan" to "State Health Plan for Teachers and State Employees," and deletes some statutory provisions, thereby eliminating the Indemnity Plan.
- Specifies that the State Health Plan for Teachers and State Employees will be a comprehensive benefit plan that includes noncontributory coverage and may be an optional PPO or other type optional benefit plan.
- Provides that the Executive Administrator and Board of Trustees may, in addition to noncontributory coverage, offer optional coverage on a partially contributory basis and may set premium rates for the optional coverage on a partially contributory basis. Further specifies that the amount of State funds contributed for optional coverage on a partially contributory basis must not be more than the Plan's total noncontributory premium for Employee Only coverage, with the person selecting the coverage paying the balance of the partially contributory premium not paid by the Plan. However, the Executive Administrator and Board of Trustees cannot impose a partially contributory premium until after it has consulted on the premium and the optional coverage design with the Committee on Employee Hospital and Medical Benefits.
- Provides that chemical dependency and mental health benefits apply to the Plan and all optional benefit plans offered under an optional PPO or other type of optional benefit plan.
- Establishes an "employee and spouse only" type of coverage. This coverage will provide maternity benefits to the employee, or the employee's enrolled spouse.
- Specifies that effective July 1, 2008, and expiring June 30, 2009, the Plan and optional plans must not limit the number of visits for covered services for physical therapy, occupational therapy, and speech therapy.
- On July 1, 2008, any State employees or retired employees that are enrolled in the Teachers' and State Employees' Comprehensive Major Medical Plan (indemnity plan) on June 30, 2008, and that have not elected one of the optional PPO benefit plans available under the State Health Plan for Teachers and State Employees, must be enrolled by the Plan in the Standard PPO Option, or its equivalent, effective July 1, 2008.

The section becomes effective July 1, 2008. (TM)

State Health Plan Wellness Pilot

S.L. 2007-323, Sec. 28.22B ([HB 1473](#), Sec. 28.22B) allows the Executive Administrator and the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical

Plan to use funds available, in an amount not to exceed \$200,000 for the 2007-2008 fiscal year, to establish and implement one or more wellness pilot programs for State employees. The pilot programs must be designed to encourage State employee enrollment in a structured fitness program that includes measurable benchmarks and with a goal of reducing health care costs and improving worker productivity through improved health status of the employee. One or more pilot sites representing different geographic regions of the State, and having a high density of State employees, will be selected by the Executive Administrator.

The Executive Administrator is required to report to the Committee on Employee Hospital and Medical Benefits on State employee participation levels in the wellness pilot programs and health outcomes resulting from the participation and must recommend in its report whether the pilot programs should be continued and expanded in other areas of the State in the 2008-2009 fiscal year.

This section became effective July 1, 2007. (TM)

Reenact Long-Term Care Credit

S.L. 2007-323, Sec. 31.5 ([HB 1473](#), Sec. 31.5). See **Finance**.

Disability Benefits/State Employees

S.L. 2007-325 ([HB 1415](#)). See **Labor and Employment**.

Health Insurance/Prompt Pay Time Lines

S.L. 2007-362 ([SB 1032](#)) does the following:

- Imposes a time limitation on the recovery of overpayment or underpayment by insurers to health care providers and facilities. (Effective January 1, 2008, and applies to claims made for services rendered on and after that date)
- Requires all insurers offering health benefit plans, including the State Health Plan, to provide their plan subscribers or members with an insurance identification card. The act specifies certain minimum items of information to be included on the card (effective dates, co-payments, telephone numbers, etc.). (Effective January 1, 2009, and applies to policies issued or renewed in health benefits plans on or after that date)

The act is effective as noted above. (BP)

Charter School Employment Benefits Election

S.L. 2007-464 ([HB 1471](#)). See **Education**.

Actuarial Valuation/Retiree Health Benefits

S.L. 2007-467 ([HB 1529](#)). See **Retirement**.

Increase Contributory Death Benefit

S.L. 2007-496 ([HB 779](#)). See **Retirement**.

State Health Plan/Plan Year Change

S.L. 2007-521 ([HB 1593](#)) directs the Executive Administrator of the Teachers' and State Employees' Comprehensive Major Medical Plan to evaluate the actuarial, administrative, financial, operational, and plan member impact of converting the Plan's benefit plan year to a calendar year basis from a fiscal year basis. The Executive Director must report the findings and recommendations to the Committee on Employee Hospital and Medical Benefits and to the Fiscal Research Division not later than April 1, 2008.

This act became effective August 31, 2007. (KG)

Establish Health Insurance Risk Pool

S.L. 2007-532 ([HB 265](#)) establishes the North Carolina Health Insurance Risk Pool. The Pool will be established as a nonprofit entity and will be operated by the Executive Director of the Pool under the supervision and control of the Board of Directors of the Pool. The Pool will be administered by one or more insurers selected by the Executive Director of the Pool in collaboration with the Board through a competitive bidding process. The Pool would operate according to a Plan of Operation developed by the Board, effective upon receipt of written approval of the Plan by the Commissioner of Insurance.

Eligibility and Exclusions. – An individual who is a resident of the State will be eligible for Pool coverage if evidence of any of the following is provided:

- A notice of rejection from an insurer to provide substantially similar health insurance because of the individual's health.
- An offer to issue insurance only with a conditional rider limiting coverage of the individual's high-risk condition.
- Refusal by an insurer to issue health insurance, except at a rate exceeding the Pool rate.
- A diagnosis of the individual with one of the medical conditions listed by the Board.
- The individual's maintenance of health insurance coverage under federal criteria, without a significant break in coverage, and the exhaustion of COBRA or state continuation benefits.
- The individual's legal domicile in State and eligibility for health insurance costs, under the Trade Adjustment Assistance Reform Act of 2002.
- The individual's maintenance of health insurance coverage at a rate exceeding the Pool rate.

An individual will be excluded from Pool coverage if the individual meets any of the following conditions:

- Has health insurance coverage substantially similar to that offered by Pool (with the exception of coverage during preexisting condition waiting period).
- Is eligible for enrollment in the State Medical Assistance Plan.
- Has terminated Pool coverage within the past 12 months.
- Is an inmate or resident of a public institution.
- Has their premiums paid by a government-sponsored program or government agency or health care provider.
- Has health insurance coverage from an insurer or insurance arrangement on the date Pool coverage takes effect.

Pool Administration, Rates and Preexisting Conditions. – The Executive Director, in collaboration with the Board, will select a Pool administrator through a competitive bidding process. The Pool will establish a risk rate of 150% to 200% of rates established as applicable for individual standard risks. The Pool will offer at least two types of benefit plans, including preferred provider organizations with different deductible levels and cost sharing and at least one choice of a health savings account. At least two types of benefit plans must, at a minimum,

provide benefits outlined in the National Association of Insurance Commissioners' Model Health Plan for Uninsurable Individuals Act and be consistent with comprehensive coverage generally available.

Under the Board's initial rules, benefit plans offered by the Pool will include a lifetime benefit limit of not less than \$1 million and an annual limit on out-of-pocket expenses of up to \$5,000.

During the first 12 months of an individual's coverage, the Pool will not cover health conditions existing within 12 months prior to coverage (except for federally defined eligible individuals.) For individuals enrolling into the Pool during the first six months that enrollment is made available, the preexisting condition waiting period will be reduced to six months. The Pool will allow for a waiver of exclusion where similar exclusions have been satisfied under another health insurance plan and coverage lapsed for no more than 63 days and the applicant was ineligible for substantially similar continuation insurance. The Pool will be a payor of last resort of benefits whenever any other benefit or source of third-party payment is available.

It is an unfair and deceptive trade practice for an employer, insurer, insurance producer, or third-party administrator to refer an individual employee to the Pool or arrange for an employee to apply to the Pool for the purpose of separating the employee from a group medical benefit plan. An insurer or insurance producer may inform an individual, however, of coverage provided by the Pool.

Pool Funding. – The new G.S. 58-50-225 creates a fund known as the North Carolina Health Insurance Risk Pool Special Fund. The Fund will be established as an interest-bearing, non-reverting account in the General Fund and will consist of the following revenues:

- Premiums, fees, charges, rebates, refunds, or any other receipts including earnings on investments.
- The transfer of specified amounts by the State Treasurer from premiums tax collections to the Health Insurance Risk Pool Special Fund (the amount to be transferred is reduced beginning with the transfer at the end of the 2009-10 fiscal year).
- Gifts, grants, and other appropriations.

Disbursements from the Special Fund include all amounts required to pay claims, benefits, and administrative costs as determined by the Executive Director and the Board.

The bill establishes two separate funds in the Department of Insurance for the Pool:

- Start-Up Reserve – State Funds, to support reasonable expenses of the Board in carrying out its duties under the Pool (interest and investment income transferred from the Reserve to the General Fund at end of the fiscal year).
- Start-Up Reserve – Federal Funds, where federal grant funds awarded will be placed (transferred from the Reserve to the General Fund at the end of the fiscal year in an amount not to exceed the amount of State appropriations).

The bill includes an appropriation from the General Fund of \$250,000 for the 2007-2008 fiscal year to the Start-Up Reserve—State Funds. The bill directs the sum of \$5 million for the 2008-2009 fiscal year of the funds credited to the Health Trust Account from the Master Settlement Agreement (tobacco settlement) to be transferred from the Health and Wellness Trust Fund to the General Fund to support appropriations by the 2007 General Assembly Regular Session 2008 for the operations and claims of the Pool. Finally, the bill imposes an annual surcharge of \$1.50 per member per year on the Teachers' and State Employees' Comprehensive Major Medical Plan to provide funds necessary to carry out the powers and duties of the Pool.

The provisions creating the two funds identified as the "Start-Up Reserve – State Funds" and the "Start-Up Reserve – Federal Funds" and the provision containing the 2007-2008 General Fund appropriation of \$250,000 to the Start-Up Reserve – State Funds became effective July 1, 2007, and expire July 1, 2009. The remainder of the act became effective August 31, 2007. Enrollment in the Pool must commence no later than January, 2009. (TH)

Protect Military Personnel/Life Insurance

S.L. 2007-535 ([HB 773](#)). See **Military, Veterans', and Indian Affairs**.

Property Insurance

Modify Tax on Property Coverage Contract

S.L. 2007-250, Sec. 2 ([SB 238](#), Sec. 2) makes changes to the law governing the tax rate on premiums of insurance policies providing property coverage and the distribution of these funds to the Volunteer Fire Department Fund, the General Fund, the Department of Insurance, and to local fire districts. These changes include the following:

- Changes the distribution formula for the funds distributed to local fire districts. In 2006, legislation was enacted requiring that funds be distributed on a per capita basis. Further study revealed that this distribution formula will significantly differ from the current distribution formula. The distribution formula is changed so that the amounts distributed under it more closely follow the current distribution patterns.
- Increases the cap on the grants from the Volunteer Fire Department Fund, and changes the qualifications for grants from the Fund so that more volunteer fire departments may qualify for grants:
 - It increases the cap on the grants from \$20,000 to \$30,000.
 - It provides that a volunteer fire department may qualify for a grant if it serves a response area of no more than 12,000 people (prior law was 6,000).
 - It provides that a volunteer fire department may qualify for a grant if it has no more than six full-time paid positions (prior law was three).

Section 2 of the act becomes effective on January 1, 2008. (TH)

See **Finance** for a summary of section 1 of the bill.

Mediation of Property Insurance Claims

S.L. 2007-300 ([HB 730](#)) makes clarifying and conforming changes to the statutes governing the mediation of emergency or disaster-related property insurance claims, including the following:

- Clarifies that a state of disaster may be declared by the General Assembly. It also provides that the mediation procedures are not triggered, unless authorized by the Commissioner of Insurance.
- Adds a cross-reference to the notice of right to mediation required to be sent by insurers. This is a clarification that only one notice to insureds of the right to mediate is required.
- Provides that only mediators certified by the Dispute Resolution Commission may conduct a mediation conference.
- Removes a requirement that all parties must negotiate in good faith. It also removes the requirement that the party that is responsible for terminating the conference is responsible for paying the mediator's and administrative fees.
- Clarifies that insurers of both residential and commercial property must include in the policy a notice of certain exclusions under the policy.

This act became effective October 1, 2007, and applies to policies issued or renewed on or after that date. (TH)

Miscellaneous

Armed Forces Mutual Aid Associations

S.L. 2007-27 ([HB 895](#)) amends the law to exempt mutual aid associations serving members of the armed forces. The act specifically exempts any association, whether a fraternal benefit society or not, from the provisions of the general insurance laws of the State so long as the association meets all of the following criteria:

- Organized before 1880.
- Members are officers or enlisted, regular or reserve, active, retired, or honorably discharged members of the Armed Forces or Sea Services of the United States.
- The principal purpose is to provide insurance and other benefits to members and their dependents or beneficiaries.

This act became effective April 28, 2007. (TM)

Recodify Service Agreements Laws

S.L. 2007-95 ([SB 611](#)). See **Consumer Protection**.

Insurance Financial Omnibus Act

S.L. 2007-127 ([HB 737](#)) makes changes to statutory provisions governing the regulation of insurance companies and other investment entities by the North Carolina Commissioner of Insurance. The act does all of the following:

- Redefines “credit insurance” to exclude “mortgage guaranty insurance.”
- Creates a definition for “mortgage guaranty insurance”.
- Deletes the current calculation of minimum policyholders’ position for mortgage guaranty insurers and adds a new minimum policyholders’ position calculation based on the risk to capital and surplus ratio requirement. The new calculation is based upon a mortgage guaranty insurance industry standard.
- Amends the contingency reserve calculation by deleting references to the current minimum policyholder position calculation that will no longer apply due to proposed changes to that law.
- Adds a new section that creates: (1) a monoline license requirement for mortgage guaranty insurers; and (2) a sunset provision for mortgage guaranty insurers assuming risks included in the proposed “credit” insurance definition. Mortgage guaranty insurance business is subject to regulatory requirements, such as the statutory contingency reserve and minimum policyholders’ position requirements, which do not apply to other property and/or casualty insurers. Additionally, other property and/or casualty insurers are subject to risk-based capital requirements, but mortgage guaranty insurers are not. Therefore, it is prudent to require that mortgage guaranty insurers which have different regulatory requirements from other insurers only write mortgage guaranty insurance. The proposed sunset provision is included for the purpose of providing insurers, which currently cede credit business (as described under the proposed definition of “credit”) to mortgage guaranty insurers, with additional time to find reinsurance alternatives.

(Note: The preceding changes became effective July 1, 2007. The following changes, unless noted otherwise, became effective June 27, 2007)

- Clarifies that properly authorized advances to directors, officers, or controlling stockholders are not prohibited pursuant to G.S. 58-7-200.

- Expands the definition of "insurer" to: (1) include professional employee organizations licensed and regulated; (2) remove the reference to entities licensed under Article 5 of Chapter 97; and (3) list Article 64 in the definition of "insurer" instead of detailing it in a separate sentence.
- Removes professional employee organizations and adds individual self-insurers. It also lists specific entities not defined as insurers whose work papers and other documents are not public records.
- Provides statutory authority for self-insured groups approved prior to July 1, 1995, to be licensed without requiring them to go through the application process.
- Corrects ambiguity in the definition of a professional employer organization (PEO) and clarifies that a PEO with any assigned employees in North Carolina is subject to the North Carolina PEO Act.
- Increases the number of days for a de minimis registrant to research, correct, and resend a deficient application from 15 days to 30 days and provides a transition period for de minimis registrants to become fully licensed should they no longer qualify for de minimis status, or should they seek full license status.
- Creates a new Part to adopt National Association of Insurance Commissioners Model Law 745 – Property and Casualty Actuarial Opinion Model Law, which becomes an accreditation standard effective January 1, 2009. **(Effective October 1, 2007)**
- Changes the required frequency of HMO examinations from "not less frequently than once every 3 years" to "not less frequently than once every 5 years." The Commissioner will continue to have the ability to examine any HMO at any time he or she deems necessary. This change will: (1) allow the Department more flexibility to examine insurance entities with the highest priority; and (2) allow the State to participate more frequently with the NAIC coordination of exams initiative. Currently, the State can participate only every 15 years, since most states are on a five-year cycle for their HMOs.
- Revises the process by which the Commissioner values the reserve liabilities for all outstanding life insurance policies, annuity policies, and pure endowment contracts of insurers doing business in North Carolina.
- Allows the Commissioner to adopt rules regarding the assumption for policyholder withdrawal rate when determining minimum reserves for life insurance companies doing business in North Carolina.

The act became effective as noted above. (TH)

Construction Plan Review

S.L. 2007-303 ([HB 735](#)) implements a recommendation of the House Select Committee on Public School Construction. The act streamlines the construction plan review process for certain public buildings. Plans to erect county, city, or school district buildings larger than a certain size must be approved by the Commissioner of Insurance to demonstrate safety of the building and its occupants from fire before the plan may be approved by the appropriate person or agency and the building may be erected. The act raises the threshold requiring the Commissioner's approval from 10,000 square feet or more to 20,000 square feet or more.

The act became effective October 1, 2007, and applies to plans submitted to the Commissioner for approval on or after that date. (BP)

Update the Unauthorized Insurers Laws

S.L. 2007-305 ([HB 588](#)) increases penalties for violations of unauthorized insurers laws and makes some violations felonies. It holds persons strictly liable for losses or unpaid claims and allows for filing of civil actions regardless of whether or not criminal claims have been filed or

convictions obtained. It makes conforming changes to provide that the North Carolina Commissioner of Insurance may issue a cease and desist order for violations by unauthorized insurers. It creates joint and several liability if more than one person is involved in an unauthorized insurer's failure to pay a claim. Finally, it clarifies that the requirement that it is unlawful to transact insurance business in this State without a license does not apply to an activity in this State by or on the sole behalf of a captive insurer that insures solely the risks of the company's parent and affiliated companies.

The clarification regarding captive insurers became effective July 28, 2007. The remainder of the act becomes effective December 1, 2007, and applies to offenses committed on or after that date. (KG)

Fire-Safe Cigarette Act

S.L. 2007-451 ([HB 1785](#)). See **Business and Commerce**.

Tort Claims Limit Increased

S.L. 2007-452 ([HB 22](#)). See **State Government**.

Amend Insurance Laws/Producers and Bail Bonds

S.L. 2007-507 ([SB 1527](#)) makes a number of changes to the licensing laws for insurance agents, brokers, and adjusters. It also amends numerous provisions related to bail bondsmen and the review and approval of alternative design construction under the State Building Code.

The act makes the following changes regarding the general insurance license requirements of this State:

- Provides that current lines of authority for different kinds of insurance remain applicable for license holders until the North Carolina Commissioner of Insurance (Commissioner) provides replacement licenses under new lines to go into effect for new licenses on January 1, 2008.
- Provides that for licenses issued on or after January 1, 2008, an agent or broker may be licensed for the following new kinds or categories of insurance: accident and health, casualty, limited line, life, Medicare supplement insurance and long-term care insurance, personal (property and casualty sold to individuals and families for noncommercial purposes), property, variable life and annuity products, and any other kind of insurance permitted under State law or administrative rules.
- Deletes existing language specifying the types of limited lines (dental, motor club, travel accident, and baggage) for which an individual may qualify for licensure without examination and, instead, authorizes the Commissioner to issue licenses without examination for limited lines per qualifications and application procedures as defined in the administrative rules.
- Prohibits a person from simultaneously holding an agent's and an adjuster's license. A person holding a property and liability insurance license may apply for an adjuster's license without taking an examination if the person applies for the adjuster license within 60 days of surrendering the insurance license. Likewise, a person holding an adjuster's license may apply for a property and casualty license without taking an examination if the individual applies for the insurance license within 60 days of surrendering the adjuster license.

The act also amends the laws dealing with education and training requirements for insurance agent applicants. Individual applicants for licensing as accident and health insurance, casualty insurance, life insurance, personal lines, and property insurance agents must complete

20 hours of instruction for each license. Previously, the requirement had been 40 hours of instruction.

The act revises a number of fees as follows:

- Creates a fee for a business entity license of \$100. This replaces the existing fee of \$50 for agent appointment, nonindividual.
- Deletes the recertification, continuing education fee of \$5.
- Increases the corporate surplus lines licensee fees from \$50 to \$100.
- Increases the fee for persons who are not registered and are required to secure a license from \$30 to \$50. This fee is also increased upon application for registration for each additional kind of insurance. The fee to obtain a supplemental license to sell Medicare supplement and long-term care policies is also increased from \$30 to \$50.

Regarding bail bondsmen, the act deletes the requirement that insurers terminating a bail bondsman's appointment give notice to the clerk of any county in which the insurer has been obligated on bail bonds through the surety bondsman. Before a surety bondsman may receive an appointment, the bondsman must submit to the Commissioner an affidavit signed by the surety bondsman and any former insurer, stating that the bondman does not owe any premium or unsatisfied judgment to any insurer and agreeing to discharge any forfeitures and judgments on bonds previously written. Also clarifies that the surety bondsman must submit the affidavit to the former insurer. Also requires insurers to file with the Commissioner a written report in a form adopted by the Commissioner regarding all bail bonds on which the insurer is liable as of the last day of each calendar quarter. The report must be filed on or before the 15th day following the end of the calendar quarter.

The act also contains certain study provisions which are summarized in the Studies portion of this chapter. (See below)

Finally, the act creates a new section related to the State Building Code, which provides that alternative designs and construction must comply with the State Building Code. In the event there is a dispute between a local authority having jurisdiction and the designer or owner-representative regarding alternative designs and construction, all appeals must be heard by the Department of Insurance Engineering Division. The Division must issue its decision within 10 business days.

All provisions in the act became effective October 1, 2007, except for the provisions related to alternative designs and construction, which became effective August 30, 2007. (KG)

Studies

Amend Insurance Laws/Producers and Bail Bonds

S.L. 2007-507, Sec. 16 ([SB 1527](#), Sec. 16) directs the North Carolina Commissioner of Insurance to study and make recommendations to the Joint Legislative Commission on Governmental Operations providing for timely and expeditious confirmation by life insurers to life insurance beneficiaries of the beneficiaries' status, benefits payable, and provision of a claim form. The Commissioner must submit the report no later than April 1, 2008.

This section becomes effective January 1, 2008. (KG)

Major Pending Legislation

Protect Consumers/Life Settlement Transaction

[HB 1489](#) (Second Edition) is pending in the Senate Commerce Committee. It would make changes to the law governing viatical settlements. A viatical settlement is the payment of compensation for the benefits of a life insurance policy in return for the policy owner's

assignment, sale, devise, bequest, or transfer of the death benefit or ownership of the policy. The bill would make changes to the definitions of viatical settlement, fraudulent viatical settlement act, viatical settlement contract, and viatical settlement agent and provider. Other possible changes include amendments to prohibited practices under the current law, the regulatory role of the Department of Insurance, and the role of insurers in viatical settlements.
(TH)

For a complete list of the studies and reports authorized by the 2007 Session of the 2007 General Assembly, please refer to the Appendix contained in this publication.

Chapter 15
Labor and Employment

Karen Cochrane-Brown (KCB), Bill Gilkeson (BG),
Theresa Matula (TM), Howard Alan Pell (HAP)

Enacted Legislation

General Labor and Employment

Omnibus Labor Law Changes

S.L. 2007-231 ([HB 680](#)) makes various substantive and technical changes to the Uniform Boiler and Pressure Vessel Act (Act) and revises service-of-process requirements throughout the Labor Regulation chapter of the North Carolina General Statutes, to conform to Rule 4 of the North Carolina Rules of Civil Procedure.

Act Changes. – The new law makes the following changes in the Act:

- Deletes the exemption from the Act for pressure vessels used for transportation or storage of liquefied petroleum gas.
- Provides that inspection requirements do not apply to pressure vessels used for transportation or storage of liquefied petroleum gas subject to inspection requirements established by the Department of Agriculture and Consumer Services.
- Clarifies that the Act does not apply to boilers and pressure vessels on railroad steam locomotives subject to federal safety regulations under 49 C.F.R. §230.
- Deletes language authorizing the issuance of certificates of competency to persons who take and pass a National Board commissioning examination. These certificates are no longer required by the National Board of Boiler and Pressure Vessel Inspectors.
- Reduces the grace period from 90 to 60 days for operation of a boiler or pressure vessel beyond a certificate expiration date.

Service of Process. – This act also amends various statutes to conform to the service of process provisions of Rule 4 of the North Carolina Rules of Civil Procedure. It provides that notice may be given as follows:

- By certified mail with return receipt.
- By mailing a copy by signature confirmation as provided by the U.S. Postal Service.
- By a designated delivery service authorized pursuant to federal law with delivery receipt.
- Via hand delivery.

This act became effective July 18, 2007. (BG)

Employment Security Commission Funds

S.L. 2007-323, Sec. 13.4 ([HB 1473](#), Sec. 13.4). See **Civil Law and Procedure**.

Earned Income Tax Credit

S.L. 2007-323, Sec. 31.4 ([HB 1473](#), Sec. 31.4). See **Finance**.

Firefighter/Rescue Squad Tax Deduction

S.L. 2007-323, Sec. 31.24 ([HB 1473](#), Sec. 31.24). See **Finance**.

Statewide Certification of Historically Underutilized Businesses

S.L. 2007-392 ([SB 320](#)). See **State Government**.

Criminal Background Reviews – Emergency Medical Services Personnel

S.L. 2007-411 ([HB 535](#)). See **Health and Human Services**.

Amend Private Protective Services Act

S.L. 2007-511 ([SB 854](#)). See **Occupational Boards and Licensing**.

Migrant Housing Health/Safety

S.L. 2007-548 ([SB 1466](#)) makes several changes to the Migrant Housing Law of North Carolina, including:

- Requiring that each migrant be provided a bed with a mattress in good repair with a clean cover. If a mattress is damaged beyond ordinary wear and tear during the migrant's occupancy of the housing, the operator may charge the migrant the reasonable cost of replacing the mattress or cover.
- Allowing operators to conduct pre-occupancy self-inspections in the third year after that operator has received a 100% pre-occupancy inspection rating for the two previous years.
- Focusing post-occupancy inspections on operators who have housing compliance issues.
- Providing alternative courses of action where migrant housing has been determined to be uninhabitable.
- Requiring reports to the legislature on the North Carolina Department of Labor's migrant housing program.
- Directing the North Carolina Housing Finance Agency to study the need for low-cost financing for the construction and rehabilitation of migrant housing.

This act became effective August 31, 2007. (BG)

Job Maintenance and Capital Development Fund

[HB 1761](#). See **Vetoed Legislation**.

Governmental Employment

Flexible Payment/Law Enforcement Separation

S.L. 2007-69 ([HB 328](#)). See **Retirement**.

Information Technology Services/Employee Background Investigations

S.L. 2007-155 ([SB 878](#)). See **Technology**.

Information Technology Services/Employee Background Investigations/Information Technology Board

S.L. 2007-189 ([HB 584](#)). See **Technology**.

Modify School Employee Confidentiality Law

S.L. 2007-192 ([HB 550](#)). See **Education**.

University of North Carolina/Agricultural Extension Employee Status

S.L. 2007-195 ([HB 847](#)) provides that North Carolina Cooperative Extension Service employees are generally exempt from the State Personnel Act and requires the Board of Trustees of North Carolina State University to adopt personnel policies governing the employment of these employees.

This act became effective July 8, 2007. (TM)

Correction Enterprises

S.L. 2007-280 ([HB 648](#)). See **Courts, Justice, and Corrections**.

Clarify Veterans Preference

S.L. 2007-286 ([HB 1412](#)) clarifies that the preference given to eligible veterans applies to initial employment with the State, and also extends to other employment events, *e.g.*, subsequent hirings, promotions, reassignments, and horizontal transfers. The State Personnel Commission and State agencies, departments, and institutions must adopt rules to implement the act.

This act became effective July 27, 2007. (TM)

Add Veteran to State Personnel Commission

S.L. 2007-287 ([HB 1413](#)) requires that, of the two State employees appointed by the Governor to the State Personnel Commission, one must be a veteran of the armed forces appointed upon the nomination of the Veterans' Affairs Commission.

This act became effective July 27, 2007, and applies to the next vacancy arising under the law on or after that date. (TM)

Department of Health and Human Services Payroll Deduction for Child Care Services

S.L. 2007-323, Sec. 10.4 ([HB 1473](#), Sec. 10.4) allows employees of the Department of Health and Human Services to authorize in writing the deduction from salary or wages paid by the State, a designated lump sum for services received for child care provided by the Department. The deductions are made pursuant to rules adopted by the State Controller.

This section became effective July 1, 2007. (TM)

North Carolina Partnership for Children Personnel Record Protection

S.L. 2007-323, Sec. 10.19B ([HB 1473](#), Sec. 10.19B) provides that, in order to receive State funds, the North Carolina Partnership, and each local partnership, may agree to adopt procedures providing for the confidentiality of personnel files comparable to current laws pertaining to the privacy of State employee personnel records.

This section became effective July 1, 2007. (TM)

Career Banding/Continuation

S.L. 2007-323, Sec. 28.18B ([HB 1473](#), Sec. 28.18B) allows the State Personnel Commission, the Office of State Personnel, The University of North Carolina as to its employees subject to the State Personnel Act, and State agencies as to their defined critical occupational groups limited to nursing, engineering, library, fiscal, and pharmacy positions, to begin or continue the development and implementation of career banding, effective July 1, 2007. The section requires the OSP to provide quarterly updates on career banding to the Joint Legislative Commission on Governmental Operations and requires OSP to consult with the Commission on Governmental Operations prior to the State Personnel Commission's review and approval of career banding for major occupational groups with significant labor market changes.

This section became effective July 1, 2007. (TM)

Disability Benefits/State Employees

S.L. 2007-325 ([HB 1415](#)) amends the law governing the Disability Income Plan to prevent denial of short-term disability benefits to a participant who would otherwise qualify for the benefit had the participant not been absent for military service. This change conforms to the requirements of the federal Uniformed Services Employment and Reemployment Act of 1994.

The act also amends the law relating to long-term disability. Under current law, in order to be eligible to receive long-term disability benefits, the medical board must certify that the member was mentally or physically incapacitated from the further performance of his or her duties. In 2003, the standard was amended, effective August 1, 2006. The effective date was extended by one year until August 1, 2007. The change would have required that a member be "unable to perform any occupation or employment commensurate to the beneficiary or participant's education, training, or experience, which is available in the same commuting area for State employees, or within the same local school administrative unit for school personnel, without an adverse impact on the beneficiary's or participant's career status, and in which the beneficiary or participant can be expected to earn not less than 65% of that beneficiary's or participant's predisability earnings." This act repeals the change that was to become effective August 1, 2007, and retains the current standard for long-term disability.

The act further amends the law to provide that a qualified member may receive long-term disability benefits for 36 months. After 36 months, no further benefits are payable unless

the member has been approved for and is in receipt of primary Social Security disability benefits. If the member is not receiving Social Security disability benefits, the long-term disability benefit ceases after 36 months. The 36-month limitation also is applicable to members of the Optional Retirement Program.

The section of this act relating to short-term disability for members who are absent for military service became effective July 1, 2007. The sections relating to long-term disability became effective August 1, 2007, and apply only to persons who have less than five years of membership service as of July 31, 2007. (KCB)

Local State Personnel Act Employee Status/University of North Carolina Public Records

S.L. 2007-372 ([SB 1023](#)). See **Education** for summaries of provisions relating to University of North Carolina public records. See **Local Government** for summaries of provisions relating to local State employees.

Teachers Convert Personal Leave to Sick Leave

S.L. 2007-378 ([SB 914](#)). See **Education**.

State Treasurer/Local Other Post-Employment Benefits Investments

S.L. 2007-384 ([SB 580](#)). See **Local Government**.

Department of Correction Inmate Labor

S.L. 2007-398 ([SB 1096](#)). See **Courts, Justice, and Corrections**.

University of North Carolina/State Personnel Act Task Force Review

S.L. 2007-413 ([SB 1353](#)). See **Education**.

Clarify Public Access to Personnel Records

S.L. 2007-508 ([SB 1546](#)) amends the laws governing the personnel files of employees of local boards of education, community colleges, area mental health authorities, the State, public health authorities, counties, cities, and water and sewer authorities. The act adds the following to the list of items that are public records: The terms of any employment contract, oral or written, to the extent the employing entity has a record of that contract. The act also amends the laws of each of these public entities to define the term "salary" to mean pay, benefits, incentives, bonuses, deferred, and all other forms of compensation paid by the employing entity.

In addition, the act amends the law relating to the personnel files of employees of public hospitals. The act adds employment contracts to the list of items that must be disclosed for all employees, and requires additional information for certain highly compensated employees. The act makes the following information a matter of public record with regard to certain highly compensated individuals: Base salary, bonus compensation, plan-based incentive compensation, and the dollar value of all other compensation. This requirement applies to the personnel files of the public hospital's chief executive officer, the four highest paid executives, and anyone who

held one of those positions within the last fiscal year. The requirement also applies to the five highest paid employees who are not otherwise covered and who have powers and responsibilities.

This act became effective August 30, 2007. (KCB)

Criminal History Checks/Department of Public Instruction Employees

S.L. 2007-516 ([HB 1659](#)). See **Education**.

For a complete list of the studies and reports authorized by the 2007 Session of the 2007 General Assembly, please refer to the Appendix contained in this publication.

Chapter 16

Local Government

Erika Churchill (EC), Judy Collier (JC), Bill Gilkeson (BG), Kory Goldsmith (KG),
Sara Kamprath (SK), Joe Moore (JHM), Giles S. Perry (GSP),
Barbara Riley (BR), Steve Rose (SR)

Enacted Legislation

Pyrotechnics Permits by Cities

S.L. 2007-38 ([HB 189](#)) allows boards of county commissioners to authorize the governing boards of cities to issue permits for pyrotechnic displays at concerts and public exhibitions. Under prior general law, only county commissioners could issue pyrotechnic permits.

Under this act, if a city lies in more than one county, all the counties must adopt a similar resolution for a resolution by one of the counties to be effective. The authority may be withdrawn by a subsequent resolution. If any county in which a multi-county city lies withdraws the authority, then the authority for the city to issue permits ends.

This act also provides that, if the General Assembly has passed any local act authorizing a city to permit pyrotechnics to be exhibited, used, or discharged at concerts or public exhibitions pursuant to G.S. 14-410 or G.S.14-413, that local act is repealed one year from the effective date of this act.

This act became effective May 11, 2007. (BG)

Charlotte-Mecklenburg Police Jurisdiction

S.L. 2007-45 ([HB 343](#)). See **Criminal Law and Procedure**.

Waiver of Enforcement/No-Wake Zones

S.L. 2007-46 ([SB 361](#)). See **Agriculture and Wildlife**.

Modify School Funding Mediation Law

S.L. 2007-92 ([HB 1519](#)). See **Education**.

Political Subdivisions/Contracts Exemption

S.L. 2007-94 ([SB 492](#)) exempts political subdivisions of the State from the procedure for letting public contracts if they are procuring apparatus, equipment, supplies, or materials from contracts established by the United States Government. The contractor must agree to extend to the State the same or more favorable prices, terms, and conditions as the contractor had agreed to provide in the federal contract.

This act became effective June 20, 2007. (JHM)

Abandoned Cemeteries

S.L. 2007-118 ([HB 107](#)) recodified the law on abandoned cemeteries to clarify the role of the property owner, the deceased's family, and the local government, and makes technical changes. The act increases the minimum amount necessary to create a trust fund for the care of a cemetery with the Clerk of Superior Court from \$100 to \$5,000. The act also requires that the boards of county commissioners furnish lists of public and abandoned cemeteries to the Department of Cultural Resources and the Secretary of State. The act authorizes county commissioners to oversee abandoned public cemeteries, whereas current law requires county commissioners to take possession and control of the abandoned cemeteries.

This act became effective July 1, 2007. (EC)

Solid Waste Management Authority Property

S.L. 2007-131 ([HB 1456](#)), exempts regional solid waste management authorities from the purchasing requirements stated in current law, including the lowest bidder requirement. This act also requires a regional solid waste management authority to establish goals for the procurement of goods and services from minority and historically underutilized businesses.

This act became effective June 27, 2007. (BG)

Amateur Radio Antennas

S.L. 2007-147 ([HB 1340](#)) amends existing law by requiring reasonable accommodation of Amateur Radio antennas in city and county ordinances, in accordance with Federal Communications Commission regulations and orders.

A city ordinance based on safety, health, or aesthetic considerations regulating the antennas or support structures of Amateur Radio operators must reasonably accommodate Amateur Radio communications and represent the minimum practicable regulation needed to accomplish the city's purpose. Cities may not restrict the heights of antennas to 90 feet or lower, unless necessary to achieve a clearly defined health, safety, or aesthetic objective.

A county ordinance based on safety, health, or aesthetic considerations regulating the antennas or support structures of Amateur Radio operators must reasonably accommodate Amateur Radio communications and represent the minimum practicable regulation needed to accomplish the county's purpose. Counties may not restrict the heights of antennas to 90 feet or lower, unless necessary to achieve a clearly defined health, safety, or aesthetic objective.

This act became effective October 1, 2007. (JC)

Improve Gender Equity Reporting Statute

S.L. 2007-167 ([HB 824](#)). See **State Government**.

Smoking in Government Buildings/Prohibition

S.L. 2007-193, Secs. 2 and 3 ([HB 24](#), Secs. 2 and 3), as amended by S.L. 2007-484, Sec. 31.7, are a recommendation of the Justus-Warren Heart Disease and Stroke Prevention Task Force. The act, as amended, adds a new Article which regulates public health law in North Carolina. The Article prohibits smoking in State government buildings and allows local governments to restrict smoking in certain buildings and transportation vehicles by adopting a local ordinance, law, or rule. This Article applies to the areas of buildings owned, occupied, or leased by State and local governments. (Effective January 1, 2008)

The act adds a new Part 2 to Article 23, authorizing local governments to adopt a local ordinance, law, or rule restricting smoking in all of the following:

- Buildings owned or leased by local government or leased as lessee and occupied by local government.
- Buildings and grounds of local health departments and departments of social services.
- Places on a public transportation vehicle owned or leased by local government and used by the public.

Part 2 also authorizes local ordinances, laws, or rules restricting smoking in public schools, school facilities, on school campuses, at school related events in or on school property, public school buses, or at day care centers and clarifies that these restrictions may be imposed by local school boards having ownership or jurisdiction over the campus, event, property, or vehicle. This provision is scheduled for repeal effective August 1, 2008, due to enactment of S.L. 2007-236.

Section 3 amends existing statutes to allow local governments to regulate smoking as set forth in Section 2 of the act.

Sections 2 and 3 of the act become effective January 1, 2008. See the summary of Section 1 of this act (pertains to smoking ban in State government buildings) in **State Government**. (JC)

County Water/Sewer District Financing

S.L. 2007-226 ([HB 401](#)) adds "county water and sewer districts" to the list of local governments that are authorized to use installment purchase financing. Installment purchase financing is a type of debt in which a government enters into an installment contract secured by a security interest in the building constructed or renovated. Unlike the issuance of general obligation bonds, installment purchase financing is not subject to a vote of the people. There are approximately 35 county water and sewer districts.

This act became effective July 18, 2007. (KG)

Increase Register of Deeds' Pension

S.L. 2007-245 ([HB 676](#)). See **Retirement**.

Modify Tax on Property Coverage Contract

S.L. 2007-250 ([SB 238](#)). See **Finance and Insurance**.

Certain Local Governments' Investments

S.L. 2007-255 ([SB 221](#)) authorizes the City of Charlotte to invest the city's employee benefit funds, risk reserve funds, cemetery perpetual care funds, and capital reserve funds in certain securities and investments authorized as investments for the State Treasurer. It authorizes the Cities of Greensboro and Raleigh, and the Counties of Guilford, Mecklenburg, and Wake to make the same investments with employee benefit funds.

This act became effective July 23, 2007. (SK)

Use of Solar Collectors

S.L. 2007-279 ([SB 670](#)) prohibits cities and counties from prohibiting solar collectors on single family detached residential structures, except on the side facing common or public access

areas. The act allows ordinances that regulate location and screening of solar collectors, provided the regulations do not have the effect of prohibiting the reasonable use of a solar collector.

The act also prohibits restrictive covenants that prohibit solar collectors on single family detached residential structures, except on the side facing common or public access areas, but allows restrictive covenants to regulate location or screening, provided the regulations do not have the effect of prohibiting the reasonable use of a solar collector. The provisions of the act that control restrictive covenants are prospective and do not affect existing restrictive covenants.

This act became effective October 1, 2007. Section 3 of this act applies to deed restrictions, covenants, or similar binding agreements that run with the land recorded on or after that date. (BG)

Clarify Veterans Preference

S.L. 2007-286 ([HB 1412](#)). See **Labor and Employment**.

Add Veteran to State Personnel Commission

S.L. 2007-287 ([HB 1413](#)). See **Labor and Employment**.

Local Government Retirement/Purchase of Service

S.L. 2007-304 ([HB 1025](#)). See **Retirement**.

North Carolina Green Business Fund

S.L. 2007-323, Sec. 13.2 ([HB 1473](#), Sec. 13.2). See **Business and Commerce**.

Reimbursement to Counties for Certain Inmates

S.L. 2007-323, Sec. 17.6 ([HB 1473](#), Sec. 17.6). See **Courts, Justice, and Corrections**.

State Assume Medicaid Responsibilities

S.L. 2007-323, Secs. 31.16.1 - 16.34, 31.17 ([HB 1473](#), Secs. 31.16.1 - 16.4, 31.17) and S.L. 2007-345, Sec. 14.4 ([HB 714](#), Sec. 14.4). See **Finance**.

Stop Light Cameras in Certain Municipalities

S.L. 2007-341 ([HB 1228](#)) is a local act applicable to the Cities of Albemarle, Charlotte, Durham, Fayetteville, Locust, and Rocky Mount, and to the municipalities in Union County. It amends prior legislation authorizing the use of cameras to identify and penalize persons who violate the red light statute in those municipalities. Specifically, the act does the following:

- Raises the civil penalty for a red light camera violation from \$50 to \$75.
- Requires the citation to state when the penalty is due.
- Specifies that the increase in the civil penalty and the loss of appeal rights occurs if payment is not made within 30 days after the citation is served or mailed.
- Specifies that the clear proceeds of the penalty must be paid to the local school board, subject only to deductions for costs of materials and postage directly related to the printing and mailing of required notices and computer services directly related

to the production and mailing of the notices. The deductions may not exceed 10% of the \$75 civil penalty.

- Authorizes the assessment of a "collection assistance fee," not to exceed 20% of the \$75 civil penalty, if the civil penalty has not been paid 30 days after a second notice.
- Requires the collection assistance fees to be placed in a separate fund to be used only for collection expenses related to civil penalties that remain unpaid after the second notice.

This act became effective September 1, 2007, and applies to offenses committed on or after that date. (GSP)

North Carolina Foreclosure/Landlord Tenant Laws

S.L. 2007-353, Sec. 5 ([HB 947](#), Sec. 5) clarifies that the Automation Enhancement and Preservation Fund may be used to purchase technology associated with the preservation and storage of public records in the office of the register of deeds.

This section became effective October 1, 2007. (SK)

See **Property, Trusts, and Estates** for a summary of the other portions of the bill.

Traffic and Personal Safety Changes/Protests

S.L. 2007-360 ([HB 563](#)). See **Transportation**.

Interest on Illegally Levied Exactions

S.L. 2007-371 ([SB 1152](#)) requires a county or city to pay interest on any illegally exacted tax, fee, or monetary sum for development, or a development permit not specifically authorized by law. A county or city that illegally exacts a tax, fee, or monetary contribution must return it plus interest at a rate of 6% per year.

This act became effective August 19, 2007, and applies to actions filed on or after that date. (JM)

Local State Personnel Act Employee Status/University of North Carolina Public Records

S.L. 2007-372, Sec. 1 ([SB 1023](#), Sec. 1) amends the definition of "career State employee" under the State Personnel Act (Act) to include employees of certain local entities. In order for those employees to receive coverage under the Act, they must: (1) be employed in a permanent position appointment, and (2) be continuously employed in a position subject to the State Personnel Act for the immediate 24 preceding months. The employees of the following local entities now will be included in the definition of "career State employee:"

- Area mental health, developmental disabilities, and substance abuse authorities.
- Local social services departments.
- County health departments and district health departments.
- Local emergency management agencies that receive federal grant-in-aid funds.

Employees who are subject to the State Personnel Act cannot be discharged, suspended, or demoted for disciplinary reasons, except for just cause. The Act provides that covered employees may file a contested case to appeal personnel decisions.

This section became effective August 19, 2007. (SK)

See **Education** for the summary of the remaining sections of the bill.

Building Permit Reductions/Rebates

S.L. 2007-381 ([SB 581](#)) authorizes North Carolina cities and counties to provide building permit fee reductions or rebates for buildings that are constructed or renovated using sustainable design principles in conformity with or exceeding any one or more of the following energy efficiency standards or green building ratings:

- Leadership in Energy and Environmental Design (LEED) certification or higher rating as adopted by the United States Green Building Council.
- A One Globe or higher rating under the Green Globes program standards as adopted by the United States Green Building Initiative.
- A certification or rating by another nationally recognized certification or rating system that is equivalent or greater than LEED or One Globe.

This act became effective August 19, 2007. (JC)

State Treasurer/Local Other Post Employment Benefits Investments

S.L. 2007-384 ([SB 580](#)) creates two new trust funds in the Office of the State Treasurer: The Local Government Other Post Employment Benefits Fund and the Local Government Law Enforcement Special Separation Allowance Fund.

- The Local Government Other Post Employment Benefits Fund each will consist of contributions made by local governments and other authorized entities and interest and investment income earned by the Fund.
 - Fund assets may be used only to provide other post-employment benefits to individuals who are former employees or beneficiaries of employees of a contributing entity.
 - Contributions to the Fund are irrevocable, and assets of the Fund are not subject to the claims of creditors of a contributing entity.
 - Eligible entities include local governments, public authorities, and entities eligible to participate in the Local Government Employee's Retirement System or a local school administrative unit. Such entities also may establish, by resolution or ordinance, an irrevocable trust for the purpose of paying post-employment benefits for which the entity is liable.
- The Local Government Law Enforcement Special Separation Allowance Fund is to consist of contributions made by local governments and other authorized entities, and interest and investment income earned by the Fund.
 - The Fund is to be used only to provide law enforcement special separation allowance benefits to individuals who are former employees of a unit of local government contributing to the Fund and who are entitled to a law enforcement special separation allowance.
 - Contributions to the Fund are irrevocable, and the assets are not subject to the claims of creditors of a contributing entity.
 - Local governments employing law enforcement officers also may fund an irrevocable trust for the purpose of paying law enforcement special separation allowance benefits for which the local government is liable.

Members of either the Retirement System for Counties, Cities, and Towns or the Retirement System for Teachers and State Employees, who are also law enforcement officers, may elect to transfer their eligible accumulated contributions, not including any Roth after tax contributions, from the Supplemental Retirement Income Plan to the Retirement System. They will receive, in addition to their basic service, early or disability retirement allowance, a special retirement allowance which will be based upon their eligible accumulated account balance at the date of the transfer of the assets to the System. Persons electing to transfer these contributions

will be taxed for North Carolina State Income tax purposes on the special retirement allowance the same as if that allowance had been paid directly by the Supplemental Retirement Income Plan.

This act became effective August 19, 2007. (BR)

Modifications to Project Development Financing Act

S.L. 2007-395 ([SB 1196](#)). See **Finance**.

Notify County before State Land Acquisition

S.L. 2007-396 ([SB 1167](#)) amends the statute requiring the Department of Administration to provide written notice to the Joint Legislative Commission on Governmental Operations 30 days prior to any purchase of land (other than land for a transportation purpose) with an appraised value of at least \$25,000. The act also requires the Department to provide written notice to the board of county commissioners and county manager, and the governing body of any municipality and city manager, for any land with a value of at least \$25,000 that the Department plans to purchase in that county or municipality. Additionally, the act requires written notice to the Joint Legislative Commission on Governmental Operations, counties, and municipalities for any land acquisition by gift with a value of at least \$25,000.

This act became effective August 20, 2007. (BR)

Alcoholic Beverage Control Law Changes

S.L. 2007-402 ([HB 267](#)). See **Alcoholic Beverage Control**.

Nonresidential Building Code

S.L. 2007-414 ([SB 556](#)) authorizes city governments to adopt and enforce ordinances relating to nonresidential buildings that fail to meet minimum standards of maintenance, sanitation, and safety. If it appears to a designated public officer that the nonresidential building fails to meet minimum standards, the act provides that a public officer may issue an order for the repair or improvement of the building, the removal or demolition of the building, or for buildings in an historic district that are of significance, that the building be vacated and closed.

The act provides that vacant manufacturing and warehousing facilities may not be ordered to make repairs to preserve the original use, but only when necessary to maintain the structural integrity of the building or abate a safety hazard. In addition, the act provides that manufacturing and warehouse facilities found to jeopardize health and safety may be ordered vacated and closed and that a manufacturing facility or warehouse must have been closed and vacated for five years before the city or county may order its repair or demolition.

This act became effective August 21, 2007. (GSP)

County Financing/Powell Bill/City Election

S.L. 2007-428 ([SB 1513](#)) makes the following changes to State law:

- Requires entities responsible for school projects to comply with the recommendations provided by the Department with regard to highway improvements that are required for safe ingress and egress to the State highway system.
- Authorizes counties to participate in the cost of rights-of-way, construction, reconstruction, improvement, or maintenance of roads on the State highway System under agreement with the Department of Transportation.

- Authorizes municipalities to use the funding they receive from the State each year for municipal streets, known as Powell Bill Funds, to elect to have its funds reallocated to any Transportation Improvement Program (TIP) project within the municipality's limits, or within the area of any metropolitan planning organization or rural planning organization.

This act became effective August 23, 2007, except for the provisions affecting Powell Bill Funds, which became effective October 1, 2007. (GSP)

Local Government Surplus Property Donations

S.L. 2007-430 ([HB 1060](#)) permits cities and counties to donate surplus, obsolete, or unused personal property, including supplies, materials, and equipment, to another governmental unit within the United States, a sister city, or nonprofit organization. The act requires the governing board of the city or county to post a public notice at least five days before the adoption of a resolution approving the donation, and the resolution must be adopted prior to making the donation. A "governmental unit" is a city, county, school administrative unit, sanitary district, fire district, the State, or any other public district, authority, department, agency, board, commission, or institution. A "sister city" is a city in a nation other than the United States that has entered into a formal, written agreement or memorandum of understanding signed by both mayors or chief elective officer for the purposes of establishing a long-term partnership to promote communication, understanding, and goodwill and develop mutually beneficial activities, programs, and ideas.

This act became effective August 23, 2007. (JM)

Replacing Officials Called to Active Duty

S.L. 2007-432 ([HB 671](#)). See **Military, Veterans', and Indian Affairs**.

Amend Combined Motor Vehicle Registration and Property Tax System

S.L. 2007-471 ([HB 1688](#)). See **Transportation**.

Fire Chief/Emergency Medical Services Director: Criminal History Requests

S.L. 2007-479 ([HB 1322](#)) amends the law which provides for criminal history checks for applicants to fire departments at the request of a designated local Homeland Security director. The act allows criminal history checks to be requested by a local fire chief, county fire marshal, or emergency services director. The act also expands the statute to allow criminal history checks for applicants for a paid or volunteer position with an emergency medical service. Local fire chiefs, county fire marshals, and local emergency services directors are defined to include only those who are paid employees of a city or county.

This act became effective August 29, 2007. (BR)

Zoning Near State Capitol

S.L. 2007-482 ([SB 1313](#)). See **State Government**.

Validation of Certain Notary Acts

S.L. 2007-484, Sec. 27 ([SB 613](#), Sec. 27) validates certain notarial acts performed for local government agencies performed between October 31, 2006, and June 30, 2007. The act must have been performed by a person meeting any of the following criteria:

- The person had been commissioned or recommissioned as a notary public, but the act was prior to qualification as a notary public.
- The person's notary commission had expired.
- The person failed to qualify within 45 days of commissioning.

This section became effective August 30, 2007. (EC)

Increase Length Limits for Transit Buses

S.L. 2007-499 ([HB 514](#)). See **Transportation**.

Economic Development Modifications

S.L. 2007-515 ([HB 1595](#)) amends the statutes to do the following:

- Provide that a county or city may acquire, construct, convey, or lease a building suitable for industrial or commercial use.
- Rewrite, clarify, and expand the definition of urban progress zones.
- Define economic development clawbacks and to require the Department of Commerce to (1) publish a catalog of the clawbacks it administers and (2) report semiannually to the Revenue Laws Study Committee on triggered clawbacks and the amount forfeited or to be repaid as a result.
- Amend the definition of "agrarian growth zone," and provide that the area of a county that is included in one or more agrarian growth zones must not exceed 5% of the county's total area.
- Require each economic development agreement entered into between a private enterprise and a city or county to that clearly states the respective responsibilities of each party, and contains provisions regarding remedies for a breach of the responsibilities by the private entity—to include a recapture provision of appropriated or expended funds.

This act became effective August 30, 2007. (HAP)

Wireless Telecommunications Facilities

S.L. 2007-526 ([SB 831](#)) outlines requirements of local government regulation of the equipment and network components necessary to provide wireless service (wireless facilities) and (2) new or existing structures designed to support wireless facilities (wireless support structures). The act creates a new part in the two chapters of the statutes pertinent to towns, cities, and counties. The new parts are both entitled, "Wireless Telecommunications Facilities," and contain identical provisions.

Regulation. – Local governments may regulate the location and modification of wireless facilities and wireless support structures based on considerations of land use, public safety and zoning considerations. These regulations may include aesthetics, landscaping, structural design, setbacks, and State and local building code requirements. The regulations must be consistent with federal law. Any person that proposes to construct or modify a wireless facility or wireless support structure must comply with local ordinances concerning land use and applicable permitting processes.

Application. – Provisions regarding applications include the following:

- Applications may include information on applicable public safety, land use or zoning regulations.
- Applications may also require applicants for new facilities to evaluate the reasonable feasibility of collocation of facilities, but collocation is not reasonably feasible if contractual, economic, or engineering impediments prevent collocation.
- Information concerning an applicant's business decisions regarding service, customer demand, or quality of service may not be reviewed or required in the application process.
- Applications eligible for the streamlined approval process are deemed complete unless the city or county provides written notice within 45 days of the submission of the application. Other applications are deemed complete within a reasonable time consistent with other land use permits for other uses.
- Local governments may charge application fees and consulting fees for the review of applications. Any charges or fees in relation to consultant services must be fixed in advance and included in the permit or application fee.
- Approval of new wireless facilities or wireless support structures may be conditioned upon the existence of one or more parties who intend to locate wireless facilities on the wireless support structure.
- Local governments may not require wireless facilities or wireless support structures to be placed on government owned or leased property, but may encourage the location of facilities on government owned or leased property.

Collocation: Collocation is the installation of new wireless facilities on previously-approved structures. Applications for collocation that meet the requirements are eligible for streamlined processing and are reviewed for conformance with applicable site plans and building permits, but are not subject to zoning requirements or public hearing review.

Collocation applications for wireless facilities are eligible for streamlined processing if the addition of the additional wireless facility does not exceed the number of wireless facilities previously approved for the wireless support structure on which the collocation is proposed. This provision applies to wireless support structures which are approved on or after December 1, 2007.

Collocation applications are also eligible for streamlined processing if the application meets all of the following requirements:

- The collocation does not increase the overall height and width of the tower or wireless support structure to which the wireless facilities are to be attached.
- The collocation does not increase the ground space area approved in the site plan for equipment enclosures and ancillary facilities.
- The wireless facilities in the proposed collocation comply with applicable regulations, restrictions, or conditions, if any, applied to the initial wireless facilities placed on the tower or other wireless support structure.
- The additional wireless facilities comply with all federal, state and local safety requirements.
- The collocation does not exceed the applicable weight limits for the wireless support structure.

This act becomes effective December 1, 2007. (KG)

For a complete list of the studies and reports authorized by the 2007 Session of the 2007 General Assembly, please refer to the Appendix contained in this publication.

Chapter 17

Military, Veterans', and Indian Affairs

Theresa Matula (TM), Howard Alan Pell (HAP)

Enacted Legislation

Military and Veterans' Affairs

Armed Forces Mutual Aid Association

S.L. 2007-27 ([HB 895](#)). See **Insurance**.

Allow National Guard Post Exchanges

S.L. 2007-60 ([SB 1354](#)) authorizes the North Carolina National Guard (NCNG) to operate post exchanges. A post exchange is a retail sales facility on a military installation operated for the benefit of service members or their dependents. The act also authorizes the NCNG to enter into agreements with the Army & Air Force Exchange Service (AAFES) to operate these exchanges.

AAFES is a federal agency and operates exchanges on military installations, including Army National Guard installations located around the United States. Federal law provides that AAFES is an instrumentality of the United States government and is immune from taxation. Accordingly, NCNG post exchanges operated by AAFES will be exempted from collecting sales taxes.

This act became effective May 31, 2007. (HAP)

Custody/Visitation/Military Orders

S.L. 2007-175 ([HB 1634](#)) creates a new provision in the law relating to custody and visitation when a custodial parent is mobilized or otherwise receives military orders that require the parent to move temporarily away from the residence. The act provides that the court must apply specific rules when there is a material effect on a parent's ability to exercise custodial responsibilities or visitation rights, including the following:

- Any temporary custody order for the child during the parent's temporary duty, mobilization, or deployment must end no later than 10 days after the parent returns. The order does not impair the discretion of the court to conduct a hearing for emergency custody upon the return of the parent and within 10 days of the filing of a verified motion for emergency custody alleging an immediate danger of irreparable harm to the child.
- If a motion to transfer custody from a service member is filed, the temporary duty, mobilization, or deployment is excluded as a factor in making a change of circumstances determination. Under existing law, a showing of change of circumstances is required in order for a court to modify or vacate a custody order.
- If a parent with visitation rights receives temporary duty, mobilization, or deployment orders, then a court may delegate the parent's visitation rights to a family member if it is in the child's best interest.

The act also provides for expedited hearings and the presentation of testimony and evidence by electronic means.

This act became effective October 1, 2007, and applies to custody or visitation actions instituted on or after that date. (HAP)

Creditable Service/Uniformed Services Employees

S.L. 2007-233 ([HB 1414](#)). See **Retirement**.

Military Children May Attend Public Schools

S.L. 2007-283 ([HB 1357](#)) allows a student to attend, free of charge, a public school where he or she is not a domiciliary. Generally, a student must be domiciled in a local school administrative unit (LEA) in order to attend its public schools, free of tuition. A child's domicile is the same as his or her parent's or legal guardian's domicile. The new provision applies to a student who: (1) is not a domiciliary of a local school administrative unit; (2) resides with an adult who is a domiciliary, because the student's parent or legal guardian is deployed with the military; and (3) the student's parent or legal guardian is on active military duty and is deployed out of the district where the parent was a domiciliary. The law provides that "active duty" does not include periods of active duty for training for less than 30 days. Evidence of deployment must be submitted along with affidavits.

This act became effective July 27, 2007. (HAP)

Clarify Veterans Preference

S.L. 2007-286 ([HB 1412](#)). See **Labor and Employment**.

Add Veteran to State Personnel Commission

S.L. 2007-287 ([HB 1413](#)). See **Labor and Employment**.

"More at Four" Eligibility/Military Children

S.L. 2007-323, Sec. 7.24(d) ([HB 1473](#), Sec. 7.24(d)). See **Education**.

Military Morale, Recreation, and Welfare Funds

S.L. 2007-323, Sec. 23.1 ([HB 1473](#), Sec. 23.1) provides that appropriated funds for the Military Morale, Recreation, and Welfare Fund are to be distributed to each military installation on a per capita basis, and used only for community services and for other expenditures to improve quality of life programs for military members and their families.

This section became effective July 1, 2007. (HAP)

Enhance National Guard Pension Benefit

S.L. 2007-323, Sec. 28.21A ([HB 1473](#), Sec. 28.21A). See **Retirement**.

Disability Benefits/State Employees

S.L. 2007-325 ([HB 1415](#)). See **Labor and Employment**.

Motor Vehicle Inspection Changes

S.L. 2007-364, Sec. 3 ([SB 509](#), Sec. 3) allows military personnel to avoid a penalty for failing to inspect a covered vehicle within four months of the required date. Section 3 of the act

requires the Department of Motor Vehicles to waive a civil penalty assessed against a person for failing to meet the motor vehicle inspection requirement if:

- The person was out of State serving on active military duty from the time the vehicle was required to be inspected until the expiration of the four-month grace period. This waiver could apply if the person is either out of the country or stationed outside the State of North Carolina serving on active military duty.
- The person also demonstrates that no other person operated the vehicle during the period the owner was out of state and that the owner had the vehicle inspected within 30 days upon return to the State.

Section 3 of this act became effective August 17, 2007, and applies to civil penalties assessed for violations committed on or after that date. (HAP)

See **Transportation** for the summary of the remaining sections of the act.

Replacing Officials Called to Active Duty

S.L. 2007-432 ([HB 671](#)) creates new statutory leave of absence provisions for State, county, or municipal officials who enter active duty in the Armed Forces. Currently, elected or appointed officials may obtain a leave of absence based upon military service, protracted illness, or other satisfactory reason, as follows: State officials from the Governor; county officials from the board of county commissioners; and municipal officials from the governing body of the municipality.

The act amends the statutes that allow leaves of absence for State, county, or municipal officers by deleting the "military service" basis for the leave and providing that replacement appointees possess all qualifications required by law. The act then enacts statutory provisions that are specific to officials entering into active duty in the Armed Forces. All provisions provide that "no vacancy" in the office occurs during the leave of absence and that replacements possess all qualifications required by law for the position.

If a State official is on active duty at least 30 days, then the official may obtain a leave of absence and a temporary replacement is appointed.

- Non-member of the General Assembly: A leave of absence is obtained by filing a copy of the official's active duty orders with the Office of the Governor. The Governor may appoint any qualified citizen as a temporary replacement, and there is no district or residency requirement for the replacement official.
- If the official is a member of the General Assembly, then the Governor selects a replacement who is a resident of the official's district and of the same political party. The person must be qualified as a senator or representative under the State constitution. The temporary replacement has all the authority and duties of the official temporarily displaced. The term of the replacement ends on the earliest of: (1) The third day after the last day of active duty status of the temporarily displaced official; (2) The clerk of the appropriate house receives notice from the official that the official is ready to resume his or her duties; or (3) The term of the temporarily replaced official expires.

If a county or municipal State official is on active duty for at least 30 days, then the official may obtain a leave of absence and a temporary replacement is appointed. The leave of absence is obtained by filing a copy of the official's orders with the clerk. The appointment of a temporary replacement is governed by the respective statutes for replacement of county or municipal officials due to protracted illness or other satisfactory reasons. These statutes provide for a "qualified replacement" to be appointed by the governing body.

This act became effective August 23, 2007. (HAP)

Dealer MV Inspection/Records/MV Registration

S.L. 2007-481 ([SB 1147](#)). See **Transportation**.

Various Special License Plates/Gold Star

S.L. 2007-483 ([SB 103](#)). See **Transportation**.

Bronze Star Special Plate Changes

S.L. 2007-522 ([HB 206](#)) amends the special plate statutes to provide for a specific Bronze Star plate for veterans who received the Bronze Star for valor in combat. The Bronze Star is awarded for either meritorious service or valor in combat, and the prior law did not distinguish between the two bases for receipt of the award.

This act became effective August 31, 2007. (HAP)

Protect Military Personnel/Life Insurance

S.L. 2007-535 ([HB 773](#)) adds a new Part to the insurance laws that is designed to protect members of the Armed Forces from dishonest and predatory sale and solicitation of life insurance and annuity products. The bill applies to the sale and solicitation of life insurance and annuity products by insurers to active duty members of the Armed Forces and prohibits false, misleading, deceptive, or unfair acts as listed in the act.

The acts or practices to be declared false, misleading, deceptive, or unfair **on a military installation**, include the following:

- Knowingly soliciting the purchase of any life insurance product "door-to-door" or without first establishing a specific appointment.
- Soliciting service members in a group or "mass" audience or in a "captive" audience where attendance is not voluntary.
- Making appointments with service members during normally scheduled duty hours.
- Making appointments with or soliciting service members in barracks, day rooms, unit areas, or transient personnel housing or other areas where solicitation is prohibited.
- Soliciting without first obtaining permission from the installation commander.
- Posting unauthorized bulletins, notices, or advertisements.
- Knowingly accepting an application for life insurance or issuing a policy without first obtaining a completed copy of any required form that confirms that the applicant has received counseling for the sale of life insurance established by rules of the Department of Defense or any branch of the Armed Forces.
- Using Department of Defense personnel, directly or indirectly, as a representative in any official or business capacity with or without compensation with respect to the solicitation of life insurance.

The acts or practices declared to be false, misleading, deceptive, or unfair, **regardless of location**, include the following:

- Submitting, processing, or assisting in the submission or processing of any allotment form used to direct a service member's pay to a third party for the purchase of life insurance.
- Knowingly receiving funds from a service member for the payment of a premium from a depository institution with which the service member has no formal banking relationship.
- Employing any device or method entering into any agreement whereby funds received from a service member by allotment for the payment of premiums are

identified on the member's Leave and Earnings Statement as "savings" or "checking" and where the member has no formal banking relationship.

- Entering into an agreement with a depository institution for the purpose of receiving funds from a member where the institution agrees to accept direct deposits from a member with whom it has no formal banking relationship.
- Using Department personnel as a representative or agent in any official or unofficial capacity with respect to the sale of life insurance to members who are junior in rank or grade, or to their family members.
- Offering or giving anything of value to Department personnel to procure their assistance in the solicitation or sale of life insurance.
- Knowingly offering or giving anything of value to a service member with a pay grade of E-4 or below for his or her attendance at any event where life insurance is being solicited.
- Advising a member with a pay grade of E-4 or below to change his or her withholding or state of legal residence for the sole purpose of increasing disposable income to purchase life insurance.
- Making any representation to confuse or mislead a service member into believing the insurer or product is affiliated or connected with or recommended by the United States Government or the Armed Forces.
- Soliciting the purchase of life insurance through the use of any third party organization that promotes the welfare or assists members of the Armed Forces in a way to confuse or mislead a service member into believing the insurer or product is affiliated or connected with or recommended by the United States Government or the Armed Forces.
- Using a credited interest rate on a policy to imply that the rate is a net return on premiums paid.
- Making false or misleading statements regarding Servicemembers' Group Life Insurance or Veteran's Group Life Insurance.
- Using materials as a lead that do not disclose that the recipient will be contacted for life insurance solicitations.
- Failing to disclose that a solicitation will be made when making an appointment with a prospective purchaser.
- Failing to disclose that a product is life insurance.
- Failing to make at the time of sale or offer required written disclosures required by the Armed Forces.
- Failing to provide, when a sale is conducted face-to-face an explanation of any free-look period on how to cancel a policy.
- Failing to provide a copy of the application or a written disclosure clearly setting out the type of insurance, the death benefit applied for, and the expected first year cost.
- Recommending the purchase of any product which includes a side fund to a member with a pay grade of E-4 and below, unless the insurer has reasonable grounds for believing that the insurance death benefit alone is suitable.
- Offering a product with a side fund to a member in pay grades E-4 or below and currently enrolled in Servicemembers' Group Life Insurance (SGLI) is presumed unsuitable, unless the insurer demonstrated that the SGLI death benefit is, together with any other military survivor benefits, savings, income and other life insurance, insufficient.
- Offering for sale any contract which includes a side fund unless credited interest accrues from the date of deposit to withdrawal and permits withdrawal without limit or penalty and the applicant has been provided with a schedule of effective rates of return which by default diverts or transfers funds accumulated in a side fund to pay or offset premiums.

- Selling any life insurance to a member that excludes coverage for war-related or service-related death, except for accidental death.

The act exempts solicitations or sales involving various products including (1) credit insurance; (2) group life or annuities where there is no face-to-face solicitation or where no side fund is included; (3) applications to the existing insurer for certain changes to existing policies; (4) contracts offered by Servicemembers' Group Life Insurance or Veterans' Group Life Insurance; (5) individuals stand-alone health policies; (6) life insurance offered by non-profit military association; and (7) ERISA plans, tax exempt plans, or other deferred compensation plans.

This act becomes effective January 1, 2008, and applies to acts or offenses committed on or after that date. (HAP)

For a complete list of the studies and reports authorized by the 2007 Session of the 2007 General Assembly, please refer to the Appendix contained in this publication.

Chapter 18

Occupational Boards and Licensing

Cindy Avrette (CA), Judy Collier (JC), Trina Griffin (TG)

(For summaries of legislation related to non-occupational boards and commissions, see Chapter 23, **State Government**.)

Enacted Legislation

Standards for Code-Enforcement Officials

S.L. 2007-120 ([HB 700](#)) clarifies the standards for Code-enforcement officials and clarifies the powers of the North Carolina Code Officials Qualifications Board (Board).

Certificates. – The act authorizes the Board to issue one or more standard certificates to each Code-enforcement official meeting the qualifications set out by statute. The act provides for the availability of standard certificates for each of the following types of qualified Code-enforcement officials:

- Building inspector.
- Electrical inspector.
- Mechanical inspector.
- Plumbing inspector.
- Fire inspector.

Disciplinary Actions. – The act expands the power of the Board to suspend any and all certificates, remove any and all certificates, demote any and all certificates to a lower level, or refuse to grant any certificate to any person who meet any of the following criteria:

- Been convicted of a felony.
- Obtained certification through fraud or deceit.
- Aided any person practicing contrary to the law or the Code.
- Defrauded or attempted to defraud the public.
- Signed an inspection report or other instrument of service when no inspection was made.
- Been guilty of willful misconduct, gross negligence, or gross incompetence.

Violation. – Current law provides that it is unlawful for any person to represent himself or herself as a qualified Code-enforcement official without holding a currently valid certificate of qualification issued by the Board. Current law also provides that any person who violates any provisions of the Code-enforcement Article is guilty of a Class 1 misdemeanor. This act further clarifies that it is unlawful for any person to practice Code enforcement except as allowed by a current and valid certificate issued to the person by the Board.

This act becomes effective December 1, 2007, and applies to offenses committed on or after that date. (JC)

Dietetics/Nutrition Practice Act Amendments

S.L. 2007-123 ([HB 1486](#)) amends the Dietetics/Nutrition Practice Act by deleting the existing requirement that any substantive changes to the statutes governing dietetics definitions, license requirements, or exemptions be subject to review by the Legislative Committee on New Licensing Boards.

This act became effective June 27, 2007. (JC)

Amend Dental Hygiene Act

S.L. 2007-124 ([SB 1337](#)) amends the North Carolina Dental Hygiene Act to allow a licensed hygienist to perform dental hygiene functions without a licensed dentist being physically present, if certain conditions are met regarding evaluation by the licensed dentist and the timing of the performance of the hygiene functions.

The act provides that dental hygienists licensed by the North Carolina State Board of Dental Examiners (Board), that meet specific experience and training requirements as set out by statute, may perform dental hygiene functions without the direct supervision of a licensed dentist if all of the following apply:

- A licensed dentist directs the hygienist in writing to perform the dental hygiene functions.
- The licensed dentist has personally conducted an evaluation of the patient, which must include a complete oral examination, a thorough analysis of the patient's health history, a diagnosis of the patient's condition, and a specific written plan for treatment.
- The dental hygiene functions directed to be performed must be conducted within 120 days of the dentist's evaluation.
- The services are performed in nursing homes; rest homes; long-term care facilities; rural and community clinics operated by federal, State, county, or local governments; and any other facilities identified by the Office of Rural health and approved by the Board as serving dental access shortage areas.

The act imposes the following restrictions on professional service:

- Prohibits a dental hygienist from establishing or operating a separate care facility that renders dental hygiene service.
- Provides restrictions on practice by dental hygienists and supervision by licensed dentists who have been disciplined by the Board.
- Requires a licensed dentist to report annually to the Board the number of patients that were treated by a dental hygienist outside the direct supervision of the dentist, without reporting the identity of hygienists or patients by name or any other identifier.
- Requires that clinical hygiene services meet Centers for Disease Control and Occupational Safety and Health Administration standards for infection control and patient treatment.

This act became effective October 1, 2007. (JC)

Anesthesiologist Assistants Licensure

S.L. 2007-146 ([HB 1492](#)), as amended by S.L. 2007-346 ([HB 818](#)), authorizes the North Carolina Medical Board (Board) to license and regulate anesthesiologist assistants and to establish licensure and application fees as follows:

| Type Fee | Maximum |
|--|--------------------------------|
| Initial and Annual Licensure | \$150 |
| License by Examination | \$400 + cost of test materials |
| License without Examination | \$250 |
| Limited License | \$150 |
| Limited License, Education or Training Program | \$25 |
| Limited License, Indigent Treatment Clinics | No Fee |
| Duplicate License | \$25 |

The act also makes the following provisions:

- Adds the provision of anesthesia services by a licensed anesthesiologist assistant to the list of activities in current statute that do not constitute the practice of medicine or surgery.
- Enacts new statute setting limits on the use of the title anesthesiologist assistant.
- Directs the Board to adopt regulations governing the provision of anesthesia services by an anesthesiologist assistant under the supervision of a licensed anesthesiologist.
- Limits a licensed anesthesiologist to supervision of no more than two anesthesiologist assistants at one time, but provides that the Board may expand that number to four after January 1, 2010.
- Requires that anesthesiologist assistants comply with all continuing education requirements and recertification requirements of the National Commission for Certification of Anesthesiologist Assistants or its successor organization.
- Clarifies that nothing in the act limits or expands the scope of practice of physician assistants under existing law.

This act became effective June 29, 2007. (JC)

Amend Nurse Practice Act

S.L. 2007-148 ([SB 376](#)) expands the powers of the North Carolina Board of Nursing (Board) as follows:

Duties, Powers. – The act adds the following duties and powers to existing duties and powers of the Board:

- Authorizes the Board to conduct evidentiary hearings with hearing committees.
- Authorizes the Board to designate one or more of its employees to serve papers and subpoenas issued by the Board, in addition to any other methods of service permitted by law.
- Authorizes the Board to acquire, hold, rend, encumber, alienate, and otherwise deal with real property, subject to the approval of the Governor and the Council of State. Any collateral pledged must be limited to the assets, income, and revenues of the Board.

Hearing Committee and Depositions. – New statutory language pertaining to the use of hearing committee and depositions amends existing statutes as follows:

- Authorizes the Board to designate three or more members as a hearing committee to conduct evidentiary hearings in contested case matters requiring a majority of the hearing committee to be licensed nurses.
- Allows evidence and testimony to be presented to the Board or hearing committee by deposition.
- Requires the hearing committee to submit a recommended decision that contains findings of fact and conclusions of law to the full Board.
- Requires the Board to give each party an opportunity to file written exceptions to the hearing committee's recommended decision and to present oral arguments before the Board makes a final decision.
- Requires a final decision to be issued by a majority of the qualified members present and voting of the full Board.

Standards. – The act amends existing statute by requiring the Board to establish standards for applicants, as well as for faculty for medication aide training.

This act became effective June 29, 2007. (JC)

Cosmetic Art Continuing Education Exemption

S.L. 2007-198 ([HB 701](#)) exempts from continuing education requirements, licensed cosmetologists in active practice with at least 20 consecutive years of experience as a cosmetologist.

This act became effective July 8, 2007. (JC)

State Bar Changes

S.L. 2007-200 ([HB 1487](#)) amends the law governing membership and privileges in the North Carolina State Bar to allow inactive lawyers to represent indigent clients on a pro bono basis under the supervision of an active member employed by a nonprofit corporation. The act clarifies that active members must satisfy all other obligations of membership, in addition to payment of membership dues and makes the following changes:

- Clarifies that natural persons may represent themselves without violating the law.
- Modifies the number of State Bar Councilors to equal the number of judicial districts plus 16, not including the officers and past president.
- Allows law students to act as legal interns for government agencies.
- Allows out-of-state attorneys to provide pro bono services under the supervision of an active member employed by a nonprofit corporation.
- Requires out-of-state attorneys to file a registration statement with the State Bar.

This act became effective July 8, 2007. (JC)

Define Residency Requirements/Bail Bondsmen

S.L. 2007-228 ([SB 881](#)) amends the laws governing the licensure and regulation of bail bondsmen and runners. The Commissioner of Insurance (Commissioner) is charged with administering the laws, including adopting rules enforcing sanctions, and renewing, suspending, or revoking licenses.

Resident. – The act amends the definition section of the statute pertaining to bail bondsmen and runners by defining a resident as a person who lives in this State for at least six consecutive months immediately before applying for a license under this Article.

Minimum Qualifications. – An applicant for licensure must meet the following minimum qualifications:

- Be 18 years of age or older.
- Be a resident of this State.
- Have knowledge, training, or experience of sufficient duration and extent to provide the competence necessary to fulfill the responsibilities of a licensee.
- Have no outstanding bail bond obligations.
- Have no current or prior violations of any State law regarding bail bondsmen or runners or of any similar provision of law of any other state.
- Not otherwise be disqualified under the laws of North Carolina or any other state to engage in the bail bond business.

Valid Drivers License. – The act requires that every applicant hold a valid and current North Carolina drivers license or valid North Carolina identification card issued by the Division of Motor Vehicles.

Proof of Residency. – The act requires that an applicant provide to the Commissioner at least two of the following documents as proof of residency in this State:

- A pay stub showing the applicant's residential address in this State.
- A utility bill showing the applicant's residential address in this State.
- A written lease agreement or contract for purchase and sale signed by the applicant and for a residence located in this State.

- A receipt for personal property taxes paid by the applicant to a North Carolina unit of local government.
- A receipt for real property taxes paid by the applicant to a North Carolina unit of local government.
- A monthly or quarterly statement showing the applicant's residential address in this State and issued by a financial institution for an account held by the applicant.

Subject to rules adopted by the Commissioner, an applicant may be required to provide additional documentation as proof of residency in this State.

This act became effective October 1, 2007, and applies to applications for licensure made on or after that date. (JC)

Immunity/Veterinarians Reporting Animal Cruelty

S.L. 2007-232 ([HB 1359](#)). See **Civil Law and Procedure**.

Raise Project Limits/Electrical/General Contractors

S.L. 2007-247 ([HB 1338](#)) amends the statutes regulating electrical contractors and general contractors as follows:

Electrical Contractors. – The act increases the maximum project value limitation for electrical contractors with a Limited License classification from \$25,000 to \$100,000, and increases the project value limitation for an Intermediate License classification from \$75,000 to \$200,000. The act authorizes the State Board of Examiners of Electrical Contractors (Board) to modify the project value limitations up to the statutory maximums, by rule, no more than once every three years based on an increase or decrease in the project cost index for electrical projects in this State.

The act sets the project value limitation for the Limited classification at \$40,000 and for the Intermediate classification at \$110,000, effective when the act becomes law and until changed by permanent rule adopted by the Board.

General Contractors. – The act provides that the holder of an Intermediate license may act as a general contractor for any single project with a value of \$1 million, and the holder of a Limited license may act as a general contractor for any single project with a value of \$500,000.

This act became effective October 1, 2007. (JC)

Tissue Bank Referrals/Funeral Directors

S.L. 2007-297 ([HB 1400](#)) prohibits the taking or recovery of human tissue at a funeral establishment by any person, with certain exceptions.

Prohibitions. – The act prohibits funeral establishments and persons licensed under the statutes governing the practice of funeral service from permitting the taking or recovery of human tissue from a dead human body in its custody or control for the purpose of human transplant or research. The act also prohibits licensees from accepting or soliciting payment for referring potential tissue donors to a tissue bank or broker.

For the purposes of this act, the term "tissue" does not include an eye.

Exceptions. – The prohibition against the taking or recovery of human tissue at a funeral establishment by any person does not apply to any of the following:

- A licensee that performs embalming or otherwise prepares a dead human body in the ordinary course of business.
- The Chief Medical Examiner (CME) or anyone acting under the CME's authority.
- An autopsy technician who takes or recovers tissue from a dead human body if all of the following apply:

- The taking or recovery is the subject of an academic research program.
- The academic research program has appropriate Institutional Review Board supervision.
- The academic research program has obtained informed consent of the donor or the personal legally authorized to provide consent.

This act became effective July 28, 2007, and applies to deaths occurring on or after that date. (JC)

Amend Practice of Medicine Laws

S.L. 2007-346 ([HB 818](#)) amends the statutes governing the practice of medicine and amends the statutes governing the practice of dentistry.

Practice of Medicine

The act reorganizes and amends the statutes governing the practice of medicine as follows:

Definitions. – The act adds definitions of Board, hearing officer, integrative medicine, license, and the practice of medicine or surgery to the statutes. The term "practice of medicine and surgery" includes representation that the individual is authorized to practice medicine in the State, and the use of the designation, "Doctor," "Doctor of Medicine," "Doctor of Osteopathic Medicine," "Physician," "Surgeon," etc., in the conduct of an occupation pertaining to the prevention, diagnosis, or treatment of human disease or condition.

Medical Board. – *Effective January 1, 2008*, the act makes conforming and technical changes to the statutes pertaining to the North Carolina Medical Board (Board) as well as the following changes:

- Provides that the three public Board members are not subject to the recommendations of the Review Panel.
- Prohibits a public Board member from being a health care provider or the spouse of a health care provider.

Review Panel. – *Effective January 1, 2008*, the act amends existing statutes, removing the requirement that the Governor appoint physicians nominated by the North Carolina Medical Society to the Board and replacing it with the creation of a nine-member Review Panel (Panel) to review applicants to the Board for the physician and physician assistant or nurse practitioner positions and make two recommendations for each open position to the Governor. The act exempts Panel members and staff from civil or criminal liability for exercising, in good faith, the powers and duties authorized by law.

Board Position Criteria. – *Effective January 1, 2008*, to be considered qualified for a physician position or the physician assistant or nurse practitioner position on the Board, an applicant must meet the following criteria:

- Hold an active, nonlimited license to practice medicine in North Carolina, or in the case of a physician assistant or nurse practitioner, hold an active license or approval to perform medical acts, tasks, and functions in North Carolina.
- Have an active clinical or teaching practice for 20 hours or more per week.
- Have actively practiced in North Carolina for at least five consecutive years immediately preceding the appointment.
- Intend to remain in active practice in North Carolina for the duration of the term on the Board.
- Submit at least three letters of recommendation, either from individuals or from professional or other societies or organizations.
- Have no public disciplinary history with the Board or any other licensing board in North Carolina or another state over the past 10 years before applying for appointment to the Board.
- Have no history of felony convictions of any kind.
- Have no misdemeanor convictions related to the practice of medicine.

- Indicate, in a manner prescribed by the Panel, that the applicant:
 - Understands that the primary purpose of the Board is to protect the public; (ii)
 - Is willing to take appropriate disciplinary action against his or her peers for misconduct or violations of the standards of care or practice of medicine; and
 - Is aware of the time commitment needed to be a constructive member of the Board.

Recommendations. – *Effective January 1, 2008*, the act requires the Panel to recommend at least two qualified nominees for each open position on the Board. If the Governor chooses not to appoint either of the recommended nominees, the Panel must recommend at least two new qualified nominees.

Notice of Open Positions. – *Effective January 1, 2008*, notice of open physician positions or the physician assistant or nurse practitioner position on the Board must be sent to all physicians currently licensed to practice medicine in North Carolina and all physician assistants and nurse practitioners currently licensed or approved to perform medical acts, tasks, and functions in North Carolina.

Professional Association or Society. – *Effective January 1, 2008*, applicants for positions on the Board will not be required to be members of any professional association or society, except as provided in current statutes.

Powers and Duties of the Board. – The act sets out the powers and duties of the Board. New duties include regulating the retention and disposition of medical records and development of methods to improve physician practice and the ongoing competence of licensees.

Reporting Data to Board. – The act requires all physicians and physician's assistants to report specified information to the Board and requires the Board to make the information available to the public. The act clarifies that failure to provide information required and in accordance with Board rules or knowingly providing false information may be considered unprofessional conduct as defined in statute.

Rules Governing Applicants for Licensure. – The act empowers the Board to adopt rules that prescribe additional qualifications for an applicant, including education and examination requirements and application procedures.

Requirements for Licensure. – The act sets out the specific requirements pertaining to licensure as follows:

- Requirements for licensure as a physician.
- Requirements for graduates of foreign medical schools.
- Requirements for licensure as a physician assistant.
- Requirements for licensure as an anesthesiologist assistant.

Disciplinary Authority. – The act renames the statutory section pertaining to the Board's authority as "disciplinary" authority and adds the following reasons as grounds for Board disciplinary action to existing reasons in current law:

- Willful concealment from the Board of material information in connection with an application, request, or petition for reinstatement or reactivation of a license, an annual registration of a license, or an investigation or inquiry by the Board; and
- Failure to maintain acceptable standards of one of more areas of professional physician practice.

Hearing before Disciplinary Action. – The act amends the statutes pertaining to hearings, including the following:

- Expands statutory language providing for hearing before revocation or suspension of a license to include all disciplinary actions against any license granted by it.
- Authorizes personal service of notice by an employee of the Board.
- Provides that notice is deemed to have been served on the date showing delivery to the licensee's or the applicant's last known address, regardless of whether the notice was actually received.
- Amends statutory language by allowing the Board to designate in writing three or more hearing officers to conduct hearings as a hearing committee to take evidence.

- Adds new language providing for hearing officers to receive per diem compensation and reimbursement for expenses as authorized by the Board, not to exceed the amount allowed by statute.
- Amends current law pertaining to admissible evidence and adds new language stating that when evidence is not reasonably available under the Rules of Civil Procedure and Rules of Evidence to show relevant facts, then the most reliable and substantial evidence available is admissible.
- Amends current law to require review of the Board's decision to suspend or revoke a license to take place in the Wake County Superior Court and repeals options available in current law for review in the superior court in the county in which the hearing was held or upon agreement of the parties to the appeal in any other superior court of the State.

Self-reporting Requirements; Confidentiality of Board Investigative Information; Cooperation with Law Enforcement; Patient Protection; Board to Keep Public Records. – The act makes the following changes to the statute governing self-reporting requirements, confidentiality of Board investigative information, cooperation with law enforcement, patient protection, Board to keep public records:

- Repeals requirement that names of new licensees be published in three newspapers.
- Provides that depositions taken by the Board counsel in preparation for or anticipation of a hearing but not admitted into evidence at a hearing are confidential.
- Requires the Board to notify a complainant of the disposition of the Board's inquiry into a complaint regarding patient care and the Board's basis for the disposition of the inquiry into the complaint. If a patient who files a complaint or a complainant who is not a patient but who is authorized to receive information about the patient makes a written request, the Board may provide the patient or complainant a licensee's written response to the complaint.
- Provides that if the Board, its employees, or agents are in possession of investigative information indicating a crime may have been committed, the Board may report the information to the appropriate law enforcement agency or district attorney of the district in which the offense was committed.
- Provides that the Board must cooperate and assist a law enforcement agency or district attorney conducting a criminal investigation or prosecution of a licensee by providing relevant information.
- Authorizes the Board to release confidential or nonpublic information to authorized Department of Health and Human Services personnel with enforcement or investigative responsibilities.

Practicing without License. – The act makes the following changes to the statute governing practicing without a license:

- Provides that the administration of domestic or family remedies does not constitute practicing medicine or surgery as defined by statute.
- Replaces current statutory references to the practice of chiropody with podiatric medicine and surgery.
- Removes the prohibition against podiatric physicians using drugs in practicing podiatry.

Exemption. – The act provides an exemption to the practice of medicine or surgery without a license to a physician who comes into this State to practice medicine or surgery so long as:

- The physician or surgeon has an oral or written agreement with a sports team to provide general or emergency medical care to the team members, coaching staff, or families traveling with the team for a specific sporting event taking place in this State; and
- The physician or surgeon does not provide care or consultation to any person residing in this State.

Exemption Limitations. – The act sets out the following limitations for the exemption:

- The exemption remains in force while the physician or surgeon is traveling with the team.
- The exemption may not exceed 10 days per individual sporting event.
- The executive director of the Board may grant the physician up to 20 additional days per individual sporting event.

Physician Assistants. – The act amends the statute governing limitations on physician assistants (PAs) by restating the existing requirements and the rules of the Board for a PA to have a current and active license to practice in the State, a current registration with the Board, and a current intent to practice filed with the Board, unless on active military duty. The Board retains jurisdiction over a PA with an inactive license.

Practice of Dentistry

Temporary Permits. – New statutory provisions allow the North Carolina Board of Dental Examiners to issue a temporary volunteer permit to allow dental school graduates who are licensed in another state to practice dentistry under the supervision of a dentist licensed in North Carolina. The issuance of a temporary volunteer permit is subject to specific statutory conditions, including permit duration, scope of practice, and compensation.

Except as otherwise noted in this summary, this act became effective October 1, 2007.

(JC)

Remove Reserve Ceiling/Real Estate Commission/Notice

S.L. 2007-366 ([SB 744](#)) amends the laws pertaining to the North Carolina Real Estate License Law as follows:

Expense Reserve. – The act amends the statutes pertaining to the authority of the North Carolina Real Estate Commission (Commission) to retain an annual expense reserve by deleting the limitation on the reserve of 10% of the previous year's gross income and by deleting the requirement that any excess greater than 10% be paid to the General Fund.

Notice. – The act amends the statutes pertaining to contested case hearings by occupational licensing boards, to provide that for applicants for real estate licensure who request a hearing regarding the question of moral character or fitness, the Commission may give notice of hearing by first class mail addressed to the applicant at the latest address provided to the Commission or by any other means reasonably designed to achieve actual notice to the applicant.

This act became effective August 17, 2007. (JC)

Pilot Program for Lateral Entry Teachers

S.L. 2007-376 ([SB 1115](#)). See **Education**.

Amend Social Worker Licensure Laws

S.L. 2007-379 ([SB 1090](#)) amends the Social Worker Certification and Licensure Act as follows:

- Defines provisional licensed clinical social worker and allows for provisional licensure of clinical social workers.
- Requires a licensed social worker or an agency employing a licensed social worker to maintain records for a minimum of three years from the date the social worker terminates services to the client and the client services record is closed.
- Directs a certified or licensed social worker to cooperate fully with any inquiry or investigation of the records conducted by the North Carolina Social Work Certification and Licensure Board (Board).

- Requires a provisional licensee to pass the qualifying clinical examination within two years to be eligible for renewal of the provisional license and provides that a provisional licensee has six years to complete all requirements for full licensure, unless otherwise directed by the Board.
 - Repeals certain exemptions from the requirements for licensed clinical social worker.
 - Requires licensed or certified social workers to conspicuously display their license or certificate at their primary place of practice.
- This act became effective August 19, 2007. (JC)

Temporary Department of Health and Human Services Exemption/Recreation Therapy Act

S.L. 2007-389 ([SB 768](#)) provides that a person employed as a therapeutic recreation specialist, a therapeutic recreation assistant, a recreational or a recreational therapy assistant by the North Carolina Department of Health and Human Services, and who provides services solely under the direction and control of the Department, is not subject to the requirements of the North Carolina Recreational Therapy Act until June 30, 2010.

This act became effective August 19, 2007, and expires June 30, 2010. (JC)

Raise Fee Ceiling/Amend Hearing Aid Dealer Laws

S.L. 2007-406 ([SB 1332](#)) authorizes the North Carolina State Hearing Aid Dealers and Fitters Board (Board) to increase certain fees and amends and updates other provisions under the laws regulating hearing aid dealers and fitters as follows:

- Authorizes the Board to increase fees for licensure:

| Type Fee | Old Maximum | New Maximum |
|---------------------|-------------|---------------------|
| Examination Fee | \$75 | Set at \$300 |
| Issuance of License | \$150 | Not to exceed \$250 |
| Renewal of License | \$150 | Not to exceed \$250 |

- Revises the travel reimbursement and reporting requirements for Board members.
- Allows persons holding a license in Audiology issued by the North Carolina Board of Examiners for Speech and Language Pathologists and Audiologists to be issued a license as a hearing aid dealer and fitter without serving as an apprentice for a period of one year.
- Amends notice language by authorizing the Board to serve a notice of license expiration by registered mail, certified mail, or by depositing with a designated delivery service in accordance with statute.
- Authorizes the Board, in its discretion, to privately reprimand or suspend a licensee for the inability to perform the functions for which the person is licensed or for substantial impairment of the person's ability to perform the functions for which the person is licensed by reason of physical or mental disability.
- Provides that documents containing information collected by the Board as a result of an investigation or inquiry conducted in connection with registration, licensure, or a disciplinary matter are not public record, except that notices, statements of charges, or decisions rendered in a disciplinary matter are public record.
- Provides that information identifying a consumer is not public record unless the consumer consents to a disclosure.

This act became effective August 21, 2007. (JC)

Modify Requirements/Teacher License Renewal

S.L. 2007-409 ([SB 1292](#)). See **Education**.

Manufactured Housing Board/Alternative Methods/Criminal Checks

S.L. 2007-416 ([HB 1829](#)) allows the North Carolina Manufactured Housing Board to accept criminal record reports conducted by private reporting services if the reporting service is designated by the Board to provide criminal record reports. The applicant for licensure by the Board would be responsible for paying the designated reporting service of \$55 for the cost of the report. The report would be submitted with the application for licensure. In the alternative, the Board may provide an applicant's fingerprints, signed consent form, and other required information to the North Carolina Department of Justice to perform a criminal record check.

This act became effective August 21, 2007. (JC)

Builder Designations/General Contractors

S.L. 2007-417 ([SB 747](#)) amends the laws pertaining to general contractors by establishing requirements for professional builder designations as follows:

- Provides that a general contractor who completes the educational requirements for accredited builder or accredited master builder as established by the North Carolina Builders Institute (Institute), must be designated by the State Licensing Board for General Contractors (Board) as a North Carolina Certified Accredited Residential Builder or a North Carolina Certified Accredited Master Residential Builder.
- Requires a minimum of eight hours of continuing education each calendar year as certified by the Institute in order to maintain a professional designation.
- Requires the Board to grant professional designations to licensees who have completed an equivalent course of study and board-required continuing education.
- Authorizes the Board to grant professional designations to licensees who have completed certification requirements prior to the effective date of this act upon submission to the Board certification from the Institute of successful completion of the requirements.

This act became effective August 21, 2007. (JC)

Respiratory Care Board/Board of Medicine License Fees

S.L. 2007-418 ([HB 1381](#)) authorizes the North Carolina Respiratory Care Board to increase its licensure and application fees and authorizes the North Carolina Medical Board to establish and increase certain fees.

North Carolina Respiratory Care Board

The act authorizes the North Carolina Respiratory Care Board to raise its licensure and application fees as follows:

| Type Fee | Old Maximum | New Maximum |
|---|-------------|-------------|
| Initial Application | \$25 | \$50 |
| Issuance-any License | \$100 | \$150 |
| Renewal-any License | \$50 | \$75 |
| Late Renewal Additional Fee | \$50 | \$75 |
| License with Provisional or Temporary Endorsement | \$35 | \$50 |

North Carolina Medical Board

The act amends the statutes regulating the practice of medicine as follows:

- Repeals the portion of the statutes pertaining to examination for license, scope, conditions, and prerequisites provision in lieu of examination, and when license without examination is allowed, *effective October 1, 2007*.
- Repeals the current \$5 fee for reactivation of an inactive incomplete application for registered nurses and clinical pharmacist practitioners, *effective October 1, 2007*.
- Enacts a new provision allowing the North Carolina Medical Board (Board) to issue a limited license known as a resident's training license to an unlicensed physician participating in a graduate medical education training program, *effective October 1, 2007*.
- Enacts a new provision allowing the Board to issue a military limited volunteer license to an applicant who: (1) has a license to practice medicine and surgery in another state; (2) produces a letter of good standing from the state of licensure; and (3) is authorized to treat personnel enlisted in a branch of the United States armed services or veterans, *effective October 1, 2007*.
- Allows the Board to issue a retired limited volunteer license to a retired physician with an inactive license, *effective October 1, 2007*.
- Requires that volunteer limited license holders practice medicine and surgery only at clinics specializing in the treatment of indigent patients, with a violation of this requirement being a Class 3 misdemeanor, *effective October 1, 2007*.
- Authorizes the Board to issue a special purpose license to practice medicine to an applicant who: (1) holds a full and unrestricted license to practice in at least one other jurisdiction; and (2) does not have any current or pending disciplinary or other action against him or her. Practice beyond the limits of the license is a Class 3 misdemeanor, *effective October 1, 2007*.
- Authorizes the Board to issue a medical school faculty license to practice medicine and surgery to a physician who: (1) Holds a full-time appointment either as a lecturer, assistant professor, associate professor, or full professor at one of the specified schools; and (2) is not subject to a disciplinary order or other action by any medical licensing agency. The licensee who practices medicine or surgery outside the confines of the medical school or its affiliate is guilty of a Class 3 misdemeanor, *effective October 1, 2007*.
- Sets the application fee for a limited license at \$100, and exempts an applicant for a limited volunteer license from the fee, *effective October 1, 2007*.
- Provides that licensees with a limited license to practice for the purpose of education and training are not required to pay more than one annual registration fee for each year of training and requires the Board to retain jurisdiction over the holder of an inactive license, *effective October 1, 2007*.

Except as otherwise noted in this summary, this act became effective August 21, 2007.

(JC)

Increase Fees/Landscape Contractors

S.L. 2007-426 ([HB 649](#)) authorizes the North Carolina Landscape Contractors' Registration Board to increase certain fees and to establish a new fee under the laws pertaining to landscape contractors as follows:

| Type Fee | Old Maximum | New Maximum |
|---|----------------|-------------|
| Application for Registration by Examination | \$50 | \$75 |
| Certificate Renewal Fee | \$50 | \$75 |
| Late Filing Fee | \$10 | \$25 |
| Duplicate Certificate Fee | \$1 | \$5 |
| Issuance of Duplicate Parchment Certificate | n/a New Fee | \$35 |

This act became effective August 23, 2007. (JC)

Update Licensure Act/Speech Pathologists

S.L. 2007-436 ([HB 892](#)) amends provisions in the Licensure Act for Speech and Language Pathologists and Audiologists as follows:

Definitions. – The act modifies the definitions of speech and language pathologist, the practice of audiology, and the practice of speech and language pathology.

Exemptions. – The act sets out the following classes of persons to whom the provisions of the licensure act do not apply:

- A physician licensed to practice medicine, or to any person employed by a licensed physician in the course of the physician's practice of medicine.
- A licensed physical therapy or occupational therapy practitioner providing evaluation and treatment of swallowing disorders, cognitive/communication deficits, and balance functions within the context of his or her licensed practice.

Licensure. – The act amends current law to establish the qualifications for licensure as an audiologist and for licensure as a pathologist, *effective October 1, 2007*.

Continuing Education. – The act amends current law by requiring the Board of Examiners for Speech and Language Pathologists and Audiologists to adopt rules requiring continuing professional education.

Except as otherwise noted in this summary, this act became effective August 23, 2007.

(JC)

Clarify Disciplinary Action/Appraisers Board

S.L. 2007-447 ([SB 1408](#)) clarifies the disciplinary authority of the North Carolina Appraisal Board (Board) under the North Carolina Appraisers Act. The act:

- Prohibits the Board from investigating any person registered as a trainee or licensed or certified as a real estate appraiser upon an anonymous complaint.
- Provides a procedure for a letter of inquiry from the Board to certain practitioners during the course of an investigation and requires a written response to the Board within 30 calendar days upon receipt of the letter of inquiry.

This act became effective October 1, 2007, and applies to complaints made and letters of inquiry sent on or after that date. (JC)

Amend Psychology Practice Act

S.L. 2007-468 ([HB 1488](#)) amends the Psychology Practice Act to clarify requirements for permanent licensure by the North Carolina Psychology Board (Board) by making the following changes.

- Clarifies that a person who holds dual licensure must comply with conditions and requirements of the Psychology Practice Act regardless of whether the person is holding himself or herself out as a psychologist.
- Removes the requirement that each member of the Board reside in a different congressional district when appointed and instead requires that consideration be given by the Governor to adequate representation from the State's various regions when appointing members to the Board.
- Requires the Board to grant permanent licensure to applicants who have paid the required fees and meet all of the following requirements:
 - The applicant is licensed or certified as a psychologist by a similar psychology licensing board in another jurisdiction.
 - The applicant's license or certification is in good standing.
 - The applicant passes the Board's examination.
 - The applicant holds a doctoral degree (PhD) in Psychology.
 - The applicant has no unresolved complaints in any jurisdiction at the time of application.
 - The applicant holds a current credential for psychology licensure mobility, as defined by Board rules.
- Allows the Board to deny permanent licensure to an applicant who fails to exhibit behavior conforming with statutory requirements pertaining to ethical and professional standards.

This act became effective August 29, 2007. (JC)

Increase Membership/Acupuncture Licensing Board

S.L. 2007-472 ([HB 1650](#)) increases membership on the Acupuncture Licensing Board from six members to nine, with three appointments by the Governor and six by the General Assembly, as follows:

Governor. – Of the Governor's three appointments:

- One must be a layperson who is not employed in a health care profession.
- One must be a licensed physician who has successfully completed 200 hours of credit in medical acupuncture training.
- One must be licensed to practice acupuncture in this State.

General Assembly. – Of the members to be appointed by the General Assembly:

- Three must be appointed upon recommendation of the Speaker of the House of Representatives, in accordance with existing statute.
- Three must be appointed upon recommendation of the President Pro Tempore of the Senate, in accordance with existing statute.

Terms. – Terms for the three new members are as follows:

- The member appointed by the Governor who must be licensed to practice acupuncture in this State and the two members appointed by the General Assembly, one upon recommendation of the Speaker of the House of Representatives and one upon recommendation of the President Pro Tempore of the Senate, each will serve a three-year term beginning July 1, 2007, and ending June 30, 2010.
- New members will serve for the terms for which they were appointed and until their successors are appointed and qualified.

This act became effective August 29, 2007. (JC)

Lifetime Certification After Teaching 50 Years

S.L. 2007-478 ([HB 1308](#)). See **Education**.

Amend Electrolysis Practice Act/Fees

S.L. 2007-489 ([HB 726](#)) authorizes the North Carolina Board of Electrolysis Examiners to license laser hair practitioners and laser hair practitioner instructors. The act also allows the Board to certify schools of laser, light source, or pulsed-light treatments that meet requirements established by the Board and to charge fees related to licensing and certification.

Definitions. – The act adds definitions of laser hair practitioner, laser, light source, or pulsed-light treatments and laser, light source, or pulsed-light devices to the statutes.

Unlawful practice. – Any person practicing electrology or laser, light source, or pulsed-light treatments for the purpose of hair removal or hair reduction without being licensed by the Board is guilty of a Class 1 felony and may be assessed a civil penalty of up to \$5,000 for each offense. Any other violation of the statute is a Class 2 misdemeanor.

Fees. – The act authorizes the Board to increase certain existing fees and to impose new fees as specified in the act.

Electrologist Minimum Age Requirement. – The act amends existing statutes by changing the minimum age requirement from 18 to 21 years of age or older for any person desiring to be licensed as an electrologist.

Licensure, Laser Hair Practitioner. – The act requires any person seeking licensure by the Board as a laser hair practitioner to meet the following requirements:

- Be a licensed electrologist.
- Complete a minimum 30-hour laser, light source, or pulsed-light treatment certification course approved by the Board.
- Be currently using or anticipate using laser, light source, or pulsed-light devices.
- Submit the \$150 licensure application fee.
- Upon licensure, a laser hair practitioner is required to complete a minimum of 10 hours of continuing education annually to maintain licensure.

Limitations, Laser Hair Practitioner. – Laser hair practitioners are subject to the following limitations:

- They must practice under the supervision of a licensed physician. However, the authority to regulate laser hair practitioners remains with the Board.
- They are prohibited from dispensing or administering medication in connection with treatments, whether prescription or over-the-counter.
- They are required to use devices approved by the federal Food and Drug Administration and to comply with all applicable federal and State regulations, rules and laws, subject to license revocation by the Board for failure to comply.

The use of laser, light source, or pulsed-light devices for ablative procedures is reserved for a licensed physician only.

Persons and Practices not Affected. – The following persons and practices are not affected by the requirements of the statutes governing the Electrolysis Practice Act:

- Any person licensed or approved by the North Carolina Medical Board to practice medicine or perform medical acts, tasks, or functions as authorized by statute.
- Any person employed and working under the direct supervision of a physician licensed to practice medicine.

Licensure, Laser Hair Practitioner Instructor – The act requires any person seeking licensure by the Board as a laser hair practitioner instructor to meet the following requirements:

- Submit a Board-approved application.
- Be a licensed electrologist or a licensed physician.
- Have practiced laser and light-based treatments actively for at least five years immediately before applying for licensure.
- Have at least 100 hours of training in laser and light-based treatments.
- Submit the \$150 licensure application fee.

Certification, Board-approved School. – The act requires any school seeking certification as a Board-approved school of laser, light source, or pulsed-light treatments to submit the following:

- A Board-approved application.
- A detailed floor plan that demonstrates adequate school facilities.
- A detailed list of equipment to be used by students.
- A copy of the curriculum consisting of the number of hours, with a minimum of 30, and subject matter determined by the Board.
- A certified copy of the school manual of instruction.
- Names and qualifications of the licensed instructors.
- \$500 certification fee.
- Submit any additional information the Board may require.

Limitations, Board-approved School. – The following limitations apply to a Board-approved school of laser, light source, or pulsed-light treatments:

- A school's certification is valid only for the location named in the application.
- If a school desires to change location, it must apply to the Board and pay a certificate renewal fee of \$250.
- A school's certification is not transferable.
- A school must notify the Board in writing of any sale, transfer, or change in ownership or management.

This act became effective October 1, 2007. (JC)

Regulate Mixed Martial Arts/Fees

S.L. 2007-490 ([HB 1786](#)). See **State Government**.

Amend North Carolina Appraisers Act/Fees

S.L. 2007-506 ([SB 1485](#)) amends education requirements for real estate appraisers under the North Carolina Appraisers Act, eliminates the category of licensed residential real estate appraiser, and authorizes the North Carolina Appraisal Board (Board) to establish and increase certain fees.

The act amends the North Carolina Appraisers Act as follows:

- Changes the terms "State certified general real estate appraiser," to "certified general real estate appraiser" and "State certified residential real estate appraiser," to "certified residential real estate appraiser."
- Establishes the Appraisal Foundation's minimum educational requirements as the State's minimum requirements.
- Increases the hours of instruction for licensed residential real estate appraisers from 90 hours to 150 hours.
- Increases the hours of instruction for certified residential real estate appraisers from 120 hours to 200 hours.
- Increases the hours of instruction for certified general real estate appraisers from 180 hours to 300 hours.
- Requires applicants to obtain and submit criminal record checks from approved reporting services.
- *Effective January 1, 2008:*
 - Requires applicants for real estate appraiser trainees to have a high school diploma or its equivalent.
 - Eliminates the license for residential real estate appraiser.

- Requires applicants for certification as a certified residential real estate appraiser to have an Associate's degree or higher, or a high school diploma and 21 semester credit hours from a college in certain prescribed courses.
 - Requires applicants for a certified general real estate appraiser certification to hold a bachelor's degree or higher, or a high school diploma and 30 semester hours from a college in certain prescribed courses.
- Increases fees for applications, renewals, course approvals, and court attendance certifications as follows:

| Type Fee | Old Fee | New Fee |
|--|------------|----------------------------------|
| Application for Registration as a Trainee or Application for Licensure or Certification | \$150 | \$200 |
| Renewal, Trainee, License or Certificate | \$200 | \$225 |
| Fee paid by course sponsors conducting an approved continuing education course (not applicable to certain universities, colleges, and governmental agencies) | n/a New | \$5 per each licensee completing |
| Late Renewal Filing Fee | \$5/month | \$10/month |
| Late Renewal Filing Fee-Cap | \$60 | \$120 |
| Replacement Trainee Registrations, Licenses, and Certificates | \$5 | \$10 |
| Fee to private real estate appraisal schools or course sponsor for renewal or approval of precertification and precertification courses | \$20 | \$50 |

- Establishes a five-year minimum period for surrender of a registration, license, or certificate for conduct that would subject person to disciplinary action.
- Provides that after January 1, 2008, the Board will no longer issue a license for a licensed residential real estate appraiser but will allow any individual holding that license on that date to maintain the license as long as it is properly renewed.

Except as otherwise noted in this summary, this act became effective October 1, 2007, and applies to applications and renewals on or after that date. (JC)

Amend Insurance Laws/Producers and Bail Bonds

S.L. 2007-507 ([SB 1527](#)). See **Insurance**.

Amend Private Protective Services Act

S.L. 2007-511 ([SB 854](#)) amends the laws regulating the private protective services profession as follows:

- Authorizes the Private Protective Services Board (Board) to approve training schools, instructors, and course materials for any provider of training, *effective October 1, 2007*.
- Authorizes the Board to approve badge or shield designs, subject to prior approval by the North Carolina Sheriffs' Association and the North Carolina Association of Chiefs of Police, *effective October 1, 2007*.
- Authorizes the Board to require all licensees to complete Board-approved continuing education courses before renewal of their license, registration, certificate or permit, *effective October 1, 2007*.
- Increases the license term from one to two years and increases the trainee permit term from one to two years, *effective October 1, 2007*.

- Authorizes the Board to charge reasonable application and license fees as follows, *effective October 1, 2007*:

| Type Fee | Maximum |
|--|--------------------------------|
| Initial Application | \$150 |
| New or Renewal Basic License Fee | \$250 per year of license term |
| New or Renewal Trainee Permit Fee | \$250 |
| New or Renewal Fee - each License or Duplicate | \$50 |
| Late Renewal Fee | \$100 |
| New, Renewal, Replacement or Reissuance Fee for Unarmed Registration Identification Card | \$30 |
| Application Fee - Firearm Registration Permit | \$50 |
| New, Renewal, Replacement or Reissuance Fee for a Firearm Registration Permit | \$30 |
| Application Fee – Certified Trainer | \$50 |
| Renewal or Replacement Fee – Certified Trainer | \$25 |
| New Nonresident Temporary Permit Fee | \$15 |
| Unarmed Registration Transfer Fee | \$15 |
| Branch Office License Fee | \$50 |
| Special Limited Guard and Patrol License Fee | \$100 |

- Requires security guard and patrol, armored car, special limited guard and patrol, or any licensee who carries a firearm to obtain and maintain liability insurance, *effective October 1, 2007*.
- Authorizes the Board to suspend or revoke a license if the licensee has worn, carried, or accepted any badge or shield purporting to indicate that the person is a law enforcement officer while licensed as a private investigator, *effective October 1, 2007*.
- Authorizes the Board to suspend or revoke a license if the licensee has possessed or displayed a badge while providing private protective services that was not designed and approved by the Board, *effective October 1, 2007*.
- Requires licensees to report arrest for or convictions of misdemeanors or felonies as set out in statute to the Board within 30 days, *effective October 1, 2007*.
- Makes it unlawful for any person performing private protective services duties to carry a firearm in the performance of those duties without having met statutory qualifications and without having been issued a firearm registration permit by the Board, *effective October 1, 2007*.
- Provides that firearm registration permits must be in the form of a pocket card and list the private investigator's name, *effective October 1, 2007*.
- Decreases from \$100,000 to \$25,000 the minimum amount that should be held in the Private Protective Services Recovery Fund (Fund), *effective October 1, 2007*.
- Allows funds in excess of \$50,000 in the Fund to be used to offset operating expenses, upon a unanimous vote of the Board.
- Authorizes the Board to charge licensees and trainees an additional \$50 when the Fund is less than \$25,000, up to the amount needed to raise the Fund level to \$25,000, *effective October 1, 2007*.
- Prohibits the State Treasurer from disbursing any payments from the Fund if the balance is less than \$25,000, *effective October 1, 2007*.
- Amends existing laws to allow armed armored car service guards and armed courier service guards to be on college campuses, with the school's permission, for the purpose of discharging their official duties. It also allows armed security guards to be

on the premises of a hospital located on educational property with the school's permission and for the purpose of discharging their official duties.
Except as otherwise noted in this summary, this act became effective August 30, 2007.

(JC)

Amend Chiropractic Practice Act

S.L. 2007-525 ([SB 864](#)) amends the Chiropractic Practice Act, amends the Perfusionist Licensure Act, and makes changes to the appointing process for the North Carolina State Board of Opticians.

Chiropractic Practice Act

Effective October 1, 2007, the act amends the statutes governing the licensure of chiropractic physicians as follows:

- Requires criminal background checks on applicants for licensure as a chiropractic physician.
- Expands the grounds for professional discipline of licensees by the North Carolina State Board of Chiropractic Examiners (Board).
- Authorizes the Department of Justice to conduct criminal history checks of applicants for licensure with the Board and to charge the applicant a fee for performing the record check.
- Requires the Board to keep the results of the criminal record checks privileged and confidential.
- Provides that the Board and its employees who are acting in good faith are immune from civil liability for refusing licensure based on information in the criminal record check, even if the information is later found to be erroneous.
- Prohibits chiropractors from offering prospective patients anything of monetary value as a treatment incentive if the chiropractor knows that the patient's treatment expenses will be paid by an insurer or third party.
- Sets out marketing practices that are not violations of the statute prohibiting enticements as follows:
 - Free or reduced rates, services, examinations, or treatments advertised and delivered in conformity with statutes.
 - Cash or point-of-service discounts not more than 30 percentage points lower than the charges customarily billed to third-party payors.
 - Prepaid wellness plans covering only services that can be performed entirely by the offering chiropractor or staff within the confines of the chiropractor's office.
 - Merchandise with a value of not more than \$10 given to a prospective patient for promotional purposes.
- Expands the grounds for professional discipline by providing that a licensee's act demonstrating a lack of good moral character is grounds for disciplinary action by the Board.

Perfusionist Licensure Act

Effective October 1, 2007, the act amends the Perfusionist Licensure Act. The practice of perfusion is the (1) performing of functions, under the supervision of a licensed physician, necessary for the support, treatment, measurement, or supplementation of the cardiovascular, circulatory, and respiratory systems or other organs, or the combination of those functions, and (2) ensuring the safe management of physiological function by monitoring and analyzing the parameters of the systems during any medical situation where it is necessary to support or replace the patient's cardiopulmonary or circulatory function.

The Act is amended as follows:

- Renames the North Carolina Perfusion Advisory Committee as the Perfusionist Advisory Committee of the North Carolina Medical Board (PAC).

- Enacts new statute pertaining to the North Carolina Medical Board's authority to rescind or supersede an action taken by the Perfusionist Advisory Committee (Committee).
- Grants qualified immunity to Committee members and staff who are exercising their powers and duties in good faith, as authorized by law, and other persons or entities acting in good faith in investigating, reporting, or testifying to PAC.
- Expands the powers and duties of the Committee.
- Enacts new statute pertaining to the confidentiality of Committee investigative information.
- Clarifies that an application for renewal of a license that has been expired for less than three years must be accompanied by proof satisfactory to the Committee that the applicant has current certification as defined by statute, has satisfied the continuing education requirements established by the Committee, and has paid the renewal and late fees required by statute.
- After December 31, 2007, all perfusionists who are licensed under the Perfusionist Licensure Act must maintain certification in order to maintain licensure. This requirement does not apply to a perfusionist who was issued a license because his or her primary job function has been operating cardiopulmonary bypass systems during cardiac surgery cases in a licensed health care facility in the five years immediately preceding application to the Committee, or within five of the last eight years preceding application to the Committee.
- Expands the disciplinary authority of the Committee.

North Carolina State Board of Opticians

Effective October 1, 2007, the act amends the Dispensing Optician Article by requiring the State Board of Opticians (Board), when naming candidates for election for nominees to fill board vacancies, to ensure that its candidates reflect the State's gender, ethnic, racial, and age composition. If the Board fails to fulfill its requirements, the Governor may appoint a licensed optician to fill a vacancy.

Revenue Laws Study Committee

The act provides that the Revenue Laws Study Committee may study whether to continue the sales tax exemption for nutritional supplements sold by a chiropractic physician to a patient as part of a treatment plan.

Except as otherwise noted in this summary, this act became effective August 31, 2007.

(JC)

Amend Funeral Service Practice/Other Related Laws

S.L. 2007-531 ([SB 1435](#)) amends the laws pertaining to the practice of funeral service, mutual burial associations, preneed funeral funds, and cremations. The act also increases fees collected by the North Carolina Board of Funeral Service (Board).

Practice of Funeral Service

Terms of Board Members. – The act provides that the staggered terms of members of the Board end on December 31 of the last year of the term.

Definitions. – The act excludes from the definition of embalming the washing or use of soap and water to cleanse or prepare a dead body for disposition by the authorized agents, family, or friends of the deceased, who do so privately without pay or as part of the ritual washing and preparation of dead human bodies prescribed by religious practices, provided that no dead human body is handled in a manner inconsistent with statute.

Powers and Duties of the Board. – The act allows the Board in a show cause hearing where the Board imposes discipline against a licensee, to recover the costs, other than attorneys' fees, of holding the hearing against all respondents jointly, not to exceed \$2,500.

Licensing. – The act amends the laws governing licensing as follows:

- Requires a resident trainee to file an affidavit with the Board within 30 days of completing training under a licensee.
- Clarifies that a holder of an inactive license may not engage in any activity requiring an active license.
- Clarifies that emergency personnel acting outside the scope of their employment must receive a permit from the Board to transport human remains.
- Provides that if a manager leaves the employment of the funeral establishment and is the only licensee employed who is eligible to serve as manager, the funeral establishment may operate without a manager for a period not to exceed 30 days, subject to specific criteria set out in the statute. Current law prohibits a funeral establishment from operating without a manager.
- Authorizes the Board to impose sanctions, other than suspension or revocation of funeral establishment permits, for violations of law or any regulations of the Board, including probation and refusal to issue or renew a permit.
- Authorizes the Board, in any case in which the Board is entitled to place a funeral establishment permittee on probation, to impose a penalty of not more than \$5,000 in conjunction with the probation.
- Authorizes the Board, in any case in which the Board is entitled to suspend, revoke, or refuse to renew a permit, to accept from the permittee an offer to pay a penalty of not more than \$5,000. The Board either may (1) accept a penalty, or (2) revoke or refuse to renew a license, but not both.
- Authorizes the Board to deny, suspend, or revoke an individual license if the applicant or licensee has been subject to denial, suspension, or revocation of an occupational or business license by another jurisdiction.
- Clarifies the Board's authority to discipline licensees for violation of the laws governing the filing of death certificates.
- Requires a funeral director to promptly surrender cremated remains upon the express order of the person lawfully entitled to custody.
- Clarifies the Board's authority to discipline licensees for violating vital records laws.
- Authorizes the Board to require satisfactory completion of remedial or educational training prior to license reinstatement or for completing the term of probation.
- Requires a funeral home to provide a written disclosure that charges for assigning insurance policies to finance companies are passed on to the consumer.
- Authorizes the Board to prescribe other disclosures that a licensee must give to consumers upon finding that the disclosure is necessary to protect the public.
- Provides that it is a Class 2 misdemeanor to operate a funeral establishment without a permit.

Funeral Establishments. – The act amends the laws governing funeral establishments as follows:

- Prohibits the display of funeral merchandise in a chapel.
- Prohibits the use of an unregistered or misleading name by a funeral establishment, including the use of names of deceased individuals, unless the establishment is licensed using the name at the time the new application is made, and the use of names of individuals not associated with the establishment.

Fees. – Authorizes the Board to increase the following fees:

| Type Fee | Old Maximum | New Maximum |
|---|-------------|-------------|
| Establishment Permit Application | \$250 | \$400 |
| Establishment Permit Annual Renewal | \$150 | \$250 |
| Establishment Permit Late Renewal | \$100 | \$150 |
| Establishment and Embalming Facility <i>Reinspection Fee</i> | n/a New | \$100 |
| Courtesy Card Application | \$75 | \$100 |
| Courtesy Card Annual Renewal | \$50 | \$75 |
| Out-of-State License Application | \$200 | \$250 |
| Embalmer, Funeral Director, Funeral Service Application, North Carolina Resident | \$150 | \$200 |
| Embalmer, Funeral Director, Funeral Service Application, Non-Resident | \$200 | \$250 |
| Embalmer or Funeral Director Annual Renewal | \$40 | \$75 |
| Embalmer and Funeral Director (when both are held by the same person) | \$60 | \$100 |
| Funeral Service, Annual Renewal | \$60 | \$100 |

Examination Scores. – The act provides an exception to the public records laws subjecting examination scores to public inspection. While the act excludes the examination scores of applicants for licensure, the Board is authorized to release to any person requesting examination scores whether or not the applicant has obtained a passing score.

Preneed Funeral Funds

Definitions. – The act defines legal representation as the person authorized by statute who otherwise would be authorized to dispose of the remains of the preneed funeral contract beneficiary.

Preneed Funeral Contracts. – The act makes the following provisions for preneed contracts:

- Clarifies the definition of standard preneed funeral contracts and inflation-proof contracts and the Board's authority to prescribe a uniform preneed contract form.
- Provides for amendment or modification of a preneed contract and clarifies how funeral funds are allocated when a preneed contract is modified to increase or decrease the total cost of services under an inflation-proof contract.
- Provides an exception to current law requiring a court order from the General Court of Justice to revoke a preneed contract by authorizing the Board to order a contract revoked for individuals who wish to transfer a contract to a funeral home in another state.
- Authorizes the Board to establish the following fees pertaining to preneed funeral establishment licenses:

| Type Fee | Old Maximum | New Maximum |
|--|-------------|-------------|
| Preneed Funeral Establishment Application | \$150 | \$400 |
| Preneed Funeral Establishment Renewal | \$150 | \$250 |
| Preneed Funeral Establishment Late Renewal | \$100 | \$100 |

- Clarifies that that Board is authorized to set the amounts of the application fees and renewal fees by rule.
- Requires a funeral establishment receiving a new preneed establishment license after January 1, 2008, or whose preneed establishment license has lapsed or was

terminated for any reason after January 1, 2008, to obtain a surety bond in an amount not less than \$50,000 for five years, or upon demonstrating that it is solvent, no less than one year from the date the original license is issued. The Board is allowed to extend the bonding requirement in the event there is a claim paid from the bond.

- Requires financial institutions that accept preneed funeral trust funds and insurance companies that assign policy proceeds or designate a preneed funeral establishment as beneficiary also to forward an account balance to the contracting preneed funeral establishment at the end of each calendar year.
- Grants the Board authority to substitute a trustee in a preneed funeral contract, but does not bind the funeral home or the consumer to a contract without their consent.
- Authorizes the Board to deny, suspend, or revoke an individual license or application for licensure or renewal if the applicant or licensee has been subject to denial, suspension, or revocation of an occupational or business license by another jurisdiction.

Mutual Burial Associations

The act amends the statutes pertaining to mutual burial associations as follows:

- Requires appeals from a decision of the Board of Funeral Service in disputes regarding liability for funeral benefits to follow the same procedure for all other administrative appeals.
- Allows members of mutual burial associations to vote by written proxy, rather than by personal attendance at a meeting to dissolve associations.
- Grants the Board authority to dissolve mutual burial associations by administrative action when funeral homes close or have their licenses revoked.

Cremations

Definitions. – The act defines initial container as a receptacle for cremated remains, for which the intended use and design is to hold cremated remains, usually composed of cardboard, plastic, or similar material that can be closed in a manner so as to prevent the leakage or spillage of the cremated remains or the entrance of foreign material and is a single container of sufficient size to hold the cremated remains.

Cremations. – The act amends the laws governing cremations as follows:

- Authorizes the Board to deny, suspend, or revoke a crematory licensee or any applicant to become a crematory licensee if the applicant or licensee has been subject to denial, suspension, or revocation of an occupational or business license by another jurisdiction.
- Amends the laws pertaining to cremation procedure and sets out the requisite documentation required to cremate fetuses and other human body parts. This does not impose a new reporting requirement for vital records.
- Provides for release of cremated remains to another family member after 30 days upon written notification to the authorizing agent by certified mail.
- Requires crematories that run cremation societies to register the name with the Board.

Postmortem Investigation and Disposition

Authority to Dispose of Body or Body Parts. – Current law provides for a hierarchy of documents that provide for how to human remains are to be disposed. The act clarifies many of the problems encountered by the Board in authorizing disposition.

First, a hierarchy is established for the types of disposition documents, and the deceased is given the right to delegate the right to make funeral arrangements to any other person in these documents. Second, current law provides no mechanism to pass over individuals' rights to make funeral arrangements in cases of simultaneous accident or other medical hardship. This change allows a physician to certify an individual's incapacity and bypass the individual instead of seeking a temporary guardianship to act on the individual's behalf. This is consistent with provisions of current North Carolina law for health care agents.

This section also makes technical changes to harmonize differences between cremation authorization laws and other forms of disposition to promote uniform interpretation. Board staff continues to work with the North Carolina Bar Association on this provision.

This act became effective August 31, 2007. (JC)

Studies

Referrals to Existing Commissions/Committees

Amend Chiropractic Practice Act

S.L. 2007-525 ([SB 864](#)) provides that the Revenue Laws Study Committee may study whether to continue the sales tax exemption for nutritional supplements sold by a chiropractic physician to a patient as part of a treatment plan.

This act became effective August 31, 2007. (JC)

For a complete list of the studies and reports authorized by the 2007 Session of the 2007 General Assembly, please refer to the Appendix contained in this publication.

Chapter 19
Property, Trusts, and Estates

Karen Cochran-Brown (KCB), Kory Goldsmith (KG), Walker Reagan (WR), Steve Rose (SR)

Enacted Legislation

Amend Bank and Trust Company Assessments

S.L. 2007-55 ([SB 658](#)). See **Business and Commerce**.

Uniform Trust Code Changes

S.L. 2007-106 ([SB 947](#)) makes numerous conforming, technical, and substantive changes to the Uniform Trust Code and related statutes. Some of the changes include:

- Provides that an attorney-in-fact may not exercise any powers expressly conferred under a revocable trust to alter the designation of beneficiaries to receive property on the settlor's death under the settlor's existing estate plan.
- Adds a new mandatory rule that provides that the powers granted under the Uniform Trust Code cannot be exercised by an agent acting under a power of attorney in a manner that alters the designation of beneficiaries to receive property on the settlor's death.
- Clarifies that North Carolina law governs the rights of third parties dealing with a trust, even though the law of another jurisdiction may govern the rights of settlors, trustees, and beneficiaries.
- Clarifies numerous matters related to the clerk of court's jurisdiction over the administration of a trust.
- Provides that the Attorney General must be given notice of every trust proceeding related to a charitable trust and may participate in the action.
- Clarifies how assets in a noncharitable trust without an ascertainable beneficiary are distributed upon termination of the trust.
- Makes the anti-lapse statute applicable to trusts.
- Makes applicable to revocable trusts the rule that provisions in a will in favor of a spouse are revoked if the testator and the spouse divorce.
- Clarifies that a revocable trust may be modified by court order, but the settlor is a necessary party.
- Clarifies the authority of multiple trustees. As revised, all trustees must exercise reasonable care with respect to actions of other trustees. A co-trustee who does not join in an action by other trustees, however, is not liable for that action. A trustee who is outvoted will not be liable for acquiescing, unless the outvoted trustee knows the majority action involves intentional misconduct or improper benefits to other trustees.
- Clarifies that if a trust is a split-interest trust, the qualified beneficiaries (both charitable beneficiaries and individual beneficiaries) have the right to appoint a successor trustee by majority vote.
- Clarifies that although a trustee's duties to a beneficiary extend to dealings outside the trust, the trustee may provide goods or services to the beneficiary outside the trust in the ordinary course of business, on terms and conditions similar to those offered to the trustee's other customers.
- Clarifies that if a trust invests in a fund, that fund may receive services from the trustee's affiliate, as well as the trustee, and further clarifies that a trustee or an

affiliate who provides services to the fund may receive compensation for those services, provided that the investment meets the requirements of the prudent investor rule.

- Clarifies that a settlor's power to direct a revocable trust includes a direction the trust does not authorize specifically.
- Allows a trustee to invest and administer the assets of more than one trust, provided the trustee keeps separate records.
- Clarifies a beneficiary's rights to information about the trust. All current beneficiaries must receive a regular statement. All "qualified beneficiaries" (current beneficiaries and remaindermen) can receive information on request. This provision is applicable to all trusts, regardless of when the trust was created.
- Clarifies that a trustee may guarantee loans and pledge property to guarantee loans made to any beneficiary or to an enterprise in which the beneficiary has an ownership interest. Also clarifies that a trustee would have the power to apply distributions for a beneficiary's benefit, even though the beneficiary may not be under a legal disability, except that a beneficiary must consent to the application for the beneficiary's benefit of any amount required to be paid to the beneficiary.
- Clarifies that assets, such as a residence or tangible personal property used by the beneficiary, may be excluded from the trustee's annual calculation of the fair market value of the trust property.
- Repeals a statutory provision regarding marital deduction trusts. The law gave the spouse the right to compel for the spouse's lifetime a conversion of the trust from an income trust to a total return unitrust or the reconversion of the trust from a total return unitrust to an income trust.

This act became effective October 1, 2007, and applies to all trusts created before, on, or after that date; all judicial proceedings concerning trusts commenced on or after that date; and all judicial proceedings concerning trusts commenced before that date. If the application of the act would substantially interfere with the effective conduct of a judicial proceeding, or prejudice the rights of the parties, the law as it existed on September 30, 2007, applies. (KG)

Medicaid Special Fund

S.L. 2007-117, Sec. 7 ([SB 1119](#), Sec. 7). See **Health and Human Services**.

Abandoned Cemeteries

S.L. 2007-118 ([HB 107](#)). See **Local Government**.

Standards for Code-Enforcement Officials

S.L. 2007-120 ([HB 700](#)). See **Occupational Boards and Licensing**.

Revise Simultaneous Death Act

S.L. 2007-132 ([HB 775](#)) revises the Uniform Simultaneous Death Act to change the default presumption of survival to require, by clear and convincing evidence, that a person survive the decedent from which an interest or benefit arises by at least 120 hours in order legally to have survived the decedent. This change in the law applies to rights of survivorship in joint accounts and property ownership, in wills and intestacy, and life insurance policies. Under this act, the victim of a slayer is deemed to have survived the slayer, unless the slayer survives the victim by at least 120 hours. The 120-hour survival test does not apply where the governing instrument expressly specifies another presumption in a simultaneous death situation or where

the application of the rule would result in greater taxation or property escheating. The act limits the liability of a payor or transfer of property who acts without knowledge that the beneficiary did not survive by 120 hours.

This act became effective October 1, 2007, and applies to determinations of title or devolution of property dependent upon deaths occurring on or after that date. (WR)

Residential Mortgage Fraud Act

S.L. 2007-163 ([HB 817](#)). See **Consumer Protection**.

Identify Loan Originator on Deed of Trust

S.L. 2007-176 ([HB 313](#)) amends the Good Funds Settlement Act to require that lenders include in the loan closing instructions the name of anyone acting as a mortgage broker in the transaction, and to require that a settlement agent who has received this information from the lender or who has actual knowledge that someone has acted as a mortgage broker must place an entry showing the name of the mortgage broker on the deed of trust. The Good Funds Settlement Act applies to residential real estate transactions only and establishes duties of the settlement agent, the lender, the purchaser, or the seller in the process of closing a real estate transaction.

This act became effective July 5, 2007, and applies to deeds of trust registered on or after April 1, 2008. (KCB)

Testamentary Additions to Trusts/Will References

S.L. 2007-184 ([HB 765](#)) amends the law on leaving property to an existing trust by will ("testamentary additions" to trusts). The amendments are based partly on the Uniform Probate Code. The law had permitted a testator to devise property to the trustee of any trust established before the testator's will is executed. The act permits a devise to a trust when the trust instrument is executed concurrently with the testator's will. It clarifies that the trust need not have been funded during the testator's lifetime; the devise under the testator's will suffices. This removes the need to fund these trusts with token amounts of money (e.g., \$5.00). The act further specifies that such a trust, if revocable, is an inter vivos trust—not a testamentary trust—and that it is subject to the revocable trusts' statutes from the date the trust instrument is executed. The section also makes stylistic and other minor clarifying changes.

The act also adds a new Article to the General Statutes on Wills. The article is based on provisions contained in the Uniform Probate Code. The new Article codifies the common law doctrine of incorporation by reference. Under this doctrine, a will may incorporate by reference a separate writing, in existence at the date of the execution of the will, if both the intent to incorporate and a sufficient identification of the writing appear in the language of the will. This article also codifies the common law doctrine of independent significance. Under this doctrine, a will may dispose of property by reference to acts and events that have significance apart from their effect upon the dispositions made by the will, whether they occur before or after the execution of the will, or before or after the testator's death. One example is the execution or revocation of another individual's will. The act makes stylistic changes and authorizes the printing of official and drafters' comments.

This act became effective July 5, 2007, and applies to estates of decedents dying on or after that date, regardless of when the will or instrument was executed. (SR)

Use of Solar Collectors

S.L. 2007-279 ([SB 670](#)). See **Local Government**.

Mediation of Property Insurance Claims

S.L. 2007-300 ([HB 730](#)). See **Insurance**.

Property Tax Commission Terms

S.L. 2007-308 ([HB 1555](#)). See **State Government**.

Conservation Tax Credit Modifications

S.L. 2007-309 ([HB 463](#)). See **Finance**.

Increase and Clarify Certain Court Costs

S.L. 2007-323, Sec. 30.10 ([HB 1473](#), Sec. 30.10). See **Finance**.

Local Option County Taxes

S.L. 2007-323, Sec. 31.17 ([HB 1473](#), Sec. 31.17). See **Finance**.

Administration of Taxes

S.L. 2007-345, Sec. 14.5 ([HB 714](#), Sec. 14.5). See **Finance**.

Protect Consumers - Covered Loans

S.L. 2007-352 ([HB 1817](#)). See **Consumer Protection**.

North Carolina Foreclosure/Landlord Tenant Laws

S.L. 2007-353 ([HB 947](#)) amends the foreclosure laws to expand the information that must be included in a notice of sale of residential real property with less than 15 rental units. The act requires that the notice of sale, in such cases, include notice that (1) if the property is sold, an order of possession may be issued against the party in possession of the property, and (2) a tenant who entered into or renewed a rental agreement on or after October 1, 2007, may terminate the agreement upon 10 days written notice to the landlord. The act further requires that the notice of sale be sent to a tenant occupying the property, if the property is residential and contains less than 15 rental units, and allows the tenant to terminate the rental agreement by giving the landlord 10 days written notice. The law also is amended to require that a tenant in residential property containing 15 or more units be given 30 days notice of the application for an order of possession of the property by the purchaser.

The act also amends the law relating to the Automation Enhancement and Preservation Fund. This fund receives 10% of the fees collected by registers of deeds to be used for computer and imaging technology. The amendment adds "needs associated with the preservation and storage of public records" to the list of things for which proceeds of the Fund may be used.

This act became effective October 1, 2007, and applies to residential rental agreements entered into or renewed on or after that date and to notices of sale issued on or after that date. (KCB)

See **Local Government** for the summary of the remaining portions of the act.

Repeal Rule Against Perpetuities for Trusts

S.L. 2007-390 ([HB 1384](#)) repeals the statutory rule against perpetuities as applied to trusts and substitutes a limitation on the existence of a trust based upon the suspension of the power of alienation of the trust property. Once the power of alienation of trust property is suspended, the property must vest within 21 years after the death of an individual then alive or lives in being plus 21 years. If a settler of a revocable trust has the power to revoke or amend the trust, the period does not begin to run until that power is terminated. The power of alienation is suspended only when there are no persons in being who can convey an absolute fee in possession of land or full ownership of property. So long as a trustee has the power to sell, there is no suspension of the power of alienation of the trust.

This act became effective August 19, 2007. (WR)

Notify County Before State Land Acquisition

S.L. 2007-396 ([SB 1167](#)). See **Local Government**.

Nonresidential Building Code

S.L. 2007-414 ([SB 556](#)). See **Local Government**.

Medicaid Hardship/Estate Recovery/Data Share

S.L. 2007-442 ([HB 1537](#)). See **Health and Human Services**.

Improve State Construction Process

S.L. 2007-446 ([HB 73](#)). See **State Government**.

Zoning near State Capitol

S.L. 2007-482 ([SB 1313](#)). See **State Government**.

Property Tax and Property Use Valuation Changes and Studies

S.L. 2007-497 ([HB 1499](#)). See **Finance**.

Amend North Carolina Appraisers Act/Fees

S.L. 2007-506 ([SB 1485](#)). See **Occupational Boards and Licensing**.

Industrial Machinery - Building Code

S.L. 2007-529 ([SB 490](#)). See **Business and Commerce**.

For a complete list of the studies and reports authorized by the 2007 Session of the 2007 General Assembly, please refer to the Appendix contained in this publication.

Chapter 20
Resolutions

Joint Resolutions

Honor Bernard Allen

Res. 2007-1 ([HJR 5](#)).

Appalachian State University Football Championship

Res. 2007-2 ([HJR 37](#)).

Appalachian State University Football Championship

Res. 2007-3 ([SJR 33](#)).

Invite Governor

Res. 2007-4 ([SJR 121](#)).

University of North Carolina Women's Soccer

Res. 2007-5 ([SJR 235](#)).

University of North Carolina Women's Soccer

Res. 2007-6 ([SJR 279](#)).

Honor Pauli Murray

Res. 2007-7 ([SJR 157](#)).

Honor Zebulon's 100th

Res. 2007-8 ([HJR 151](#)).

General Assembly Session at Eastern Carolina University

Res. 2007-9 ([SJR 389](#)).

Indian Trail's 100th Anniversary

Res. 2007-10 ([HJR 435](#)).

Honor Wake Forest University Atlantic Coast Conference Champs

Res. 2007-11 ([SJR 499](#)).

Eastern Carolina University 100th Anniversary

Res. 2007-12 ([HJR 460](#)).

Honor Independence High School

Res. 2007-13 ([SJR 253](#)).

Honor William Peace

Res. 2007-14 ([SJR 674](#)).

Denton's 100th Anniversary

Res. 2007-15 ([HJR 434](#)).

Confirm Utilities Commission

Res. 2007-16 ([SJR 225](#)).

Honor Eric Schopler

Res. 2007-17 ([HJR 321](#)).

Joint Resolution

Res. 2007-18 ([SJR 194](#)).

Honor Barton College NCAA Champs

Res. 2007-19 ([SJR 1556](#)).

Honor Ruth Easterling

Res. 2007-20 ([HJR 523](#)).

Apologize for Slavery

Res. 2007-21 ([SJR 1557](#)).

Honor South View High School

Res. 2007-22 ([HJR 1318](#)).

Honor Morehead City's 150th

Res. 2007-23 ([SJR 1489](#)).

Albemarle's 150th Anniversary

Res. 2007-24 ([HJR 190](#)).

Honor Elizabeth City State University Men's CIAA Champs

Res. 2007-25 ([HJR 1380](#)).

State Board of Community College Elections

Res. 2007-26 ([SJR 866](#)).

Honor Franklin Tadlock

Res. 2007-27 ([HJR 828](#)).

Honor Robert Holloman

Res. 2007-28 ([SJR 931](#)).

Honor Howard Hunter

Res. 2007-29 ([HJR 491](#)).

April as Landscape Architect Month

Res. 2007-30 ([SJR 1035](#)).

Town of Halifax 250th

Res. 2007-31 ([SJR 1562](#)).

Joint Session/NASCAR/Jimmy Johnson

Res. 2007-32 ([SJR 1564](#)).

Observe Real Estate Commission's Anniversary

Res. 2007-33 ([HJR 1796](#)).

Honor Dallas Herring

Res. 2007-34 ([HJR 1808](#)).

Honor Jimmie Johnson Nextel Champ

Res. 2007-35 ([SJR 1563](#)).

Honor State's Veterans

Res. 2007-36 ([SJR 1565](#)).

Confirm State Board of Education Members

Res. 2007-37 ([SJR 1168](#)).

Honor Earl Scruggs

Res. 2007-38 ([SJR 97](#)).

Honor Broadway's Centennial

Res. 2007-39 ([HJR 868](#)).

Honor Howard Plouff

Res. 2007-40 ([HJR 1986](#)).

Triangle Reading Service 25th Anniversary

Res. 2007-41 ([HJR 2056](#)).

Lee County 100th Anniversary

Res. 2007-42 ([HJR 1861](#)).

Honor Wilma Dykeman

Res. 2007-43 ([HJR 1425](#)).

Honor United Postal Service on 100th Anniversary

Res. 2007-44 ([HJR 1053](#)).

Honor Ben Aiken

Res. 2007-45 ([HJR 886](#)).

Honor Sheriff Gary Clark

Res. 2007-46 ([SJR 192](#)).

Confirm State Board of Education Members

Res. 2007-47 ([SJR 1169](#)).

Gruber Confirmation

Res. 2007-48 ([HJR 1976](#)).

Honor Rev. W.W. Finlator

Res. 2007-49 ([HJR 1860](#)).

Honor North Carolina National Guard

Res. 2007-50 ([HJR 1720](#)).

Honor WBT Briarhoppers

Res. 2007-51 ([HJR 2058](#)).

Honor Lt. Robbins, Sr.

Res. 2007-52 ([SJR 1561](#)).

Honor Town of Bridgeton

Res. 2007-53 ([HJR 2059](#)).

Clinton All-America City

Res. 2007-54 ([HJR 2061](#)).

Honor Tweetsie Railroad's 50th Anniversary

Res. 2007-55 ([SJR 1567](#)).

Hickory All-America City Recognition

Res. 2007-56 ([SJR 1568](#)).

Honor Jeanne Lucas

Res. 2007-57 ([SJR 1566](#)).

Mitchell Courthouse 100th Anniversary

Res. 2007-58 ([SJR 1483](#)).

Honor Town of Goldston

Res. 2007-59 ([SJR 1558](#)).

Attorney James P. Green, III

Res. 2007-60 ([HJR 2064](#)).

Honor Dr. James P. Green, Sr.

Res. 2007-61 ([HJR 2065](#)).

Honor Tuskegee Airmen

Res. 2007-62 ([HJR 2063](#)).

Designate Scottish Heritage Month

Res. 2007-63 ([HJR 2067](#)).

Mars Hills College's 150th Anniversary

Res. 2007-64 ([HJR 2069](#)).

Honor Joe Thompson

Res. 2007-65 ([SJR 1569](#)).

Honor Robert Ruark

Res. 2007-66 ([SJR 1571](#)).

Wilmington 1898 Riot

Res. 2007-67 ([SJR 1572](#)).

Adjournment Resolution

Res. 2007-68 ([SJR 1573](#)).

Adjournment Sine Die

Res. 2007-69 Extra Session ([HJR 2](#)).

Adjourn Reconvened Session

Res. 2007-70 ([SJR 1575](#)).

Chapter 21

Retirement

Karen Cochrane-Brown (KCB), Theresa Matula (TM)

Enacted Legislation

Flexible Payment/Law Enforcement Separation

S.L. 2007-69 ([HB 328](#)) amends the law relating to the special separation allowance paid to certain law enforcement officers upon retirement. The act removes the requirement that the allowance be paid monthly, beginning with the last day of the month in which the officer's retirement becomes effective. The act also allows the employer to begin making payments at any time during the month in which the officer retires and thereafter in equal installments on the payroll frequency used by the employer.

This act became effective July 1, 2007. (KCB)

Legislative Access to Retirement Databases

S.L. 2007-103 ([SB 940](#)) requires the Retirement System Division of the Department of State Treasurer to provide the Fiscal Research Division of the General Assembly with direct online, read-only access to active and retired member information or records maintained by the Retirement System Division. The access authorized by this act is notwithstanding any other law concerning privacy of personnel records, but does not include access to medical records of individual members.

This act became effective June 21, 2007. (KCB)

Clarify Definition of Retirement

S.L. 2007-143 ([HB 654](#)) amends the definition of "retirement" in the Teachers' and State Employees' Retirement System to clarify that service as a member of a school board will not be considered service under the definition of "retirement."

This act became effective June 29, 2007. (TM)

Officials Forfeit Pensions for Felonies

S.L. 2007-179 ([SB 659](#)) requires that elected officials who are convicted of State or federal felonies related to public corruption or election law fraud forfeit their public pensions. The act applies to elected officials who are members of the Legislative Retirement System, the Local Governmental Employees' Retirement System, the Teachers' and State Employees' Retirement System, and the Consolidated Judicial Retirement System. The act lists certain State and federal crimes that would trigger forfeiture. The act directs the relevant retirement system not to pay any elected official who was convicted of any of the specified felonies, if both of the following apply:

- The federal or State offense was committed while the elected official held elected office.
- The conduct on which the federal or State offense is based was directly related to the elected official's service in elected office.

If the elected official was vested in the retirement system on July 1, 2007, and that elected official is convicted of one of the specified felonies for acts committed after July 1, 2007,

then the official is not entitled to receive creditable service for service accruing after July 1, 2007.

If the elected official was not vested in the system on July 1, 2007, and is convicted of one of the specified felonies for acts committed after July 1, 2007, the elected official forfeits all retirement benefits under the retirement system. In either case, the elected official would lose only the retirement benefits resulting from the elected office.

This act became effective July 1, 2007, and applies to offenses committed on or after that date. (KCB)

Creditable Service/Uniformed Service Employees

S.L. 2007-233 ([HB 1414](#)) amends the law pertaining to creditable service in the Teachers' and State Employees' Retirement System. The act provides that teachers and State employees who serve in the uniformed services and after being honorably discharged, return to service of the State within 2 years from the date of discharge, must be credited with the prior service in the uniformed services for the maximum period that they are entitled to reemployment under the Uniformed Services Employment and Reemployment Rights Act, or other federal law. Additionally, the salary or compensation of the teacher or State employee during that period of service is deemed to be that salary or compensation the employee would have received had the employee remained continuously employed. If a determination of salary or compensation is not reasonably certain, then it is deemed to be that employee's average rate of compensation during the 12-month period immediately preceding the period of service.

This act became effective July 1, 2007. (TM)

Increase Register of Deeds' Pension

S.L. 2007-245 ([HB 676](#)) amends the law governing the Register of Deeds Supplemental Pension Fund to reduce the percentage of fees remitted to the State Treasurer to fund the supplemental benefit from 4.5% to 1.5%. The act removes the requirement that payments of benefits not begin until January of the year following retirement and allows benefits to commence immediately following the effective date of retirement. It also increases the maximum monthly benefit from \$1,220 to \$1,500, provided that the benefit does not exceed 75% of the register of deeds equivalent annual salary immediately preceding retirement.

This act became effective July 1, 2007. (KCB)

Local Government Retirement/Purchase of Service

S.L. 2007-304 ([HB 1025](#)) amends the law providing that members of the Local Governmental Employees' Retirement System may purchase credit for service spent in a probationary or employer-imposed waiting period and provides guidelines for purchase by the member or the member's employer. The act allows an employer who chooses to pay the cost of the probationary employment to amortize its portion of the full actuarial cost over a period not to exceed 10 years if the employer has satisfied its accrued liability contribution.

This act became effective July 28, 2007. (KCB)

Salary-Related Contributions/Employer Hiring Retirees

S.L. 2007-323, Sec. 28.19 ([HB 1473](#), Sec. 28.19) sets the employer retirement contribution rates budgeted for retirement and related benefits as a percentage of covered salaries for the 2007-2008 fiscal year. This section also requires that an employer who hires or has hired a retiree as an employee must enroll the retiree in the active group and pay the cost for the hospital-medical benefits if that retiree is employed in a position that would require the employer to pay hospital-medical benefits if the individual had not been retired.

This section became effective July 1, 2007. (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. 2007-323, Sec. 28.20 ([HB 1473](#), Sec. 28.20) grants a 2.2% cost of living increase to retirees of the Teachers' and State Employees' Retirement System, the Judicial Retirement System, and the Legislative Retirement System.

This section became effective July 1, 2007. (TM)

Increase the Monthly Pension for Members of the Firemen's and Rescue Squad Workers' Pension Fund

S.L. 2007-323, Sec. 28.21 ([HB 1473](#), Sec. 28.21) increases the pension paid to a retired eligible fireman or eligible rescue squad worker from \$165 to \$167 per month. The section also makes a conforming change to increase from \$165 to \$167 the monthly benefit paid to members who become totally and permanently disabled in the line of duty.

This section became effective July 1, 2007. (TM)

Enhance Benefits Payable Through the National Guard Pension Fund

S.L. 2007-323, Sec. 28.21A ([HB 1473](#), Sec. 28.21A) increases the monthly benefit for qualifying members of the North Carolina National Guard Pension Fund from \$80 to \$95 per month for 20 years of creditable military service. The section also provides a benefit increase from \$8.00 to \$9.50 per month for each additional year of service, and increases the maximum total pension allowed from \$160 to \$190 per month.

This section became effective July 1, 2007. (TM)

Include Public Defenders as Members of the Consolidated Judicial Retirement System

S.L. 2007-323, Sec. 28.21B ([HB 1473](#), Sec. 28.21B) transfers public defenders from the Teachers' and State Employees' Retirement System to the Consolidated Judicial Retirement System on July 1, 2007, including the transfer of all prior service as a public defender.

This section became effective July 1, 2007. (TM)

Disability Benefits/State Employees

S.L. 2007-325 ([HB 1415](#)). See **Labor and Employment**.

Retired Teachers Work

S.L. 2007-326 ([HB 956](#)) amends the provision of the Retirement law that allows retired teachers to return to the classroom earning full salary without loss of retirement benefits. In 2005, the definition of the term "retirement" was amended to provide that in order to receive a

retirement allowance a member must terminate employment and make a complete separation from service with no intent or agreement to return to service. In order to establish a complete separation from service, the member must render no service whatsoever to a participating employer for a period of six months following the effective date of retirement.

This act does the following:

- Extended the sunset from August 1, 2007, until October 1, 2007.
- Allowed all teachers who retired on or before October 1, 2007, to return to the classroom after a six month break in service, without limitation.
- Allows teachers who retire after October 1, 2007, to return to the classroom after a six month break in service, **if** they retired on an unreduced retirement allowance. Those teachers who take early retirement will no longer be eligible for this benefit.
- Continues the requirement that each local school administrative unit must pay a reemployed teacher contribution rate of 11.70% as a percentage of covered salaries that the retired teachers, who are exempt from the earnings cap, are being paid.
- Provides that the provision is repealed if the Internal Revenue Service determines that it jeopardizes the status of the Retirement System under the Internal Revenue Code.
- Extends the reemployment after retirement benefit for teachers until October 1, 2009.

The extension of the current sunset until October 1, 2007, became effective July 31, 2007. The remainder of the act became effective October 1, 2007, and expires October 1, 2009. (KCB)

State Treasurer/Local Other Post-Employment Benefits Investments

S.L. 2007-384 ([SB 580](#)). See **Local Government**.

Open Enrollment/Contributory Death Benefit

S.L. 2007-388 ([SB 720](#)) requires the Retirement Systems Division, Department of State Treasurer, to allow for an open enrollment period in the Contributory Death Benefit for Retired Members of the Teachers' and State Employees' Retirement System, the Local Governmental Employees' Retirement System, the Consolidated Judicial Retirement System, and the Legislative Retirement System. The open enrollment period will begin February 1, 2008, and end May 31, 2008.

The Retirement Systems Division is required to send notice by United States Mail of the open enrollment period to all retirees who elected not to be covered under this benefit or who failed to make any election at the time of their retirement. A second notice must be sent by United States Mail to any retiree who fails to make an election within 60 days of the notification of the open enrollment period.

The notice must consist of the following:

- Notification of the open enrollment period and consequences of failure to respond within the specified time frames.
- Information materials explaining the benefit program and the associated costs.
- A preprinted personalized enrollment application to facilitate the enrollment process and indicating each individual retiree's contribution rate.

The contribution rate for retirees electing coverage during the open enrollment period will be increased by 11.1% of the rate established for retirees who elected coverage when first eligible, at retirement. For retirees electing coverage during this open enrollment period, coverage will become effective the first month following the month in which the election of coverage is received by the Retirement Systems Division, but not before February 1, 2008.

Contribution rates for coverage will be based on the retiree's nearest age as of the effective date of the allowance in the month in which coverage becomes effective. Coverage elected by the retirees during this open enrollment period will be subject to all other laws and rules and regulations adopted by the Board of Trustees governing the Contributory Death Benefit for Retired Members.

This act became effective August 19, 2007. (TM)

Retirement Technical Changes

S.L. 2007-431 ([HB 777](#)) makes technical and clarifying changes to the laws governing the Teachers' and State Employees' Retirement System, the Local Governmental Employees' Retirement System, the Legislative Retirement System, and the Consolidated Judicial Retirement System. The changes are as follows:

- Amends the laws of the four retirement systems to extend the time within which a member of the system can choose to make effective his or her application for retirement. Under current law, the member may designate a date, as of the first of the month, not less than one day or more than 90 days from the filing of the application. This act extends the time from 90 to 120 days.
- Amends the laws of the State system and the Local system relating to the payment of accumulated contributions at the death of a retiree. The act states that the term "accumulated contributions" includes voluntary employee contributions from a law enforcement officer's 401(k) plan that have been transferred to the retirement system.
- Repeals and reenacts a provision authorizing a member to purchase credit for service at The University of North Carolina during which the member participated in the Optional Retirement Program at full cost. The provision was in the section of law relating to benefits. This act moves it to the section relating to membership and service credit.
- Amends the laws for the State and Local systems to make an exception to the cap on reemployment earnings. The act provides that a beneficiary's retirement allowance is not suspended when reemployment earnings exceed the cap amount in the month of December.
- Amends the law providing for the purchase of creditable service in the State system for approved leaves of absence under the Workers' Compensation Act. The act allows members in receipt of Workers' Compensation benefits who later become long-term disability beneficiaries to purchase creditable service for the approved period even if the member does not return to service.
- Amends the provisions of the Death Benefit Plan and the Survivor's Alternate Benefit for the State system to provide eligibility for beneficiaries who are also in receipt of Workers' Compensation during a period in which they would otherwise have been eligible for short-term disability benefits and who die within 181 days of their last date of service but before their short-term disability benefits have ended.

This act became effective July 1, 2007. (KCB)

Actuarial Valuation/Retiree Health Benefits

S.L. 2007-467 ([HB 1529](#)) establishes the Committee on Actuarial Valuation of Retired Employees' Health Benefits. The Committee is to collect data and review assumptions for the purpose of conducting required actuarial valuations of State-supported retired employees' health benefits using accounting standards set forth by the Governmental Accounting Standards Board of the Financial Accounting Foundation. The Committee will consist of the following five members: State Budget Officer (Chair), State Auditor, State Controller, State Treasurer, and the

Executive Administrator for the Teachers' and the State Employees' Comprehensive Major Medical Plan. The Committee is required to designate either the actuary under contract with the Department of State Treasurer, Retirement Systems Division, or the actuary under contract with the Teachers' and State Employees' Comprehensive Major Medical Plan to serve as a technical advisor on matters regarding the actuarial valuation of retired employees' health benefits. The Committee must secure an annual calendar-year actuarial valuation of retired employees' health benefits under accounting standards set forth by the Governmental Accounting Standards Board of the Financial Accounting Foundation. Additionally, the act requires the Committee to keep a record of all of its proceedings, which must be open to public inspection.

This act became effective August 29, 2007. (TM)

Increase Contributory Death Benefit

S.L. 2007-496 ([HB 779](#)) amends the laws governing the Teachers' and State Employees' Retirement System, the Local Governmental Employees' Retirement System, the Legislative Retirement System, and the Consolidated Judicial Retirement System to increase the contributory death benefit for retirees from \$9,000 to \$10,000.

This act became effective July 1, 2007, and applies to eligible retirees who die on or after that date. (TM)

For a complete list of the studies and reports authorized by the 2007 Session of the 2007 General Assembly, please refer to the Appendix contained in this publication.

Chapter 22

Senior Citizens

Theresa Matula (TM), Shawn Parker (SP)

Enacted Legislation

Extend Restriction on Home Care Licenses

S.L. 2007-125 ([SB 748](#)) extends the restriction on the Department of Health and Human Services from issuing licenses to new home care agencies that intend to offer in-home aide services. The initial restriction began on January 1, 2007, and was scheduled to expire December 31, 2007. The restriction is extended to give the Department time to assure compliance with newly-adopted home care rules and will expire at the end of the 2008 calendar year. The act specifies that extending the restriction will give the Department additional time to work with existing home care agencies to assure compliance with the newly-adopted home care rules. As with the earlier law, this act does not prevent the Department from issuing licenses to certified home health agencies that intend to offer in-home aide services or to agencies that need a new license due to the acquisition of an existing home care agency.

This act became effective June 27, 2007. (SP)

Transfer of Seniors Health Insurance Information Program Funds to Department of Insurance

S.L. 2007-323, Sec. 10.8 ([HB 1473](#), Sec. 10.8). See **Insurance**.

Senior Center Outreach

S.L. 2007-323, Sec. 10.11 ([HB 1473](#), Sec. 10.11) requires that, of the funds appropriated for the 2007-09 fiscal biennium, the Department of Health and Human Services, Division of Aging and Adult Services, must enhance senior center programs in either of the following ways:

- To expand the outreach capacity of senior centers to reach unserved or underserved areas.
- To provide start-up funds for new senior centers.

However, prior to funds being allocated pursuant to this section for start-up funds for a new senior center, the county commissioners of the county in which the new center will be located must do all of the following:

- Formally endorse the need for such a center.
- Formally agree on the sponsoring agency for the center.
- Make a formal commitment to use local funds to support the ongoing operation of the center.

Additionally, this section prevents State funding from exceeding 75% of reimbursable costs.

This section became effective July 1, 2007. (TM)

Quality Improvement Consultation Program for Adult Care Homes

S.L. 2007-323, Sec. 10.12 ([HB 1473](#), Sec. 10.12) requires the Division of Aging and Adult Services, Department of Health and Human Services, to develop a Quality Improvement

Consultation Program for Adult Care Homes (Program). During development of the Program, the Division must consult with adult care home providers, county departments of social services, consumer advocates, and other interested stakeholders. The purpose of the Program is to promote better care and improve quality of life in a safe environment for residents in adult care homes through consultation and assistance with adult care home providers. County departments of social services are responsible for implementation of the Program with all adult care homes located in the respective county based on a timetable for statewide implementation.

The Program must address these 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 that include agreed-upon time frames for completion of improvements and identification of needed resources for adult care homes and that identify and resolve issues that adversely affect quality of care and services to residents.
- 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 Health Service Regulation 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.

The Division of Aging and Adult Services is required conduct a pilot of the Program. Pursuant to the section, no more than four county departments of social services are allowed to participate in the pilot, and geographic balance and size must be considered in carrying out the pilot. At the conclusion of the pilot, the Division must make recommendations regarding the effectiveness of the Program. If the Division recommends expansion of the pilot, the report must include the cost and a proposed timetable for implementing the recommendations, including identification of any statutory or administrative rule changes. Recommendations regarding expansion of the pilot to other counties, or statewide implementation of the Program, must be made to the Secretary of the Department of Health and Human Services, 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.

This section became effective July 1, 2007. (TM)

State-County Special Assistance

S.L. 2007-323, Sec. 10.13 ([HB 1473](#), Sec. 10.13) provides that effective January 1, 2007, the maximum monthly rate for residents in adult care home facilities is \$1,148 per month per resident, unless adjusted by the Department of Health and Human Services. Effective October 1, 2007, the maximum monthly rate for residents in adult care home facilities increases to \$1,173, unless adjusted by the Department. The maximum monthly rate for residents in Alzheimer's/Dementia special care units is \$1,515 per month per resident, unless adjusted by the Department.

Effective July 1, 2007, the Department must recommend rates for State-County Special Assistance and for Adult Care Home Personal Care Services. The Department may recommend rates based on appropriate cost methodology and cost reports submitted by adult care homes that receive Special Assistance funds and must ensure that cost reporting is done for Special

Assistance and Adult Care Home Personal Care Services to the same standards as apply to other residential service providers.

This section became effective July 1, 2007. (TM)

Special Assistance In-Home

S.L. 2007-323, Sec. 10.14 ([HB 1473](#), Sec. 10.14) amends State law to add a new section pertaining to Special Assistance in-home payments. The section provides that the Department of Health and Human Services may use funds from the existing State-County Special Assistance for Adults budget to provide Special Assistance payments to eligible individuals in in-home living arrangements. The payments may be made for up to 15% of the caseload for all State-County Special Assistance for Adults. The standard monthly payment to individuals enrolled in the in-home program must be 75% of the monthly payment the individual would receive if the individual resided in an adult care home and qualified for Special Assistance, unless a lesser payment amount is appropriate for the individual as determined by the local case manager. The Department is required to implement Special Assistance in-home eligibility policies and procedures. The purpose of the policies and procedures is to assure that in-home program participants are those individuals who have an actual need for the in-home program, and who would seek placement in an adult care home facility without it. The policies and procedures must also include the use of a functional assessment.

The Department must make this in-home option available to all counties on a voluntary basis and, to the maximum extent possible, must consider geographic balance in the dispersion of the payments to individuals across the State. The provision requires that for State fiscal year 2007-08, qualified individuals must not receive payments at rates less than they would have been eligible to receive in State fiscal year 2006-07.

This section became effective July 1, 2007. (TM)

Reenact Long-Term Care Credit

S.L. 2007-323, Sec. 31.5 ([HB 1473](#), Sec. 31.5). See **Finance**.

Medicaid Hardship/Estate Recovery/Data Share

S.L. 2007-442 ([HB 1537](#)). See **Health and Human Services**.

Licensure Changes/Hospitals, Adult Care Homes, Mental Health Facilities

S.L. 2007-444 ([HB 772](#)). See **Health and Human Services**.

Smoking Prohibited Inside Long-Term Care Facilities

S.L. 2007-459 ([HB 1294](#)). See **Health and Human Services**.

Silver Alert System/Missing Persons Alert

S.L. 2007-469 ([HB 38](#)) establishes the Silver Alert System and exempts emergency medical services personnel locating missing persons from the Private Protective Services Act.

The Silver Alert System will provide a statewide system for the rapid dissemination of information regarding a missing person who is believed to be suffering from dementia or other

cognitive impairment. The System will be established within the North Carolina Center for Missing Persons. The Center is required to make every effort to disseminate the information as quickly as possible when the missing person is 18 years of age or older and the person's status as missing has been reported to a law enforcement agency. A missing person report may be submitted by a parent, spouse, guardian, legal custodian, or person responsible for the supervision of the missing individual. The Center is required to adopt guidelines and develop procedures for issuing an alert for a person believed to be suffering from dementia or other cognitive impairment, to provide education and training to encourage broadcaster participation, and to ensure that specific health information about the missing person is not made public through the alert or otherwise. Additionally, the Center must work with the Department of Transportation to develop a procedure for the use of overhead permanent changeable message signs to provide information on the missing adult.

The act also amends the definition of "private protective services" to specify that it does not prevent credentialed emergency medical services personnel from engaging in search and rescue activities at the request of either the State, a political subdivision of the State, or one of following types of facilities: adult care home, health care facility, or facility licensed to offer mental health, developmental disabilities, or substance abuse services. For purposes of these changes, "search and rescue" is defined as the activities and documents relating to efforts to locate an individual following the individual's disappearance. However, the exemption from the definition of private protective services does not apply if the emergency medical service provider provides services beyond emergency search and rescue and if the activities meet the definition of private protective services.

The act became effective August 29, 2007. (TM)

Adult Care Home or Nursing Home/Expedited Certificate of Need

S.L. 2007-473 ([HB 1685](#)) requires the Department of Health and Human Services, Division of Health Service Regulation, to develop an expedited certificate of need review process for a current holder of a certificate of need for an adult care home or a nursing home, allowing the relocation from one licensed facility or campus to another. The expedited certificate of need review process will be available only to a facility that meets the following criteria:

- The facility currently holds a certificate of need for an adult care home or nursing home.
- The facility proposes to move from one licensed facility or campus to another licensed facility or campus.
- Both the current and the proposed facilities or campuses are located within the same county.
- The relocation of the adult care home or nursing home would not result in an increase in the total number of adult care home beds or nursing home beds for that facility or campus.

The Division is required to implement the expedited certificate of need review process no later than October 1, 2007. On or before May 1, 2008, the Department must define the minimum review criteria necessary to determine the need for relocation of a facility by the circumstances required under this act and report to the General Assembly.

This act became effective August 29, 2007, and applies to certificate of need applications for relocation of adult care homes and adult care home beds or nursing homes and nursing home beds within the same county filed on or after the date of implementation of the expedited review process by the Department of Health and Human Services, Division of Health Service Regulation. (TM)

Penalty Review/Long-Term Care Changes

S.L. 2007-544 ([SB 56](#)) amends the Penalty Review Committee, expands the Health Care Personnel Registry, and authorizes the Medical Care Commission to adopt rules for the issuance of rated certificates to adult care homes.

Penalty Review Committee. –

- The act amends the Penalty Review Committee, established within the Department of Health and Human Services, to require that the Committee meet as often as needed, but no less frequently than once each quarter of the year, to review administrative penalties assessed to adult care homes and nursing homes. The act also makes changes to the notice requirements for Committee meetings to:
 - Require that public notice of Committee meetings be made via Web site.
 - Require that direct notice of the Committee meetings be made to the licensed provider, who must post the notice of the scheduled Penalty Review Committee meeting in a conspicuous place available to residents, family members, and the public.
 - Require that direct notice be provided to the local department of social services that is responsible for oversight of the facility involved and to the residents affected.
 - Replace the requirement of providing direct notice to "families or guardians of the residents affected" with a requirement that direct notice be provided to those individuals lawfully designated by the affected resident to make health care decisions for the resident.
- Changes to the Penalty Review Committee regarding notification to families and training of Committee members represent a return to statutory language that was in place prior to 2005 legislation, because the prior language allowed the process to function more efficiently and effectively.

Health Care Personnel Registry. –

- The act expands the Health Care Personnel Registry, maintained by the Department of Health and Human Services, which contains the names of all health care personnel working in health care facilities that have been subject to findings of neglect, abuse, diversion of drugs, fraud, or misappropriation of property. Individuals ("health care personnel") and entities ("health care facilities") subject to the provisions of the Health Care Personnel Registry are defined by law. This act adds the following entities to the list of defined health care facilities:
 - Licensable Facilities. – Facilities that provide services for one or more minors or for two or more adults who are mentally ill, developmentally disabled, or substance abusers as defined by statute.
 - Multiunit Assisted Housing with Services as defined by statute.
 - Community Based Providers of Services for the Mentally Ill, the Developmentally Disabled, and Substance Abusers that are not required to be licensed under current law.
 - Agencies providing in-home aide services funded through the Home and Community Care Block Grant in accordance with State law.
- The act also expands the definition and coverage of "health care personnel" to include any unlicensed health care facility staff that have direct access to residents, clients, or their property. Direct access includes any health care facility unlicensed staff that during the course of employment have the opportunity for direct contact with an individual or an individual's property, when that individual is a resident or person to whom services are provided.

Issuance of Rated Certificates to Adult Care Homes. –

- Prior law required the Department of Health and Human Services to develop a plan for implementing a rating system for adult care homes. The report from this

requirement indicated that the Medical Care Commission needed authority to adopt rules for the issuance of certificates. This act gives the Medical Care Commission the authority to adopt rules for the issuance of rated certificates to adult care homes.

- The act requires that the certificates issued to adult care homes contain a rating based, at a minimum, on inspections and substantiated complaint investigations conducted by the Department of Health and Human Services to determine compliance with licensing statutes and rules. Specific areas to be reviewed include:
 - Admission and discharge procedures.
 - Medication management.
 - Physical plant.
 - Resident care and services, including food services, resident activities programs, and safety measures.
 - Residents' rights.
 - Sanitation grade.
 - Special Care Units.
 - Use of physical restraints and alternatives.
- The act requires that initial ratings awarded to a facility must be based on inspections, penalties imposed, and investigations of substantiated complaints that revealed noncompliance with statutes and rules, that occurred on or after the act becomes law.
- The act also specifies that Type A penalties will affect a facility's rating for 24 months from the date the penalty is assessed, and Type B penalties will affect the rating for 12 months from the date the penalty is assessed.
- Adult care homes are required to display the rating certificate in a location visible to the public. Certificates must include the web site address for the Department of Health and Human Services, which can be accessed for specific information regarding the basis for the facility rating. For access by the public on request, adult care homes must also maintain on site a copy of information provided by the Department regarding the basis of the facility rating. The web site and the on-site materials must provide information on quality improvement efforts undertaken by the facility including: Participation in any quality improvement programs approved by the Department and the facility's attainment of the NC NOVA (New Organizational Vision Award) special licensure designation.
- Regarding adult care home rated certificates, the act also includes:
 - A requirement that the Department of Health and Human Services provide to the North Carolina Study Commission on Aging a copy of emergency, temporary, and permanent rules adopted.
 - The written intent of the General Assembly to provide funding for technical assistance to adult care homes for the 2008-2009 fiscal year. (This funding is provided in the budget)
 - A requirement that the Department of Health and Human Services' Divisions of Health Service Regulation, Aging and Adult Services, and Medical Assistance study the structure and cost of a system to reward adult care homes which receive high ratings and to report to the North Carolina Study Commission on Aging not later than March 1, 2008.
 - A requirement that the Divisions of Health Service Regulation and Aging and Adult Services study expanding the rated certificate system to other facilities and services licensed and certified by the Department and report to the North Carolina Study Commission on Aging by October 1, 2009.
 - A requirement that the Division of Health Service Regulation make an interim report on the implementation of the rated certificate system to the North Carolina Study Commission on Aging not later than October 1, 2009, and a final report to the Commission not later than October 1, 2010.

The portion of the act pertaining to the Penalty Review Committee became effective October 1, 2007; the changes to the Health Care Personnel Registry become effective January 1, 2008; the rated certificates authorized by the act must be issued beginning January 1, 2009; the remainder of the act became effective August 31, 2007. (TM)

Studies

Referrals to Departments, Agencies, Etc.

Study Respite Care

S.L. 2007-39 ([HB 424](#)) requires the Department of Health and Human Services, Division of Health Service Regulation, Division of Medical Assistance, and the Division of Aging and Adult Services, to study the availability and delivery of respite care which provides temporary relief for family members and others who care for individuals with disabilities, chronic or terminal illnesses, dementia, or the elderly. The Department is required to examine the following issues:

- The need and availability of respite care in North Carolina.
- The delivery and licensing of respite care in other states and possible models for North Carolina.
- The application process for a grant under the federal Lifespan Respite Care Act of 2006.
- The need for separate statutory language pertaining to respite care.
- The need, proposed structure, and development timeline for a separate licensure category for respite care.
- The development of a Medicaid waiver covering a proposed new licensure category for respite care.

The Department must present findings and recommendations, including any proposed statutory changes and new licensure categories, to the North Carolina Study Commission on Aging on or before March 1, 2008.

This act became effective May 11, 2007. (TM)

Study Housing/Training Mentally Ill in Adult Care Homes

S.L. 2007-156 ([SB 164](#)) directs the Department of Health and Human Services (Department) to study all of the following:

- The rules and regulations relating to the housing of individuals with mental illness in adult care homes that also house individuals without mental illness.
- The need for training direct care workers in long-term care facilities to provide appropriate care to residents with or without mental illness.
- The fiscal impact that the implementation of the training requirements would have on adult care homes.
- The amount of funding necessary to support a successful training model.

The act requires the Department to present its findings and recommendations, including any statutory or rule changes, to the North Carolina Study Commission on Aging and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on or before March 1, 2008.

This act became effective June 29, 2007. (SP)

Study Older Adult Programs/Various Counties

S.L. 2007-355 ([SB 448](#)) requires the Department of Health and Human Services to conduct a study in select counties of older adult programs, services, and populations, and to provide recommendations on the structure of a similar study to include all North Carolina counties. The act provides for the following:

- The Department of Health and Human Services, Division of Aging and Adult Services, must work with the Division of Health Service Regulation; Division of Medical Assistance; Division of Public Health; and the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to study programs and services for older adults in Brunswick, Buncombe, Gaston, Henderson, Moore, and New Hanover Counties which currently have, or are projected by 2030 to have, the largest numbers of individuals age 60+ when compared to individuals age 17 and younger. The Division is required to make an interim status report on the study to the North Carolina Study Commission on Aging on or before November 1, 2007. On or before April 1, 2008, the Division must make a final report of its findings and recommendations to the 2008 Regular Session of the 2007 General Assembly, the North Carolina Study Commission on Aging, and to the board of county commissioners of each county studied. In conducting the study, the Division must utilize existing data and resources and shall include the Area Agencies on Aging serving each county studied. The study must include the following for each county studied:
 - A profile of the current older adult population.
 - A profile of the projected growth for the older adult population.
 - An assessment of the anticipated impact on programs and services that address the needs of the older adult population.
 - Identification of programs and services that are currently in place.
 - Identification of programs and services that are needed to meet the growth projections.
 - Current funding sources for programs and services serving the older adult population.
 - Anticipated funding needs for programs and services serving the older adult population.
 - A delineation of the programs and services that are shared or offered jointly with another county.
- The Division of Aging and Adult Services must make recommendations on a study, to include all counties in North Carolina, in response to growth projections for the age 60+ population. In conducting the study, the Division must evaluate similar studies conducted in other states. On or before January 1, 2008, the Division is required to make recommendations on the appropriate funding level and criteria to be included in a study to be conducted of all counties in North Carolina. The findings and recommendations on a statewide study must be presented to the North Carolina Study Commission on Aging.

This act became effective August 17, 2007. (TM)

Penalty Review/Long-Term Care Changes-Studies Related to Rated Certificates

S.L. 2007-544 ([SB 56](#)). See [Enacted Legislation](#) this Chapter.

For a complete list of the studies and reports authorized by the 2007 Session of the 2007 General Assembly, please refer to the Appendix contained in this publication.

Chapter 23

State Government

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Enacted Legislation

Agencies and Departments

Program Evaluation by General Assembly

S.L. 2007-78 ([SB 1132](#)) creates the Program Evaluation Division in the General Assembly to review State agencies and programs for effectiveness and efficiency. The act also created the Joint Legislative Program Evaluation Oversight Committee to oversee and direct the work of the Program Evaluation Division.

The Program Evaluation Division is to evaluate the merits of State programs and the agency's effectiveness in conducting the programs. It must develop quantitative indicators for measurement and unit cost measures to determine the cost of activities performed. The Division must make recommendations to improve efficiency and effectiveness of State agencies and to evaluate the agencies' implementation of the Division's recommendations.

The Joint Legislative Program Evaluation Oversight Committee consists of 16 members, 8 members each from the Senate and House of Representatives. The Committee is to receive requests for evaluations from members of the General Assembly, establish an annual work plan for the Program Evaluation Division, receive reports from the Division, and make recommendations for changes needed, to implement the recommendations endorsed by the Committee.

All State agencies are required to furnish information requested by the Division, including access to stored data.

This act became effective June 14, 2007. (WR)

Flexible Compensation Authorization

S.L. 2007-117, Sec. 3 ([SB 1119](#), Sec. 3) authorizes the Director of the Budget to provide eligible employees of State agencies a dependant care assistance program and allows State departments, institutions, and agencies to enter into annual agreements with employees who elect to participate in the program, with a reduction in salary. The act also authorizes flexible compensation plans for State officers and employees, through a reduction in compensation and other products and benefits allowable under the Internal Revenue Code, for programs and benefits not otherwise provided for State employees.

This section became effective July 1, 2007. (WR)

Internship Council Agencies

S.L. 2007-121 ([HB 695](#)) amends the duties of the North Carolina Internship Council of the Department of Administration by adding the Department of Justice, the Administrative Office of the Courts, the State Ethics Commission, the Employment Security Commission, and the State Board of Elections to the list of offices or departments to which student interns are allocated.

This act became effective June 27, 2007. (KCB)

Improve Gender Equity Reporting Statute

S.L. 2007-167 ([HB 824](#)) amends the gender equity reporting statute by changing the date that State and local agencies must report, from December 1 to September 1; authorizing the Secretary of State to make a composite report; and by specifying which local boards are subject to the reporting requirement. Currently, State appointing authorities are required to report to the Secretary of State by December 1st of each year, the gender composition of the boards to which they make appointments. The Secretary of State is required to forward copies of the reports to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate. This act clarifies that any statutorily created public body, except those having only advisory authority, are required to report. The Secretary of State must publish a composite report by December 1, and must report by July 1st to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate, the names of all State bodies that must report. Finally, the act lists the specific units of local government that are required to report.

This act became effective July 4, 2007. (KCB)

Name Change/Division of Facility Services and the Commission for Health Services

S.L. 2007-182 ([HB 720](#)). See **Health and Human Services**.

Smoking in Government Buildings/Prohibition

S.L. 2007-193, Sec. 1 ([HB 24](#), Sec. 1) prohibits smoking in State government buildings. This section of the act applies to buildings owned or leased (as lessor) by State government, or to the area of a building leased (as lessee) and occupied by State government. This section of the act does all of the following:

- Specifies that smoking is permitted in covered buildings, to the extent the use is integral to scientific or medical research.
- Directs the individual in charge of the building, or the individual's designee, to conspicuously post signs indicating that smoking is prohibited.
- Directs the Health Services Commission to adopt rules to implement the section.
- Defines "smoking" as the use or possession of a lighted tobacco product, and "State government building" as a building or the area of a building owned, leased, or occupied by any agencies of the executive, judicial, and legislative branch of government.

This act became effective July 8, 2007. The provision on smoking in residence halls becomes effective with the 2008-2009 academic year. (TH)

See the **Local Government** chapter for the summary of the remaining sections of the act.

Employees of the North Carolina Cooperative Extension Service Exempt from State Personnel Act

S.L. 2007-195 ([HB 847](#)). See **Labor and Employment**.

Expand Legislative Intern Program

S.L. 2007-201 ([SB 167](#)). See **Education**.

Repeal Prohibition on Multicolor Printing

S.L. 2007-234 ([HB 1640](#)) repeals the prohibition on the use of multicolor processing for publications published at State expense.

This act became effective July 18, 2007. (TH)

Agency/State Chief Information Officer Dispute Resolution

S.L. 2007-282 ([SB 876](#)). See **Technology**.

University of North Carolina President's Advisory Committee Recommendations

S.L. 2007-322 ([HB 749](#)) makes the following changes to the laws governing construction, bidding, and leasing requirements that The University of North Carolina and its constituent institutions must follow:

- Provides that the repairs of public buildings by The University of North Carolina, or its constituent institutions (where the repair does not include major structural changes in framing or foundation support systems), must have plans and specifications prepared by a registered architect, or engineer, or both if the costs for the project are more than \$500,000.
- Increases The University of North Carolina's exemption from the advertisement requirement for projects that are less than \$500,000.
- Provides that the erection, construction, alteration, or repair of a building by The University of North Carolina, or its constituent institutions, when the cost is \$500,000 or less, is exempt from the specifications and bidding requirements.
- Allows The University of North Carolina, and its constituent institutions, to award construction or repair contracts of less than \$500,000, without having to comply with the formal bidding requirements.
- Provides that The University of North Carolina, and its constituent institutions, could use force account qualified labor when either (i) the total cost of the project does not exceed \$200,000, or (ii) the cost of labor does not exceed \$100,000.
- Repeals an annual reporting requirement made to the Joint Legislative Education Oversight Committee on the impact on undergraduate student learning and development because of the flexibility provided to the special responsibility constituent institutions.
- Amends the statute to require a report on personal services contracts that are more than \$25,000. The report will include only certain information including (i) identification of the department and employee responsible for oversight of the performance of the contract; (ii) vendor or contractor name, object of expenditure description, contract award amount; (iii) purchase order and start and end dates; and (iv) source of funds and amount disbursed during the fiscal year.
- Removes the requirement that the Office of State Budget and Management must approve the designation of an employee's home as his or her duty station.
- Allows The University of North Carolina Board of Governors (rather than the Department of Administration) to authorize the constituent institutions and UNC General Administration to acquire real property by lease, if the lease term is not more than ten years. The Board of Governors is required to establish a policy for acquiring an interest in real property by lease for The University of North Carolina and its constituent institutions. All initial policies adopted must be submitted to the State Property Office for review, prior to adoption by the Board of Governors. After acquisition of an interest in real property by lease, a report must be filed on the

acquisition with the Secretary of Administration. The University of North Carolina and its constituent institutions are not subject to the authority of the Department of Administration, with regard to land acquisitions.

- Provides that the requirement to consult with the Joint Legislative Commission on Governmental Operations would be satisfied, if the Commission did not hold a meeting within 30 days of receiving the report with regard to capital improvement projects of The University of North Carolina.
- Requires that The University of North Carolina report to the Joint Legislative Commission on Governmental Operations on the acquisition of real property by lease provisions created by this act.

This act became effective July 30, 2007. Sections 1 through 4 of this act apply to construction projects for which bids or proposals are solicited on or after that date. Section 5 of this act applies to construction or repair work commenced on or after that date. (KCB)

Elimination of Vacant Positions

S.L. 2007-323, Sec. 6.17 ([HB 1473](#), Sec. 6.17) directs the Office of State Budget and Management to eliminate vacant positions across State government that are funded through the General Fund, in order to generate a recurring annual savings of \$10,038,466 for each year of the 2007-2009 fiscal biennium, by transferring from various State departments, agencies, and institutions the salary and benefits-related funding appropriated for State government positions. The section establishes in the Office of State Budget and Management a Reserve for Eliminated Positions. The provisions of this section do not apply to The University of North Carolina, to the Community Colleges System, or to local school administrative units.

This section became effective July 1, 2007. (GSP)

Executive Aircraft/Uses

S.L. 2007-323, Sec. 13.3 ([HB 1473](#), Sec. 13.3). See **Business and Commerce**.

Clarify State Government Ethics Act

S.L. 2007-348 ([HB 1111](#)) amends the State Government Ethics Act, the Legislative Ethics Act, and the Lobbying Law.

The act amends the Legislative Ethics Act by expanding the jurisdiction of the Legislative Ethics Committee over ethical standards adopted by the Committee, provides that hearings on ethics complaints be held in open session, and that certain records related to ethics complaints and investigation be made public at the time of the hearing.

The act amends the Lobbying Law by:

- Clarifying that an employee or person is considered to be a lobbyist when a significant part of the employee's duties include direct or indirect lobbying.
- Clarifying that the authority to adopt definitions for interpretation of Chapter 120C of the General Statutes and rules to implement the Chapter, except for Articles 2, 4 and 8, lies with the State Ethics Commission.
- Providing that the Secretary of State's authority is limited to adopting rules, orders, and forms necessary to administer the provisions of Articles 2, 4, and 8. A rule adopted by the Secretary of State, if objected to by the State Ethics Commission, is not effective until the rule is approved by the General Assembly.

The act also defines indirect gifts as (i) gifts given by a lobbyist or lobbyist's principals to a third party, with the intent to benefit a covered person, or (ii) a gift received by a covered person from a third party, knowing that the gift was given by a lobbyist or lobbyist's principal,

with the intent to benefit a covered person. The act exempts contract city and county attorneys from having to register as lobbyists when lobbying for their local governments.

The act amends the State Government Ethics Act by:

- Exempting from the definition of a gift, certain things of monetary value given as an expression of condolences related to a death.
- Providing that hearings on ethics complaints be held in open session, and that certain records related to ethics complaints and investigation be made public at the time of the hearing.
- Permitting persons filing statements of economic interest to list only a mailing address, in lieu of the person's residence address, unless residency is a requirement of their office.
- Clarifying that a covered person could accept food, beverages, travel, and lodging from a lobbyist's principal in connection with a bona fide speech under certain conditions.

This act generally became effective August 9, 2007, but some provisions were effective retroactively to January 1, 2007; the sections affecting civil law became effective October 1, 2007; and the changes in the criminal laws become effective December 1, 2007. (WR)

Department of Cultural Resources/Graveyard of Atlantic

S.L. 2007-359 ([HB 958](#)) designates the Graveyard of the Atlantic Museum as a member of the State History Museums Division in the Department of Cultural Resources. The designation becomes effective only if the Graveyard of the Atlantic Museum transfers and conveys all of its assets to the State. This is contingent upon successful lease negotiations with the National Park Service and the National Oceanic and Atmospheric Administration. Subject to the appropriation of funds to the reserve for pending legislation, \$300,000 is allocated in each fiscal year of the 2007-2008 biennium to the Department of Cultural Resources, to assume administration of the Graveyard of the Atlantic Museum. The Department may use the funds to create up to six new positions.

Except as provided in Section 1 of the act, this act became effective August 17, 2007. (KCB)

Statewide Certification of Historically Underutilized Businesses

S.L. 2007-392 ([SB 320](#)) provides for the Secretary of Administration to adopt and provide for the uniform certification of historically underutilized businesses and to develop a database of all such designated businesses. Effective July 1, 2009, all State agencies and political subdivisions of the State will be required to use only historically underutilized business in the Department of Administration's database for minority business purposes.

This act became effective October 1, 2007, but the requirement to use only historically underutilized business listed in the Department of Administration's database applies on or after July 1, 2009. (WR)

Internal Audit and Efficiency Review

S.L. 2007-424 ([HB 1401](#)) requires a State agency to have an internal auditing program if any of the following applies:

- The State agency has an annual operating budget exceeding \$10 million.
- The State agency has more than 100 full-time equivalent employees.
- The State agency receives and processes more than \$10 million in cash in a fiscal year.

The act also creates the Council of Internal Auditing to oversee State agency internal auditing.

This act became effective August 23, 2007. (BK)

Replacing Officials Called to Active Duty

S.L. 2007-432 ([HB 671](#)). See **Military, Veterans', and Indian Affairs**.

Tort Claims Limit Increased

S.L. 2007-452 ([HB 22](#)) increases the maximum dollar amount, from \$500,000 to \$1 million, that the State may be held liable to pay to a claimant on account of injury and damage under the State Tort Claims Act, the Defense of State Employees Act, or the Defense of Public School Employees Act

This act became effective August 27, 2007, and applies to torts committed on or after that date. (GSP)

Sudan (Darfur) Divestment Act

S.L. 2007-486 ([HB 291](#)) requires the public retirement and pension funds (Public Fund) held by the State Treasurer to address certain investments relating to the situation in Darfur, Sudan.

The North Carolina Department of State Treasurer has already adopted a policy on Sudan-related investments. The Department's policy states that companies providing monetary or military support to the Sudanese government, but failing to provide humanitarian aid or helping to improve the welfare of the Sudanese people, should not be held by the North Carolina Retirement System (NCRS). Since adoption of the policy, the NCRS has divested interest in nine companies that were found to be conducting business contrary to the policy, and has directed its managers not to acquire securities in these companies in the future.

In addition to adhering to this administrative policy, the Public Fund now will be statutorily required to do the following:

- Identify within 90 days of the act all scrutinized companies in which the Public Fund has direct or indirect holdings, or could have such holdings in the future. A scrutinized company is defined as one that has business operations or other activity relating to Sudan.
- Assemble a list of scrutinized companies and determine whether the Public Fund owns direct or indirect holdings in the company.
- Take actions based upon the status of the companies on the list. If the company has only inactive business operations with Sudan, the Public Fund will send written notice to the company informing it of its status and encouraging the company to continue to refrain from active business operations. If the company ceases inactive operations with Sudan within 90 days, it will be removed from the scrutinized companies list. If the company has active business operations with Sudan, the Public Fund will notify the company that it may be divested. The company will have 90 days either to cease its active business operations or to convert to inactive business operations. If the company does not cease its active business operations with Sudan, the Public Fund will sell, redeem, divest, or withdraw all publicly-traded securities of the company within 15 months after the company's most recent appearance on the scrutinized companies list.

The act also prohibits the Public Fund from acquiring securities of companies on the scrutinized companies list that have active business operations, unless the United States Government declares the company to be excluded from federal sanctions relating to Sudan.

The Public Fund may cease divesting from, or reinvest in, scrutinized companies if clear and convincing evidence shows that the value for all assets under management by the Fund becomes equal to or less than 99.50% of the hypothetical value of all assets under management by the Fund, assuming no divestment had occurred. In addition, the Public Fund may not divest or prohibit acquisition of indirect holdings in actively-managed investment funds. "Indirect holdings" are defined as securities of a company held in an account or fund, such as a mutual fund, managed by one or more persons not employed by the Public Fund, in which the Public Fund owns shares or interests together with other investors not subject to the act. Private equity funds are considered "actively managed investment funds."

The Fund must file a report with the General Assembly that includes the scrutinized companies list within 30 days after the list is created. Thereafter, the report must be filed annually, and a copy must be sent to the United States Presidential Special Envoy to Sudan.

This act became effective August 30, 2007. The act expires if the Darfur genocide has been halted for 12 months, the United States revokes all sanctions against Sudan, Sudan has honored certain commitments, or the United States declares that mandatory divestment interferes with the conduct of United States foreign policy. (TG)

Regulate Mixed Martial Arts/Fees

S.L. 2007-490 ([HB 1786](#)) directs the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety to regulate mixed martial arts matches; raises the required surety bond amount to \$10,000 for boxing, kickboxing, mixed martial arts, and toughman promoters; and raises the license and permits fees related to these activities that are charged by the Division. The act also provides that no license or permit for mixed martial arts is to be issued by the Division, until the rules required to be adopted by the Division under this act become effective.

This act became effective August 30, 2007, and applies to matches held and licenses and permits issued on or after that date. (GSP)

Clarify Public Access to Personnel Records

S.L. 2007-508 ([SB 1546](#)). See **Labor and Employment**.

State Government Accountability/Internal Control Act

S.L. 2007-520 ([HB 1551](#)) requires a system of internal controls to be implemented in State government. The act directs the State Controller, in consultation with the State Auditor, to establish comprehensive standards, policies, and procedures to ensure strong systems of internal control within State government. The act provides that the standards, policies, and procedures must be made available to agencies, and the State Controller must provide education on best practices. The act provides that the State Controller, in consultation with the State Auditor, must establish a mechanism for reporting violations. The act provides that State agency employees, and employees paid from State funds, are subject to disciplinary action, up to and including dismissal, for willful or continued failure to comply with this act.

This act becomes effective January 1, 2008. (BK)

State Health Plan/Plan Year Change

S.L. 2007-521 ([HB 1593](#)). See **Insurance**.

Conserve Energy/Insulate Hot Water Plumbing

S.L. 2007-542 ([HB 1702](#)). See **Environment and Natural Resources**.

Boards, Commissions, and Committees

Repeal State Property Commission

S.L. 2007-12 ([HB 1012](#)) repeals the State Property Commission and includes provisions related to termination of employment of employees of the Commission. The act also provides that prior to its effective date, no finding or determination by the Commission that a property should be surplus is binding on the Department of Administration, nor is a determination of a need for brokerage services, nor the selection of a broker with respect to the property.

This act became effective April 12, 2007. (KG)

Travel and Tourism Board Members from the Charter Boat/Headboat Industry

S.L. 2007-67 ([HB 987](#)) adds two new members to the North Carolina Travel and Tourism Board. The act provides that the new members are to be designated by the Board of Directors of the North Carolina Watermen United and must represent the charter boat/headboat industry. With the addition, the Board will consist of 29 members.

The act provides that the new members, like other designated members of the Board, are to serve two-year terms beginning on January 1 of each even-numbered year and ending on December 31 of the following year. However, the act provides that the new members' first terms would begin upon designation, and end on December 31, 2009.

This act became effective June 7, 2007. (KG)

Removal of Unqualified Judges and District Attorneys

S.L. 2007-104 ([SB 118](#)). See **Courts, Justice, and Corrections**.

Anesthesiologist Assistants Licensure

S.L. 2007-146 ([HB 1492](#)). See **Occupational Boards and Licensing**.

State Historical Records Advisory Board

S.L. 2007-150 ([HB 645](#)) codifies the establishment of the State Historical Records Advisory Board, as required by federal law. The State Historical Records Advisory Board was established in 1975, in accordance with federal regulations promulgated under the National Historical Publications and Records Commission. The federal regulations provide that each state participating in the NHPRC state program must appoint a board following the Manual of Suggested Practices.

In accordance with the regulations, the Governor appointed a 10-member board, including the Deputy Secretary of the Office of Archives and History and the State Archivists. The act codifies the existing Board under State law. The current membership continues to serve until the expiration of their current terms. The staggered rotation of members already has been established and continues under the act. The members are appointed for three-year staggered terms and must have experience in the administration and use of historical records.

This act became effective June 29, 2007. (EC)

Officials Forfeit Pensions for Felonies

S.L. 2007-179 ([SB 659](#)). See **Retirement**.

Information Technology Services/Employee Background Investigations/Information Technology Board

S.L. 2007-189 ([HB 584](#)). See **Technology**.

Add Veteran to State Personnel Commission

S.L. 2007-287 ([HB 1413](#)). See **Labor & Employment**.

Property Tax Commission Terms

S.L. 2007-308 ([HB 1555](#)) provides four-year terms for all appointments to the Property Tax Commission. The Property Tax Commission is a five-member commission that serves as the State Board of Equalization and Review for the valuation and taxation of property in the State. It hears appeals resulting from the appraisal and assessment of property. Three of the members are appointed by the Governor, one member is appointed by the President Pro Tempore of the Senate, and one member is appointed by the Speaker of the House of Representatives.

This act became effective July 28, 2007, and applies to appointments made after July 1, 2007. (TG)

Increase Appointees/Governor's Crime Commission

S.L. 2007-454 ([HB 1649](#)) increases the number of members on the Governor's Crime Commission from six to eight members. The act provides that one of the new members must serve as an advocate for victims of all crimes, and the other new member must serve as a representative from a domestic violence or sexual assault program. The two new members are to be appointed by the Governor, as are the current six members of the Commission. The act specifies that the new members each are to serve a three-year term to commence when the act becomes effective.

This act became effective August 28, 2007. (TH)

Boxing Advisory Commission

S.L. 2007-528 ([SB 692](#)) creates a Boxing Advisory Commission within the Department of Crime Control and Public Safety. The Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety regulates live boxing, kickboxing matches, and toughman events. The new Commission will advise the Alcohol Law Enforcement Division on boxing-related matters. The Division has the exclusive authority to approve and issue rules regulating these activities, including all of the following:

- Requirements for licenses and permits.
- Regulation of ticket sales.
- Physical requirements for contestants.
- Supervision of events by licensed physicians and referees.
- Insurance and bonding requirements.

- Compensation of participants and licensees.
- Contracts and financial arrangements.
- Prohibition of injurious practices.
- Facilities.
- Approval of sanctioning amateur sports organizations.
- Requirements for compliance with the federal Professional Boxing Safety Act of 1996.

The Commission is charged with reviewing the existing rules and making recommendations to the Division for changes or additions. Any proposed change to the rules must be submitted by the Division to the Commission for its comments prior to approval. The Commission is composed of six voting members and two nonvoting advisory members. The six voting members, appointed for initial terms commencing July 1, 2007, are as follows:

- One member by the Governor for two years.
- One member by the President Pro Tempore of the Senate for three years.
- One member by the Speaker of the House of Representatives for three years.
- One member by the Secretary of Crime Control and Public Safety for three years.
- One member by the Lieutenant Governor for two years.
- One member by the Tribal Council of the Eastern Band of the Cherokee for three years. The member may serve only if an agreement remains in effect between the Tribal Council and the Commission authorizing the Commission to regulate boxing within the Cherokee Indian Reservation, as provided by the Professional Boxing Safety Act of 1996.

Any former member of the North Carolina Boxing Commission nominated for a position on this new Advisory Commission is to serve an initial term of three years. Nonvoting advisory members advise the Commission and the Division on matters on boxing-related health issues and would be able to prepare and submit for consideration rules concerning the physical welfare of boxers. The non-voting advisory members, appointed for initial terms commencing July 1, 2007, are as follows:

- One by the Speaker of the House of Representatives for one year, chosen from two physicians nominated by the North Carolina Medical Society.
- One by the President Pro Tempore of the Senate for one year, chosen from two physicians nominated by the North Carolina Medical Society.

Subsequent terms of Commission members would be for three years. The Commission is subject to the conflicts of interest restrictions set out in the Professional Boxing Safety Act of 1996.

This act became effective August 1, 2007. (HAP)

Capital Facilities and State Property

Retainage Payments/Construction Contracts

S.L. 2007-365 ([SB 1245](#)) prohibits public owners from requiring retainage on public construction projects of less than \$100,000, limits the amount of retainage allowed to be held by the public owners to no more than 5%, provides for the release of retainage upon 50% completion of the project when the contractor has satisfactorily performed, and requires payment in full within 60 days following completion.

This act becomes effective January 1, 2008, and applies to contracts entered into on or after that date. (GSP)

Notify County before State Land Acquisition

S.L. 2007-396 ([SB 1167](#)). See **Local Government**.

Improve State Construction Process

S.L. 2007-446 ([HB 73](#)) makes changes to the State Capital Facilities Program. Specifically, the act:

- Directs the State Building Commission to examine the State capital improvement process and establish or modify guidelines for the selection of designers and the rules governing the design, plan review, and inspection of State building projects. The act provides that the Commission must consult with other State departments involved in the capital improvement process.
- Directs the State Building Commission to file an interim report on or before April 30, 2008, and a final report on or before December 31, 2008, detailing its examination of the process of selection of designers and the rules governing the design, plan review, and inspection of State building projects. The report is to include any recommendations to improve the coordination and efficacy of the design, review, inspection, and construction process. The report must cover any implementations of the recommendations and must be filed with the Joint Legislative Commission on Governmental Operations, the Joint Legislative Oversight Committee on Capital Improvements, the Appropriations Committees of the House of Representatives and Senate, and the Fiscal Research Division of the General Assembly.
- Directs the State Personnel Office, the Department of Administration, the Department of Insurance, and other State agencies employing architects and engineers to perform a market study of architect and engineer salaries and position classifications. The study should be filed within six months of the effective date of the section (effective when the bill becomes law.)
- Directs the State Building Commission to develop a standard memorandum of understanding for State agencies setting out, at minimum, the type and frequency of plan reviews, submittal dates, estimated plan review time, and a schedule of meeting dates. This provision of the act applies to projects that are funded on or after July 1, 2007.
- Requires the Department of Administration to schedule a meeting of all stakeholders to a State capital improvement project after the designer is selected, but before the design contract is let, to discuss plan review requirements. The meeting would not have to be scheduled if the funded agency so requests. This provision of the act applies to projects that are funded on or after July 1, 2007.
- Raises the threshold for bidding on construction or repair work from \$300,000 to \$500,000. This provision of the act applies to projects that are funded on or after July 1, 2007.
- Allows an exemption from the requirements for procurement of architectural, engineering, and surveying services for capital improvement projects under the jurisdiction of the Commission, The University of North Carolina, and community colleges, where the estimated expenditure of public money is less than \$500,000 (previously, the threshold was \$100,000 for the Commission and \$300,000 for The University of North Carolina and community colleges). This provision of the act applies to projects that are funded on or after July 1, 2007.

The act became effective August 23, 2007. (TH)

Allow Cyclists to Use Public Lands

S.L. 2007-449 ([SB 1383](#)). See **Transportation**.

Zoning Near State Capitol

S.L. 2007-482 ([SB 1313](#)) provides that no local zoning ordinance applies to any State-owned building built, or to be built, on any State-owned land within six blocks of the State Capitol, without the consent of the Council of State.

This act became effective August 30, 2007. (GSP)

Ethics

Protect Judicial Officer Safety

S.L. 2007-29 ([SB 184](#)) allows a judicial officer (justice, judge, district attorney, or clerk of court) to use a business address, instead of a home address, on the statement of economic interest that must be filed under the State Government Ethics Act. A judicial officer may use the initials of an unemancipated minor on those same forms; however, the officer must provide his or her home address and the name of the minor to the State Ethics Commission. The act provides that the home address and names provided to the Commission are not a public record, and are privileged and confidential.

This act became effective January 1, 2007. (HAP)

State Government Ethics Act Technical Changes

S.L. 2007-347 ([HB 1110](#)) makes various technical changes to the State Government Ethics Act, the Legislative Ethics Act, and the Lobbying Law. Specifically, the act:

- Clarifies that officials who sign documents with the Secretary of State for lobbying registration purposes be an official authorized to sign for the lobbyist's principal.
- Transfers to the State Board of Elections, from the Secretary of State and the State Ethics Commission, the authority for enforcement and interpretation, respectively, of the restrictions on lobbyists with regard to making campaign contributions to candidates for the General Assembly or Council of State and restrictions on bundling or delivering multiple contributions to these candidates.
- Requires community colleges to designate liaison personnel, but exempts State agencies and boards with no staff from this requirement, and clarifies that outside counsel authorized to be hired by a State agency or board may lobby for the agency or board. These provisions of the act became effective October 1, 2007.
- Clarifies that State entities are not included in the definition of "nonprofit corporation or organization with which associated."
- Clarifies that statements of economic interest of public servants *elected* to positions by the General Assembly are not public records until the public servant is sworn into office, but are to be provided to the Chair of the standing committee handling the nomination process and made available to members of the General Assembly.
- Clarifies that the statements of economic interest of persons *confirmed* by the General Assembly to appointment as a public servant are public at the time of the announcement of the appointment, and are to be provided to the Chair of the standing committee handling the confirmation.
- Clarifies that certain associations with nonprofit organizations are to be included in the conflict of interest analysis and are also included in the permitted exceptions, when conflicts arise where the benefit or detriment to the nonprofit with which associated is no greater than the general class of similar nonprofits.

Except as noted, this act became effective August 9, 2007. (DH)

Official North Carolina Designations

Adopt State Collard Festival

S.L. 2007-28 ([HB 406](#)) adopts the Ayden Collard Festival as the official State collard festival.

This act became effective April 28, 2007. (BR)

Adopt Salute to State Flag

S.L. 2007-36 ([SB 258](#)) adopts the following phrase as the official pledge to the North Carolina flag:

"I salute the flag of North Carolina and pledge to the Old North State love, loyalty, and faith."

This act became effective May 4, 2007. (DH)

Recognize Juneteenth National Freedom Day

S.L. 2007-450 ([HB 1607](#)) provides that the General Assembly will recognize June 19th each year as Juneteenth National Freedom Day, once that date (or a substantially similar holiday) becomes a nationally-recognized holiday. The holiday will serve to commemorate the end of slavery in the United States and demonstrate racial reconciliation and healing from the legacy of slavery. The 19th of June was chosen for this holiday because of its historical relevance to emancipation. June 19, 1865, is considered the date when the last enslaved Americans were notified of their freedom.

This act became effective August 23, 2007. (DH)

State Food Festival

S.L. 2007-533 ([HB 433](#)) declares the Lexington Barbecue Festival to be the official food festival of the Piedmont Triad Region of North Carolina.

This act became effective August 31, 2007. (EC)

Miscellaneous

Firemen's Relief Fund Immunity

S.L. 2007-54 ([HB 552](#)) provides that persons serving on local boards of trustees of Fireman's Relief Funds are immune from civil liability for monetary damages for any act, or failure to act, arising out of their service on the Board, except to the extent covered by insurance. The grant of immunity does not apply in any of the following situations:

- The trustee was not acting within the scope of the trustee's official duties.
- The trustee was not acting in good faith.
- The trustee committed gross negligence or willful or wanton misconduct that resulted in the damages or injury.
- The trustee derived an improper personal financial benefit from the transaction, either directly or indirectly.
- The trustee incurred the liability from the operation of a motor vehicle.

This act became effective October 1, 2007, and applies to causes of action arising on or after that date. (EC)

Legislative Access to Retirement Databases

S.L. 2007-103 ([SB 940](#)). See **Retirement**.

Electronic Signatures/Public Agencies

S.L. 2007-119 ([SB 211](#)) clarifies that public agencies may use electronic signatures, as well as accept electronic signatures, for legal purposes. Public agencies had been given the authority by the General Assembly to accept electronic signatures under the 1998 Electronic Commerce Act and the 2000 Uniform Electronic Transaction Act. This act clarifies the authority of public agencies both to accept and use electronic signatures.

This act became effective June 27, 2007. (DH)

School Absences Excused/Legislative and Governor's Pages

S.L. 2007-186 ([HB 1464](#)). See **Education**.

University of North Carolina Board of Governors/Dual Office Holding

S.L. 2007-278 ([SB 884](#)). See **Education**.

Medicaid Changes

S.L. 2007-323, Sec. 10.36, as amended by S.L. 2007-345, Sec. 1 ([HB 1473](#), Sec. 10.36, as amended by HB 714, Sec. 1). See **Health and Human Services**.

North Carolina Green Business Fund

S.L. 2007-323, Sec. 13.2 ([HB 1473](#), Sec. 13.2). See **Business and Commerce**.

State Assume Medicaid Responsibilities

S.L. 2007-323, Secs. 31.16.1 - 16.4 ([HB 1473](#), Secs. 31.16.1 - 16.4). See **Finance**.

Disability Benefits/State Employees

S.L. 2007-325 ([HB 1415](#)). See **Labor and Employment**.

Joint Legislative Study Committee on Public School Funding Formulas

S.L. 2007-345, Sec. 5.3 ([HB 714](#), Sec. 5.3). See **Education**.

Study Availability and Utilization of Minority-Owned and Women-Owned Business Enterprises

S.L. 2007-345, Sec. 9.2 ([HB 714](#), Sec. 9.2). See **Business and Commerce**.

Legal Expense Funds

S.L. 2007-349 ([HB 1737](#)). See **Constitution and Elections**.

Coordinate Statewide Enhanced 911 System

S.L. 2007-383 ([HB 1755](#)) creates a new statewide 911 system removing the authority of local governing entities to collect local 911 charges, and reforming the Wireless 911 Board into the 911 Board. The act creates a uniform fee across the State for all providers of voice communications, including local telephone companies, commercial mobile radio service providers (CMRS), and voice over internet protocol (VoIP) providers. The fee will be \$0.70 per month for each service connection.

The Board. – The act creates the 911 Emergency Locating Board (Board) that will consist of 17 members, including representatives of municipalities, counties, the National Emergency Number Association, the Association of Public Safety Communications Officials, a sheriff, a chief of police, local exchange carriers, CMRS providers, and VoIP providers. The State Chief Information Officer, or the Officer's designee, and 12 members of the Wireless 911 Board will serve as the initial members of the 911 Board, with the additional 5 members being appointed by either the Governor, the Speaker of the House of Representatives, or the President Pro Tempore of the Senate.

Service Charge. – The rate of the monthly 911 service charge is set at \$0.70 per month, per voice communications service connection. If the Board determines that the service charge produces revenues in excess of the revenues needed by public safety answering point (PSAPs) and voice communication service providers, the Board must lower the service charge. The Board may adjust the service charge on July 1 of an even-numbered year. No other state agency or local government may collect an additional fee for 911 services.

The 911 Fund. – The 911 Fund is created as an interest-bearing special revenue fund. The Board may deduct up to 1% of the total service charges remitted to the Board for administrative expenses. The remaining revenues from the Fund are allocated as follows:

- 53% of the funds remitted from CMRS providers are used to reimburse CMRS providers for reimbursement of costs incurred in complying with federal regulations mandating compliance with wireless 911 requirements.
- 47% of the funds remitted from CMRS providers, and all funds remitted from other providers, are distributed to PSAPs.

The 911 Board must report to the General Assembly every two years on the receipts and expenditures of the Board.

Fund Distributions to CMRS Providers. – CMRS providers are eligible for reimbursement for costs related to compliance with enhanced 911 service. CMRS providers must submit sworn invoices for commercially reasonable costs for reimbursement. The Board may reallocate funds originally allocated for the reimbursement of CMRS providers to the PSAP Grant Account, if the Board makes certain findings, including that the reallocation will not impair cost recovery of CMRS providers. If the Board reallocates more than \$3 million to the Grant Account in any one year, the Board must consider reducing the amount of the service charge.

Fund Distribution to PSAPs. – Each PSAP will receive the same amount of funds it received in the fiscal year ending June 30, 2007, from the Emergency Telephone System Fund of its local governing entity. Remaining funds are distributed to PSAPs that provide enhanced 911 service. A portion of remaining funds are allocated based on population served, with the remaining portion allocated to the PSAP Grant Account for rural and other high-cost areas. Funds distributed to PSAPs may not be used for real estate, remodeling of dispatch centers, compensation of telecommunicators, or the purchase of emergency vehicles. Funds distributed to PSAPs are restricted to the following:

- The lease, purchase, or maintenance of emergency telephone equipment, including necessary computer hardware, software, and database provisioning, addressing, and nonrecurring costs of establishing a 911 system.
- Reasonable expenditures for training of 911 personnel.

In order to receive monthly distributions from the 911 Fund, a PSAP, or the governing entity of a PSAP, must comply will all of the following:

- Annually, each PSAP must submit its proposed or approved budget identifying revenues and expenditures for eligible expenses.
- Each PSAP must be included in its governing entity's annual audit. Pursuant to the Local Government Budget and Fiscal Control Act, each local government unit must be audited each year. The Local Government Commission will provide the 911 Board with a copy of the audit of each local government unit with a participating PSAP.
- Each PSAP must comply with requests from the 911 Board for financial information.

The Grant Account. – A Grant Account is established for making grants to PSAPs in rural and other high-cost areas. The Board may prescribe the manner in which a PSAP may apply for grants. Grants may be approved for reasonable costs for an efficient 911 system that are consistent with the 911 State Plan. Funds received by PSAPs in the form of grants are subject to the same restrictions on use as all other funds distributed to PSAPs.

Additional Provisions. – Any funds remaining in the Emergency Telephone System Fund, or required to be remitted by a service supplier to the local fiscal officer for deposit to the Fund collected pursuant to Article 1 of Chapter 62A prior to the effective date of this act, must be transferred to the General Fund of the governing entity, to be used for any lawful purpose. Any local governing entity is not relieved of any prior obligation incurred for uses authorized by statute. The service fee for 911 will not be collected from the providers of prepaid wireless telephone service for the period of August 1, 2007, to December 31, 2008.

The moratorium became effective August 19, 2007. The remainder of the act becomes effective January 1, 2008. (KG)

Open Enrollment/Contributory Death Benefit

S.L. 2007-388 ([SB 720](#)). See **Retirement**.

Small Business Contractor Act

S.L. 2007-441 ([HB 1181](#)). See **Business and Commerce**.

Bond License Plate Agent/Online Vehicle Registration

S.L. 2007-488 ([SB 1457](#)). See **Transportation**.

Energy Conservation in State Buildings

S.L. 2007-546 ([SB 668](#)). See **Environment and Natural Resources**.

Protections for Victims of Human Trafficking

S.L. 2007-547 ([SB 1079](#)). See **Courts, Justice, and Corrections**.

Studies

Referrals to Departments, Agencies, Etc.

Geographic Information System (GIS) Study

S.L. 2007-323, Sec. 6.13 ([HB 1473](#), Sec. 6.13) directs the Office of State Budget and Management to conduct a study to identify the development and use of Geographical Information Systems in North Carolina by State agencies. The section directs OSBM to make recommendations on the governance, organization, and staffing of GIS in State agencies, on a State investment strategy for GIS, and on a strategy for consolidating State GIS initiatives. The section directs OSBM to make a written report of its findings and recommendations to the General Assembly by April 30, 2008. This section does not apply to The University of North Carolina or to the judiciary.

This section became effective July 31, 2007. (GSP)

Study of Lapsed Salary Use

S.L. 2007-323, Sec. 6.18 ([HB 1473](#), Sec. 6.18) directs the Office of State Budget and Management to conduct an analysis of lapsed salary use by all State agencies. The section provides that the analysis must include a five-year history of lapsed salaries generated by State departments, institutions, and agencies and the use of those salaries. It also must note whether spending of lapsed salaries was specifically authorized by the legislature. The section also provides that the report must include recommendations for methods to reduce the amount of, and the use of, lapsed salaries.

This section became effective July 1, 2007. (TG)

Study Structure and Management Practices of Agricultural Research Stations and Research Farms

S.L. 2007-323, Sec. 11.4 ([HB 1473](#), Sec. 11.4) directs the Performance Evaluation Division of the General Assembly to study the structure and management practices of the 18 agricultural research stations and research farms currently owned either by North Carolina State University or the Department of Agriculture and Consumer Services and currently managed by the Department of Agriculture and Consumer Services. The study must consider ways to achieve efficiency savings and whether it is desirable and feasible to consolidate or transfer to another State department these research stations and research farms. The section provides that no later than May 1, 2008, the Performance Evaluation Division of the General Assembly must prepare a report of the findings and recommendations of the study and submit this report to the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources and the Fiscal Research Division.

This section became effective July 1, 2007. (GSP)

For a complete list of the studies and reports authorized by the 2007 Session of the 2007 General Assembly, please refer to the Appendix contained in this publication.

Chapter 24 Technology

Brenda Carter (BC), Denise Huntley (DH)

Enacted Legislation

Information Technology Services/Employee Background Investigations

S.L. 2007-155 ([SB 878](#)) authorizes the State Chief Information Officer to require background investigations and criminal history record checks for current or prospective employees of Information Technology Services, authorizes the Department of Justice to conduct the investigations, and exempts the reports of those investigations from the public records laws. The act also exempts from the public records laws criminal history reports concerning agency information technology liaisons and personnel in the Office of State Auditor who are responsible for information technology security reviews.

This act became effective June 29, 2007. (BC)

Information Technology Services/Employee Background Investigations/Information Technology Advisory Board

S.L. 2007-189 ([HB 584](#)) authorizes the State Chief Information Officer to require background investigations and criminal history record checks for current or prospective employees of Information Technology Services; authorizes the Department of Justice to conduct the investigations; and exempts the reports of those investigations from the public records laws. The act also exempts from the public records laws criminal history reports concerning agency information technology liaisons and personnel in the Office of State Auditor who are responsible for information technology security reviews. This part of the act is identical to S.L. 2007-155 ([SB 878](#)).

The act reduces the membership of the Information Technology Advisory Board from 12 to 9, with 2 members each appointed by the Governor, the President Pro Tempore of the Senate, and the Speaker of the House, respectively. The Governor designates a chair from among the membership, and the chair will have the authority to appoint two additional members. The State Controller will serve as an ex officio member. The Board will have the added responsibility of advising the State Chief Information Officer on the development of statewide information technology programs and services.

The changes affecting the Information Technology Advisory Board became effective October 1, 2007, and the remainder of the act became effective July 8, 2007. (BC)

Information Technology Services Project Management

S.L. 2007-281 ([SB 879](#)) allows State agencies to appoint more than one project manager on information technology projects that cost, or are expected to cost, more than \$500,000. Agency project managers provide periodic reports to Information Technology Services project management assistants regarding project costs and other information related to implementation of the project, and are subject to the review and approval of the State Chief Information Officer. The act sets a threshold amount of \$1 million for mandatory appointment of a project management assistant by the State Chief Information Officer. The State Chief Information Officer

retains the authority to designate a project management assistant for any information technology* project that does not meet the threshold.

This act became effective July 27, 2007. (BC)

Agency/State Chief Information Officer (CIO) Dispute Resolution

S.L. 2007-282 ([SB 876](#)) extends the time period within which a State agency may request review of a negative decision by the State CIO concerning approval of an information technology project, or the agency's request to deviate from the standard usage of Information Technology Services equipment and services. The act provides an additional five working days for requesting committee review of the CIO's decision – extending the time from 10 to 15 working days.

This act became effective July 27, 2007. (BC)

e-NC Authority Contracts/Reporting Requirements

S.L. 2007-323, Sec. 13.16 ([HB 1473](#), Sec. 13.16) authorizes the e-NC Authority to contract with other State agencies, The University of North Carolina, the North Carolina Community College System, and nonprofit organizations to assist with program development and the evaluation of program activities. The purpose of the e-NC Authority is to oversee and promote efforts to provide rural counties and distressed urban areas with high-speed broadband Internet access, and to communicate and coordinate with State, regional and local agencies, and private entities, in order to continue the development and facilitation of a coordinated Internet access policy for the citizens of North Carolina.

The act requires the e-NC Authority to report by September 30, 2007, and quarterly thereafter, to the Joint Legislative Commission on Governmental Operations on program development and the evaluation of program activities. The e-NC Authority is required to report to the 2008 General Assembly on the following:

- Improving access to high-speed Internet in distressed urban areas of the State.
- An implementation plan for the training of citizens and businesses in distressed urban areas.
- The technology and digital literacy training necessary to assist citizens and existing businesses to create new technology-based enterprises in these communities and to use the Internet to enhance the productivity of their businesses.

This section became effective July 1, 2007. (BC)

e-NC Authority/Stagger Commission Members Terms

S.L. 2007-323, Sec. 13.16A ([HB 1473](#), Sec. 13.16A) rewrites the law concerning the terms of office of the members of the Commission that governs the e-NC Authority. Of the 15 voting members of the Commission, 6 persons serve as ex officio members, and the remaining 9 members are appointed by the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives. The act provides for the staggering of the terms of the appointed members by providing that all terms commence on January 1, 2008, and requiring that each appointing officer designate one appointee to serve a one-year term, one appointee to serve a two-year term, and one appointee to serve a three-year term. Upon the expiration of each staggered term, the appointing officer will appoint a successor for a term of three years.

This section becomes effective January 1, 2008, and applies to appointments commencing on or after that date. (BC)

Coordinate Statewide Enhanced 911 System

S.L. 2007-383 ([HB 1755](#)). See **State Government**.

For a complete list of the studies and reports authorized by the 2007 Session of the 2007 General Assembly, please refer to the Appendix contained in this publication.

Chapter 25

Transportation

Brenda Carter (BC), Giles S. Perry (GSP), Wendy Graf Ray (WGR)

Enacted Legislation

Department of Transportation

Oyster Shells/Highway Beautification

S.L. 2007-84 ([SB 1453](#)) prohibits the Department of Transportation or any other unit of local government from using oyster shells as a ground cover for any landscaping or highway beautification project. The act directs the Department or any other unit of government that comes into possession of oyster shells to make them available to the Department of Environment and Natural Resources, Division of Marine Fisheries, for use in oyster bed revitalization programs or any other program that may use the shells.

This act became effective June 14, 2007. (GSP)

Division of Motor Vehicles Temporary Locations

S.L. 2007-243 ([SB 60](#)) requires the Division of Motor Vehicles to designate, as soon as practicable, a temporary location for the issuance of all registration plates, registration certificates, and certificates of title when the only contract license plate agency in a county is closed. The act requires that the designation be posted at the former agency location for not less than 30 days and include the street address and telephone number of the temporary location. The act provided that a former contract agent must allow the posting of this required notice at the former location for a period of not less than 30 days. The act provides that failure to comply with the posting requirements by a former contract agent is a Class 3 misdemeanor.

This act became effective July 20, 2007. (GSP)

Welcome/Visitor Center Construction

S.L. 2007-356 ([HB 1402](#)) directs the Department of Commerce and the Department of Transportation to consult with the Joint Legislative Commission on Governmental Operations and the House and Senate Appropriations Subcommittees on Natural and Economic Resources before beginning the design or construction of any new welcome center or visitor center buildings. In addition, the act provides those Departments must cease the planning, design, or construction of any new welcome center buildings in Randolph County and not resume until consulting with the listed legislative committees. The act provides that it must not be interpreted to prohibit or restrict the Department of Transportation from constructing visitor center buildings in Randolph County and Wilkes County that were in the planning, design, or construction phase prior to the effective date of this act. The act provides that the Department of Commerce must operate the Randolph County visitor center with funding sources consistent with the existing nine welcome centers, excluding use of funds from the Special Registration Plate Account and the Highway Fund.

This act became effective August 17, 2007. (GSP)

Design-Build Construction/Transportation

S.L. 2007-357 ([HB 610](#)) removes the sunset on the authority of the Board of Transportation to award up to 25 contracts each fiscal year using the design-build method. The act also changes the reporting provision in State law to reduce the threshold of design-build contracts that must be reported on to Joint Legislative Transportation Oversight from \$100 million to \$50 million.

This act became effective August 17, 2007. (GSP)

County Financing/Powell Bill/City Election

S.L. 2007-428 ([SB 1513](#)). See **Local Government**.

Contract Power/Department of Transportation

S.L. 2007-439 ([HB 802](#)) authorizes the Department of Transportation (Department) to enter into partnership agreements to finance transportation infrastructure. It also authorizes the Department to enter into two pilot contracts for public private participation in providing litter removal from State rights-of-way and two pilot contracts for public private participation in providing travel information at rest areas.

In 2006, the Department was given the authority to enter into partnership agreements with the North Carolina Turnpike Authority, private entities, and authorized political subdivisions to finance, by tolls and other financing methods authorized by law, the cost of acquiring, constructing, equipping, maintaining, and operating highways, roads, streets, and bridges. Agreements must be approved by the Board of Transportation. This act expands that authority to allow partnership agreements to finance all transportation infrastructure (rather than limiting it to roads and bridges) and to allow financing by contracts (in addition to tolls and other financing methods authorized by law). The act requires that priority be given to highways, roads, streets, and bridges over other types of transportation infrastructure. It also requires that the Department report to the Joint Legislative Transportation Oversight Committee and Transportation Appropriations Committees on any proposed agreement at the same time it notifies the Board of Transportation.

The act also authorizes the Department to enter into as many as two pilot contracts for public private participation, in providing litter removal from State right-of-way, and as many as two pilot contracts for public private participation, in providing real-time traveler information at State-owned rest areas, using a best-value procurement process.

This act became effective August 23, 2007. (WGR)

Waterfront Access Study Committee Recommendations

S.L. 2007-485, Part III ([SB 646](#), Part III) directs the Department of Transportation to expand public access to coastal waters. The Department must work with the Wildlife Resources Commission, and other State agencies or governmental entities to address public access to coastal waters along roadways and bridges owned by the Department. The Department is required to make annual reports on its progress to the Joint Legislative Commission on Seafood and Aquaculture and to the Joint Legislative Transportation Oversight Commission. The first report is due by March 1, 2008, and subsequent reports must be made by March 1 of each year.

This section became effective August 30, 2007. (BC)

See **Agriculture and Wildlife, Environment and Natural Resources**, and **Finance**, for additional information on this act.

Various Transportation Changes/Debt Capacity Study

S.L. 2007-551 ([HB 1005](#)) requires the Debt Affordability Advisory Committee to include in its annual debt affordability study, recommendations on debt capacities for debt supported by the General Fund, the Highway Fund, and the Highway Trust Fund. The act requires the Department of Transportation to review the State Transportation Improvement Program (STIP) project planning, development, and prioritization process and report its findings and recommendations to the Joint Legislative Transportation Oversight Committee by October 1, 2007. The act also directs the Office of State Budget and Management to study long-term economic, mobility, and infrastructure needs and report its findings to the Joint Legislative Transportation Oversight Committee not later than April 1, 2008.

The act enacts bridge construction guidelines that require that a bridge crossing rivers and streams in watersheds be constructed to accommodate the hydraulics of a flood water level equal to the water level projected for a 100-year flood for the region in which the bridge is built. The act also enacts a statute that requires compliance with certain federal guidelines for transportation projects.

This act became effective August 31, 2007. (BC)

Drivers Licenses

Drivers License Issuance/Expiration Dates

S.L. 2007-56 ([SB 1026](#)) restores the licensee's birthday as the expiration date of a drivers license for a person 18 years old or older.

An original drivers license issued to:

- A person at least 18 years old, but less than 54 years old, expires on the birthday of the licensee in the 8th year after issuance.
- A person at least 54 years old expires on the birthday of the licensee in the 5th year after issuance.

A renewed license issued to:

- A person less than 54 years old expires 8 years after the expiration date of the license that is renewed.
- A person at least 54 years old expires 5 years after the expiration date of the license that is renewed.

[Note: The above provisions became effective January 1, 2007, and apply to licenses issued or renewed on or after that date. The following provisions became effective May 23, 2007, and apply to licenses issued on or after that date].

The act clarifies the documentation that must be presented by a person who is legally present in the United States for a limited period of time. Such person is eligible to receive a drivers license of limited duration, that will expire not later than the expiration of the authorization for the applicant's legal presence in the United States. The Division of Motor Vehicles is authorized to cancel a drivers license when the licensee is no longer authorized under federal law to be in the United States.

This act became effective as noted above. (BC)

Alcohol Monitoring Systems for DWI Offenders

S.L. 2007-165 ([SB 1290](#)). See **Courts, Justice, and Corrections**.

Limited Driving Privilege – Driving While License Revoked

S.L. 2007-293 ([SB 758](#)), as amended by S.L. 2007-345, Sec. 9.1(a) ([HB 714](#), Sec. 9.1(a)), authorizes a person whose drivers license has been revoked for one year, two years, or permanently under (1) G.S. 20-28(a) (driving while license revoked) or (2) G.S. 20-28.1 (moving offense while license revoked), to obtain a limited driving privilege, if all of the following apply:

- The person has complied with the revocation period as follows:
 - Ninety days for a 1-year revocation.
 - One year for a 2-year revocation.
 - Two years for a permanent revocation.
- The person's underlying offense is not an offense involving impaired driving.
- If the person is convicted of committing a motor vehicle moving offense while driving with a revoked license, the moving offense is not an offense involving impaired driving.
- The revocation period for the underlying offense has expired.
- The revocation under G.S. 20-28(a) or 20-28.1 is the only revocation in effect.
- The person is not eligible to receive a limited driving privilege under any other law.
- The person has not received a limited driving privilege under this section within the last 3 years.
- The person has no pending charges for any motor vehicle offense or unpaid motor vehicle fines or penalties in this or any other state.
- The person's drivers license is not in a state of cancellation, suspension, or revocation in any jurisdiction, if the reason for the suspension or cancellation would be grounds for suspension or cancellation in North Carolina.
- The person is not someone for whom the Division of Motor Vehicles (DMV) has refused to issue a license, due to physical or mental disease that prevents the person from exercising ordinary care in the operation of a vehicle.

A person seeking a limited driving privilege under this act may file a petition in the district court of the county where the person resides, according to DMV records, or in the county of actual residence, if DMV records are inaccurate. If granted, the privilege would be limited to essential driving for employment, in the course of employment, household maintenance, and emergency medical care. The specifics of the privilege and other conditions are patterned after existing law regarding limited driving privileges for DWI offenses in G.S. 20-179.3. They include a requirement that the person applying for the privilege have adequate liability and property damage coverage.

The term of the privilege would be the shorter of one year, or the time remaining in the person's revocation period. Upon expiration of the privilege, the Division would be required to reinstate the person's license if the person does all of the following:

- Pays a \$50 restoration fee.
- Provides proof to the Division of financial responsibility.
- Provides proof to the Division that the person has not been convicted during the revocation period of any moving violation in this or another state, any violation of the alcoholic beverage laws of this or another state, or of any violation of the drug laws of this or another state.

Any violation of the privilege would be considered a violation of the driving while license revoked statute, and the privilege would be suspended pending a final disposition of the charge.

The act also provides that a person who files a petition for a limited driving privilege under this act would pay court costs plus an additional processing fee in the amount of \$100.

This act becomes effective December 1, 2007, and applies revocations that occur before, on, or after that date. (GSP)

School Bus Endorsement License Expiration

S.L. 2007-350 ([HB 1546](#)) shortens the duration of a commercial drivers license with a P and S endorsement, if the licensee is certified to drive a school bus. Generally, under North Carolina law, a drivers license expires eight years after issuance. A drivers license issued to a person age 54 or older expires 5 years after issuance. A person who holds a commercial drivers license must have a P endorsement ("vehicles carrying passengers") and an S endorsement ("school bus") in order to drive a school bus. The fee for the license is \$15 for each year of the period for which the license is issued, and the fee for each endorsement is \$3 for each year of the period for which the endorsement is issued. The commercial drivers license holder is also required to be tested and certified to drive a school bus over the highways of the State while it is occupied by children. This act provides that a commercial drivers license with a P and S endorsement will expire three years after issuance if the licensee is certified to drive a school bus in North Carolina.

This act became effective September 13, 2007, and applies to new and renewal licenses issued on or after that date. (WGR)

Expunge DWI Civil Revocation

S.L. 2007-509 ([SB 301](#)) provides that if a person has a criminal charge expunged from court records, the record of any civil driver's license revocation resulting from that charge would also be expunged from the Department of Motor Vehicle records. However, if the person commits an offense based upon the civil revocation, such as driving while license revoked, the new charge would not be expunged. The expunction provision would not apply to a civil revocation based upon a refusal to submit to a sobriety test.

The statutory provisions of this act became effective October 1, 2007. The act directs the Administrative Office of the Courts, in consultation with the Division of Motor Vehicles, to develop a method of reviewing expungements issued prior to October 1, 2007, to determine if an associated civil revocation should also be expunged. (BC)

Drivers License Revocation for Alcoholic Beverage Control (ABC) Violation

S.L. 2007-537 ([HB 1277](#)) provides for a one-year revocation of the drivers license of any person convicted of giving alcoholic beverages to, or aiding and abetting the purchase or possession of alcoholic beverages by, an underage person. The act allows for a limited driving privilege during the period of revocation.

This act becomes effective December 1, 2007, and applies to offenses occurring on or after that date. (BC)

License Plates/Vehicles Registration

Clarify Motor Vehicle Registration Requirements

S.L. 2007-209 ([SB 1350](#)), as amended by S.L. 2007-481, Sec. 4 ([SB 1147](#), Sec. 4), repeals the requirement, enacted earlier in the 2007 session by S.L. 2007-164 ([SB 830](#)), that an owner of a vehicle provide a North Carolina drivers license or special identification card number in order to register a vehicle in this State. The act instead requires the owner's Social Security number, which was the law prior to S.L. 2007-164 ([SB 830](#)) taking effect on July 4, 2007. A subsequent act of the 2007 Session reinstated the requirement that a person have a North Carolina drivers license or special identification card to register a vehicle, with exceptions. See

the summary in this Chapter entitled **Dealer Motor Vehicle Inspection/Records/Motor Vehicle Registration**, S.L. 2007-481 ([SB 1147](#)), for additional information.

The act addresses applications for notations of security interest that were completed but were on hold and not able to be processed after S.L. 2007-164 ([SB 830](#)) became effective, because the owner could not provide a North Carolina drivers license or identification card number, as required by that act. This act allowed 20 days after its effective date to comply with requirements to perfect the security interest.

The act also addresses applications for certificates of title that were completed but were on hold and not able to be processed after S.L. 2007-164 ([SB 830](#)) became effective, because the owner could not provide a North Carolina drivers license or identification card number, as required by that act. This act allowed an additional 28 days after its effective date to comply with the statutory requirements, before any penalties for failure to apply for a certificate of title within the required time would apply.

This act became effective July 11, 2007, and applies to applications for registration and certificates of title made on or after that date, and to any certificate of title, registration, or notation of security interest application which had been completed, but not yet submitted to or processed by the Division by that date. (WGR)

Motorcycle Manufacturer Plates

S.L. 2007-291 ([HB 135](#)) authorizes the Division of Motor Vehicles to issue dealer plates with a symbol noting that the holder is a manufacturer. The act exempts manufacturers from the restrictions on the number of dealer plates that may be issued, and makes it clear that DMV may issue dealer plates in a suitably reduced size for motorcycle dealers and manufacturers.

This act became effective July 28, 2007. (BC)

Blue Ridge Parkway Motorcycle Plate and Others

S.L. 2007-400 ([SB 1036](#)) authorizes the Division of Motor Vehicles (DMV) to develop the Blue Ridge Parkway plate for motorcycles. The act provides that registration fees and the restrictions on the issuance of a specialized plate for a motorcycle are the same as for any other motor vehicle, and the DMV must receive a minimum of 300 applications to develop the special registration plate for a motorcycle.

The act also authorizes the DMV to issue a special registration plate for the Back Country Horsemen of North Carolina and for the Maggie Valley Trout Festival. The additional fee amount for each plate is \$30, with \$20 of the fee credited to the Collegiate and Cultural Attraction Plate Account for distribution to the Back Country Horseman of North Carolina to promote the development and maintenance of back country trails for trail riding, and to the Town of Maggie Valley to promote trout fishing in Maggie Valley, as applicable. The DMV must receive a minimum of 300 applications to develop the special registration plate.

This act became effective August 21, 2007. (BC)

Special Plate for E-911 Telecommunicators

S.L. 2007-470 ([HB 1652](#)) authorizes the Division of Motor Vehicles to issue a new special registration plate to active E-911 Telecommunicators that bears the phrase "E-911 Telecommunicator." An E-911 Telecommunicator is defined as an individual employed by a public safety agency whose primary responsibility is to receive, process, transmit, or dispatch emergency and nonemergency calls for police, fire, emergency medical, and other public safety services via telephone and other communication devices. The Division must receive at least 300 applications for the plate before it may be developed. The plate requires the \$10 special registration plate fee that is credited to the Special Registration Plate Account.

This act became effective August 29, 2007. (WGR)

Amend Combined Motor Vehicle Registration and Property Tax System

S.L. 2007-471 ([HB 1688](#)) makes the following changes to the combined motor vehicle registration and property tax collection system:

- Creates a limited registration plate designed and issued by the Division of Motor Vehicles (DMV). A licensed motor vehicle dealer will be authorized to issue this limited plate to a purchaser of a motor vehicle, after the dealer submits an application for title and registration fees to the DMV. Persons buying vehicles from someone other than a dealer may also obtain the limited plate, upon submitting an application for title and payment of registration fees. The limited plate will allow a purchaser of a motor vehicle up to 90 days, in some cases, to pay property taxes on the vehicle.
- Exempts motor vehicles registered under the International Registration Plan from the combined motor vehicle registration renewal and property tax collection system.
- Provides that the interest generated by the funds in the Combined Motor Vehicle and Registration Account located in the Treasurer's Office will be credited to the Account. These funds will not be transferred by the Office of State Budget and Management and appropriated by the General Assembly until the Department of Transportation and the North Carolina Association of County Commissioners reach agreement on a project plan for the integrated computer system. Any funds remaining in the Account after the system is in operation will be distributed to the local governments on a pro rata basis. (Became effective August 29, 2007, and sunsets July 1, 2010)
- Makes technical and conforming changes to the combined motor vehicle registration renewal and property tax collection system.

Unless otherwise noted, this act becomes effective July 1, 2010, or when the Division of Motor Vehicles and the Department of Revenue certify that the integrated computer system for registration and renewal and property tax collection for motor vehicles is in operation, whichever occurs first. (GSP)

Dealer Motor Vehicle Inspection/Records/Motor Vehicle Registration

S.L. 2007-481 ([SB 1147](#)) makes changes to the motor vehicle laws regarding motor vehicle dealers and registration of motor vehicles. Much of the substance of this act was enacted by earlier legislation, and this act makes technical corrections to address multiple changes made to the same statute with different effective dates.

Registration Card for Dealer Plate. – The act allows a person to operate a vehicle with a dealer plate in this State without carrying the registration card, if the card is on file at the dealer's listed address and can be produced within 24 hours if requested by law enforcement.

Inspection of New Motor Vehicles. – North Carolina law requires that a new vehicle be inspected before it is sold. This act provides an exception to that requirement. In lieu of the required inspection, a new motor vehicle dealer, who is also licensed to perform inspections, may complete the predelivery inspection procedure required or recommended by the manufacturer; and the date of sale of the vehicle is deemed to be the inspection date.

Motor Vehicle Dealer Records. – The act provides that the records required to be kept by motor vehicle dealers regarding vehicles received and sold may be kept at the dealership where the vehicles were sold or at another established office, if the location is provided to the Division of Motor Vehicles and the records can be made available for inspection within a reasonable amount of time.

Vehicle Registration Requirements. – The act requires that an owner of a motor vehicle provide a North Carolina drivers license or special identification card number (rather than a Social Security number, which was required prior to this act) in order to register the vehicle, but the act also provides all of the following exceptions:

- If the owner is on active military duty and is stationed in this State, or the spouse or dependent child of a person on active military duty who is stationed in this State, he or she may provide the owner's home state license or special identification card number and valid active duty military identification card number, or military dependent identification card number.
- If the owner is a resident of another state but is enrolled in a North Carolina school, he or she may provide the owner's home state license or special identification card number and proof of enrollment.
- If the vehicle will be principally garaged in North Carolina, the owner may provide his or her home state license or special identification card number and a signed affidavit certifying that the vehicle will be principally garaged in this State.
- The owner may provide the owner's home state license or identification card number when the application is made pursuant to a court authorized sale or sale to enforce a lien, for the purpose of issuing a title to be registered in another state or country.
- A co-owner may provide the co-owner's home state license or identification card number, if at least one co-owner provides a North Carolina license or identification card number.
- The owner may provide the owner's home state license or identification card number when the application is for a motor home or house trailer.

The act also requires the Division to issue a registration plate and certificate of title to an owner of a vehicle who would otherwise be capable of attaining a drivers license or special identification card, except for a documented medical or physical condition, if the owner provides a signed affidavit certifying that the owner intends to principally garage the vehicle in this State and providing the address where the vehicle will be garaged.

The requirement that a person have a North Carolina drivers license or special identification card to register a vehicle was originally enacted in S.L. 2007-164 ([SB 830](#)), with no exceptions. The requirement went into effect July 4, 2007, and as a result, only North Carolina residents were able to register a motor vehicle in this State. However, there are nonresidents with a legitimate need to register a motor vehicle in North Carolina. S.L. 2007-209 ([SB 1350](#)) was subsequently passed, to address the unintended consequences of the earlier act. S.L. 2007-209 ([SB 1350](#)) repealed the requirement, going back to the requirement of a Social Security number for a brief time, but it also reinstated the requirement (effective September 1, 2007), with exceptions for those on active military duty, students, and persons with vehicles that are principally garaged in North Carolina. This act repealed that provision before it went into effect but reinstated the requirement with the exceptions, as well as the additional exceptions listed.

Technical Changes. – The act also makes technical and conforming changes to the motor vehicle and insurance statutes that became necessary when S.L. 2007-443 ([HB 729](#)), Penalties for Insurance Rate Evasion Fraud, became law. This act makes no substantive changes to the provisions of S.L. 2007-443 ([HB 729](#)). However, because that act amended a statute, as amended by a section of S.L. 2007-209 ([SB 1350](#)), which this act repealed before it ever became effective, it is necessary to address S.L. 2007-443 ([HB 729](#)), because it amended a version of a statute that never existed.

Definition of Eligible Risk for Purpose of Auto Insurance Coverage. – The act clarifies that a nonresident is an eligible risk for purposes of getting auto insurance coverage if he or she is a member of the armed forces stationed in North Carolina, or deployed outside North Carolina from a home base in North Carolina. This conforms to the exception for nonresident members of the armed forces from the drivers license requirement for registration purposes included in this act.

The requirement that a person provide a drivers license or special identification card number to register a vehicle became effective September 15, 2007, and applies to applications made on or after that date, except that it does not apply to any application that was completed and notarized but not submitted to or processed by the Division of Motor Vehicles by that date. The technical changes and provisions of the act pertaining to whether a driver is an eligible risk for purposes of auto insurance coverage become effective January 1, 2008. The remainder of the act became effective August 30, 2007. (WGR)

Various Special License Plates

S.L. 2007-483 ([SB 103](#)) makes the following changes to the special license plate statutes of the State:

Authorization of New Special Registration Plates. – The act authorizes the Division of Motor Vehicles to issue 10 new special registration plates, including the following: Prostate Cancer Awareness, Juvenile Diabetes Research, Breast Cancer Earlier Detection, Hospice Care, Home Care and Hospice, AIDS Awareness, Amyotrophic Lateral Sclerosis (ALS) Research, National Kidney Foundation, North Carolina Tennis Foundation, and Brain Injury Awareness. All of the plates authorized must meet the 300 minimum plate requirement to be developed, and all of the plates authorized require the \$10 special registration plate fee that is credited to the Special Registration Plate Account. The act also specifies any additional fees for the issuance of the plates and provides for distribution of those fees to designated beneficiaries. The following new plates would not have to be on the "First in Flight" background: Hospice Care, Home Care and Hospice, AIDS Awareness, and North Carolina Tennis Foundation.

Elimination of 300 Application Requirement and \$10 Additional Fee for the Gold Star Plate. – In 2006, the General Assembly authorized the issuance of a Gold Star special registration plate to a person who is a recipient of the Gold Star lapel button. Prior to this act, the plate was subject to the regular motor vehicle registration fee of \$28 and the additional special registration plate fee of \$10. The Division of Motor Vehicles was also required to receive 300 applications before the plate was to be developed. This act eliminates the 300 application requirement for the Gold Star Plate and the additional \$10 special registration plate fee.

Change to Proceeds of Omega Psi Phi Plate. – In 2000, the General Assembly authorized the issuance of a special registration plate bearing the Omega Psi Phi fraternity's symbol and name. The plate is subject to an additional \$20 fee, and prior to this act, the proceeds were to be transferred to the United Negro College Fund for the benefit of Fund colleges in this State. This act changes the recipient of funds derived from sales of the plate to the Carolina Uplift Foundation, Inc. for youth activity and scholarship programs.

Elimination of Additional Fee for Breast Cancer Awareness Plate. – In 2003, the General Assembly authorized the Breast Cancer Awareness plate. At the time of its enactment, the plate was subject only to the regular motor vehicle registration fee of \$28 and the additional special registration plate fee of \$10. In 2006, the General Assembly authorized a second special plate for "Breast Cancer Earlier Detection" and imposed an additional \$10 fee for the plate, the proceeds of which were to be transferred to "Friends for An Earlier Breast Cancer Test, Inc." to support services to detect breast cancer earlier. The legislation enacted in 2006 increased the fee for the existing breast cancer awareness special plate, rather than create a second plate. It has since been determined that it was the intent of the interested groups requesting the bills that there should be two different special plates relating to the early detection of breast cancer. This act amends the law to reflect the original intent of the sponsors of the two breast cancer awareness special plates, authorizing a second special plate for "Breast Cancer Earlier Detection." This new plate is subject to the 300 application requirement and the \$10 special registration plate fee, as well as an additional \$10 fee. The proceeds of the additional \$10 fee go to "Friends for An Earlier Breast Cancer Test, Inc.," to support services to detect breast cancer earlier. Since the new plate provides funding to the same organization as the Breast Cancer Awareness plate, the additional fee for the Breast Cancer Awareness plate is eliminated.

Increase Additional Fee for NC Coastal Federation Plate from \$25 to \$30. – The act increases the additional fee for the North Carolina Coastal Federation plate from \$25 to \$30, and transfers \$20 to the North Carolina Coastal Federation, Inc.

Assignment of Special Plate to President of the North Carolina Community Colleges System and Renumbering of Special Plates Assigned to State Government Officials. – The act authorizes the Division to assign a special plate to the President of the North Carolina Community Colleges System. It also renumbers the special plates assigned to State government officials, to reflect changes in commissions and account for the new plate assigned to the President of the Community Colleges System.

The changes to the recipient of funds from the Omega Psi Phi special plate became effective July 1, 2007, and apply to transfers of fees derived from the sales of the Omega Psi Phi special plates on or after that date. The repeal of the additional \$20 fee for the Breast Cancer Awareness plate became effective October 1, 2007, and any funds remaining from the sale of the plate on that date are to be transferred to the Friends for An Earlier Breast Cancer Test, Inc. The changes to the statute assigning plates for elected and appointed State government officials become effective January 1, 2008. The remainder of the act became effective August 30, 2007. (WGR)

Bond License Plate Agent/Online Vehicle Registration

S.L. 2007-488 ([SB 1457](#)) requires guaranty bonds for commission contractors who operate license plate agencies, adds Charlotte to the Division of Motor Vehicles (Division) operated registration offices, requires the Division to have at least two authorized online motor vehicle registration vendors approved for contracting with motor vehicle dealers for filing vehicle title and registration matters, and authorizes commission contract agents to contract with online vendors.

North Carolina law directs the Division to enter into commission contracts with persons, firms, corporations, or governmental subdivisions of the State for the issuance of registration plates, registration certificates, and certificates of title, with the goal of entering into a commission contract in every locality in the State. The Division provides supervision of commission contractors and provides payment of compensation on a per transaction basis. This act requires a guaranty bond for each commission contractor that is not a governmental subdivision of the State. The bond is to be filed with the clerk of superior court and/or the register of deeds when the application is made for a commission contract or contract renewal, and it must be in an amount adequate to indemnify the Division for a loss of revenue for any reason. The bond amount must be at least \$100,000. The Division is authorized to waive the bond and approve an assignment of a savings account in an amount equal to the bond required, or a certificate of deposit, as a guaranty bond alternative.

The act requires the Division to accept electronic applications for the issuance of registration plates, registration certificates, and certificates of title, and authorizes the Division to collect fees electronically from online motor vehicle registration vendors under contract with the Division. The act also requires the Division to contract with at least two online motor vehicle registration vendors, who may enter into contracts with motor vehicle dealers to complete and file Division required documents upon purchase or sale of a vehicle. It also authorizes contract agents to enter into contracts with approved online vendors, to complete and file Division required documents.

The provision of the act requiring bonds for commission contractors becomes effective January 1, 2008. The remainder of the act became effective August 30, 2007. (WGR)

Bronze Star Special Plate Changes

S.L. 2007-522 ([HB 206](#)). See **Military, Veterans', and Indian Affairs**.

Motor Vehicles Law

Child Restraint Systems/Federal Compliance

S.L. 2007-6 ([HB 61](#)) amends the child restraint systems statute by removing an exception that allows a child to be out of a child passenger restraint system or seat belt when the child's personal needs are being attended to. The change is made to ensure compliance with federal regulations. In August, 2006, The National Highway Traffic Safety Administration (NHTSA) determined that the prior law did not comply with federal regulations because of the exception.

This act became effective June 1, 2007, and applies to offenses committed on or after that date. (BC)

Registration and Length Exemptions

S.L. 2007-194 ([SB 738](#)) exempts any agricultural spreader vehicle, defined as a vehicle designed for off-highway use on a farm to spread fertilizer, seed, lime, or other agricultural products on a field, from the vehicle registration requirement of State law, if the vehicle meets all of the following conditions:

- It is driven on the highway only for the purpose of going from the location of its supply source for fertilizer or other products to and from a farm.
- It does not exceed a speed of 35 miles per hour.
- It does not drive outside a radius of 50 miles from the location of its supply source for fertilizer or other products.
- It is driven by a person who has a license appropriate for the class of the vehicle;
- It is insured by a motor vehicle liability policy.
- It displays a valid federal safety inspection decal, if the vehicle has a gross vehicle weight rating of at least 10,001 pounds.

The act also authorizes trucks transporting unprocessed cotton from farm to gin to be up to 50 feet in length, and clarifies that a vehicle designed exclusively to transport compressed seed cotton from a farm to a gin and that has a self-loading bed is "farm equipment" for purposes of State law width requirements.

This act became effective July 1, 2007. (GSP)

Red Light Exception for Motorcycles

S.L. 2007-260 ([SB 1359](#)) provides an affirmative defense to motorcycle operators who violate the statutory prohibition against entering an intersection when facing a red light, if the intersection is controlled by a vehicle-actuated traffic signal using an inductive loop and specified conditions are met. Actuated traffic signals alter their sequence based on demand and are activated by vehicle detectors. A loop detector works like a metal detector, reacting to the presence of metal. Depending on the sensitivity of a detector, the presence of a motorcycle may not trigger a change in the traffic signal.

North Carolina law provides that a vehicle approaching an intersection and facing a red light must stop and is prohibited from entering the intersection, other than to make a lawful right turn after coming to a complete stop. Running a red light in violation of the law is an infraction punishable by a fine of not more than \$100, and the Division of Motor Vehicles assigns 3 points to a person's record for running a red light. This act provides an affirmative defense for a motorcycle operator who violates the statutory prohibition against entering an intersection when facing a red light, if the operator shows all of the following:

- The operator came to a complete stop at the red light.

- The intersection was controlled by a vehicle-actuated traffic signal using an inductive loop to activate the signal.
- No other motor vehicle entitled to have the right of way was at, or approaching, the intersection.
- No pedestrians were attempting to cross at, or near, the intersection.
- The operator waited a minimum of three minutes at the red light before entering the intersection.

This act becomes effective December 1, 2007, and applies to offenses committed on or after that date. (WGR)

Ban Cell Phone Use by School Bus Drivers

S.L. 2007-261 ([HB 183](#)) makes it unlawful to use a mobile telephone or additional technology that provides access to digital media such as a camera, electronic mail, music, the Internet, or games, while operating a public or private school bus, while operating a school activity bus, or while transporting students in any vehicle for hire. A violation of this law is a Class 2 misdemeanor, punishable by a fine of not less than \$100. There is an exception for use of a mobile telephone in an emergency situation.

This act becomes effective December 1, 2007, and applies to offenses committed on or after that date. (BC)

Exempt Law Enforcement from Backseat Belts

S.L. 2007-289 ([HB 1330](#)). See **Courts, Justice, and Corrections**.

Stop Light Cameras in Certain Municipalities

S.L. 2007-341 ([HB 1228](#)). See **Local Government**.

Traffic and Personal Safety Changes/Protests

S.L. 2007-360 ([HB 563](#)) makes the following changes to the motor vehicle laws:

- **"Move-Over" law.** – The act amends the State law requiring motorists to "move over" when in the vicinity of emergency or public service vehicles, to clarify that the law applies to all public service vehicles being used to assist motorists or law enforcement with wrecked or disabled vehicles, not just those called to the scene by a motorist or a law enforcement officer.
- **Traffic signal changes.** – The act amends the vehicle control signs and signals laws of the State, to address situations where traffic signals are inoperable. At an intersection with inoperable traffic signals, the act authorizes drivers to proceed as if an intersection was controlled by a four-way stop sign, unless directed otherwise by a law enforcement officer, another authorized person, or another type of traffic control device. The act also updates language in the vehicle control signs and signals statute to replace the word "stoplight" with "traffic signal", and "signaling device" with "traffic control device."
- **Removal of vehicles left on public highways.** – The act shortens, from 48 hours to 24 hours, the amount of time a vehicle may be left on a public highway right-of-way prior to removal, clarifies that the term "right-of-way" includes rest areas, and expands the current authorization for law enforcement to remove wrecked or abandoned vehicles from controlled access highways, to authorize removal from all State highways.

- **Regulation of protests on State roads and highways.** The act authorizes cities and counties to adopt ordinances regulating the time, place, and manner of pedestrian protests on State roads and highways. Cities currently have this authority for municipal streets, but neither cities nor counties have the authority to regulate State roads or highways.
- **Motorcycle helmets.** The act amends the requirement of State law to wear a helmet while operating a motorcycle or moped to require the helmet to meet federal standards, to be worn on the head, and to be worn with a retention strap properly secured.

This act became effective August 17, 2007, except for the change to the motorcycle helmet law, which became effective January 1, 2008. (GSP)

Speeding Law Changes

S.L. 2007-380 ([SB 925](#)). See **Courts, Justice, and Corrections**.

School Bus Safety Act Correction

S.L. 2007-382 ([SB 924](#)) changes the law concerning the felony offense of passing a stopped school bus and striking a person, so that causing serious bodily injury is no longer required as an element of the offense. This means that if a driver strikes any person while willfully passing a school bus displaying its mechanical stop signal or flashing red lights and the bus is stopped for the purpose of receiving or discharging passengers, the driver will be guilty of a Class I felony, regardless of whether the person struck by the driver's car is seriously injured. This provision of the act becomes effective December 1, 2007, and applies to offenses committed on or after that date.

The act makes a change to the definition of "school bus" in the State's motor vehicle law, removing the requirement that the vehicle bear the words "School Bus" on the front and rear in letters eight inches high, and substituting a requirement that the words be plainly visible on the front and rear of the vehicle. This provision became effective August 19, 2007.

The act makes a further change to the definition of "school bus" in the State's motor vehicle law, defining the term to require that such vehicles be painted primarily yellow below the roofline. This provision became effective August 1, 2007, and applies to all school buses acquired on or after that date. (BC)

Vehicles Used for Towing to be Marked

S.L. 2007-404 ([SB 1495](#)) requires that vehicles hired for towing be marked to identify the owner of the towing vehicle and creates an exception to the seat belt law.

Vehicles subject to federal motor carrier safety regulations are required to be marked in accordance with the federal law. Some vehicles used for towing other vehicles are subject to the federal regulations, but others are not, and therefore are not currently required to be marked. This act requires that vehicles equipped for towing or transporting another motor vehicle, hired for the purposes of towing or transporting, have the registered owner's name and address, and the name of the business or person being hired, if different from the owner, printed on the side of the vehicle in letters not less than three inches in height. This requirement does not apply to vehicles subject to federal regulation. Violation of this requirement is a Class 2 misdemeanor.

North Carolina law requires drivers and passengers in motor vehicles to wear seat belts when the vehicle is in motion. A violation is an infraction. There are several exceptions to this requirement. This act adds an exception for a driver or passenger of a residential garbage or recycling truck, while the truck is operating during collection rounds, and while traveling to and from garbage and recycling material loading and unloading locations.

This act becomes effective December 1, 2007. (WGR)

All Terrain Vehicles Use for Emergencies

S.L. 2007-433 ([HB 767](#)) does the following:

- Authorizes all law enforcement officers acting in the course and scope of their duties to operate unregistered all-terrain vehicles (ATVs) owned or leased by the agency, or under the direct control of the incident commander, on public highways with speed limits of 35 mph or less, and on non-fully controlled access highways with higher speed limits, for the purpose of traveling from a speed zone to an adjacent speed zone where the speed limit is 35 mph or less.
- Authorizes all fire, rescue, and emergency medical personnel acting in the course and scope of their duties to operate unregistered ATVs owned or leased by the agency, or under the direct control of the incident commander, on public highways with speed limits of 35 mph or less, and on non-fully controlled access highways with higher speed limits, for the purpose of traveling from a speed zone to an adjacent speed zone where the speed limit is 35 mph or less.
- Authorizes municipal and county employees only in currently authorized areas to operate unregistered all-terrain vehicles owned or leased by the agency, on public highways with speed limits of 35 mph or less, and on non-fully controlled access highways with higher speed limits, for the purpose of traveling from a speed zone to an adjacent speed zone where the speed limit is 35 mph or less. This provision of the act applies to the Towns of Ansonville, Atlantic Beach, Burgaw, Carolina Beach, Cramerton, Dallas, Davidson, Duck, Emerald Isle, Franklin, Indian Beach, Kill Devil Hills, Kitty Hawk, Kure Beach, Murphy, Nags Head, North Topsail Beach, Oakboro, Ocean Isle Beach, Pine Knoll Shores, Stanley, Surf City, Sylva, Topsail Beach, and Wrightsville Beach; and the Cities of Albemarle, Belmont, Cherryville, Gastonia, Kings Mountain, and Rockingham; and the Counties of Cleveland, Currituck, Gaston, Surry, and Wilkes only.
- Specifies that State law requirements related to ATVs concerning age of operators, passengers, brakes, mufflers, spark arresters, eye protection, helmets, DWI, reckless operation, and use of headlights apply to the use of ATVs under this act.
- Requires operable front and rear lights, a horn, observation of posted speed limits, and that the operator carry identification.
- Prohibits exceeding the manufacturer's recommended speed on an ATV operated pursuant to this section.
- Provides that the penalty for violation of this act is an infraction.
- Repeals all local acts on the subject of the act.
- Authorizes the Commissioner of Insurance to approve required all-terrain vehicle safety courses, and authorizes the North Carolina Community College system to provide ATV safety courses.

This act became effective October 1, 2007. (GSP)

Public Vehicular Areas Defined

S.L. 2007-455 ([HB 976](#)) changes the definition of "public vehicular area" in the State motor vehicle code to include roads within, or leading to, gated communities. The effect of this change is to expand the applicability of motor vehicle laws that apply in public vehicular areas, including laws concerning driving while impaired, reckless driving, speeding at a rate greater than is reasonable and prudent under the conditions, turn signals, and passing a stopped school bus. The act also requires any person responsible for a controlled access system, on a road that is a public vehicular area, to provide a means of access to all emergency service vehicles, including

law enforcement, fire, rescue, ambulance, and first responder vehicles. Violation of this act constitutes an infraction, with a penalty of not more than \$100. The act does not apply to facilities controlled by federal regulations, such as nuclear power plants.

This act becomes effective December 1, 2007. (GSP)

DWI Technical Corrections

S.L. 2007-493 ([SB 999](#)). See **Courts, Justice, and Corrections**.

Safety/Emission Inspection Changes

S.L. 2007-503 ([HB 679](#)) establishes a new electronic safety and emissions vehicle inspection process. Specifically, the act:

- Authorizes electronic safety and emissions inspections, and eliminates the requirement for an inspection sticker.
- Provides that inspections expire at midnight of the last day of the month designated by the vehicle registration sticker of the following year.
- Requires a vehicle to have a current safety or emissions inspection prior to renewal of registration.
- Requires registration plates that are not renewed to be surrendered within 120 days of expiration.
- Requires applicants for a license as a safety or emissions inspection station to have equipment and software to transfer information on inspections to the Division of Motor Vehicles by electronic means.
- Requires, during initial implementation of the electronic inspection process, that the vendor selected by the Division of Motor Vehicles provide the equipment and software at no cost to a station that holds a license on October 1, 2008.
- Requires an applicant for a safety inspection mechanic license to have training in use of the system.
- Requires sellers of new and used vehicles to provide a receipt certifying compliance with the electronic inspection process.
- Authorizes out-of-State emissions inspection if the inspection meets federal standards.
- Increases the safety inspection fee from \$8.25 to \$12.75.
- Requires the Division of Motor Vehicles to report to the Joint Legislative Transportation Oversight Committee by May 1, 2008, on its progress in implementing this act.

This act becomes effective October 1, 2008, and applies to offenses occurring on or after that date. (GSP)

Toll Roads

Accelerated Yadkin River Bridge Replacement

S.L. 2007-299 ([HB 292](#)) directs the North Carolina Turnpike Authority to study, plan, develop, undertake preliminary design work, and analyze all necessary permits in preparation for construction of a replacement bridge and approaches for the Yadkin River Bridge over the Yadkin River between Rowan and Davidson Counties.

This act became effective July 28, 2007. (GSP)

Public Transportation and Rail

Increase Length Limits for Transit Buses

S.L. 2007-499 ([HB 514](#)) authorizes local governments to operate longer passenger buses on public streets and highways. Prior to this act, the law generally limited vehicle length to 40 feet for a single vehicle, and 60 feet for a combination of two units. This act authorizes the operation of passenger buses owned and operated by a unit of local government that are single vehicles and have an overall length of 45 feet or less. The act also authorizes the Department of Transportation to prevent operation of these longer buses if the buses present a hazard.

This act became effective August 30, 2007. (WGR)

Trucks

Tandem Vehicle Operations on Highways

S.L. 2007-77 ([SB 1456](#)) allows motor vehicle combinations consisting of a semitrailer not more than 48 feet in length and a truck tractor to be operated on highways, even if the total length exceeds 60 feet, and authorizes the Department of Transportation to approve reasonable access routes and designate routes on highways in the State for one particular type of Surface Transportation Assistance Act (STAA) dimensioned vehicle.

North Carolina law generally prohibits any combination of vehicles that consists of more than 2 units or that exceeds a total length of 60 feet. This act allows motor vehicle combinations consisting of 1 semitrailer and a truck tractor to be operated upon the highways, even if the total length exceeds the current length limit of 60 feet, as long as the semitrailer is not more than 48 feet in length.

The law does allow some longer vehicle combinations to be operated on interstate highways and federal aid primary system highways designated by the United States Secretary of Transportation. The vehicles are allowed reasonable access between those highways and terminals, facilities for food, fuel, repairs, and rest, and points of loading and unloading. The Department of Transportation is authorized to adopt rules and regulations providing for reasonable access. In addition, under certain conditions, the Department is authorized to designate State highway system roads for use by these vehicle combinations. This act authorizes the Department to approve reasonable access routes and designate routes for one particular type of STAA dimensioned vehicle. Prior to this act, the North Carolina Administrative Code provided that if the Department approved access for one particular type of STAA dimensioned vehicle, it would constitute approval for all STAA dimensioned vehicles.

This act became effective June 14, 2007. (WGR)

Weight and Size Exemption for Fire Response

S.L. 2007-290 ([HB 1321](#)) makes three changes to the size and weight restrictions of State law applicable to vehicles involved in emergency response. The act:

- Exempts certain overweight and oversize vehicles from size and weight restrictions if the vehicle is owned and operated by the federal, State, or local authorities and is responding to a fire under the authority of a forest ranger, a county request for fire protection, a request for assistance under a state of emergency, or a request for assistance under a disaster declaration. Vehicles subject to this exemption would be required to have marking and lighting, and not exceed posted bridge limits.
- Authorizes the Department of Transportation (DOT) to issue annual or single oversize or overweight vehicle permits for commercial vehicles responding to a fire or to a

request for assistance from a person authorized to direct emergency operations, subject to posted road and bridge limits. Permits issued pursuant to this exception may be issued verbally, with written documentation provided to the DOT by the next business day. The act provides that the DOT would be exempt from any liability for injury for issuance of this permit.

- Authorizes the DOT to issue a single trip overweight and oversize permit for any vehicle responding to an emergency event that could result in severe damage, injury or loss of life or property resulting from a natural or manmade disaster, as determined by the Secretary of Crime Control and Public Safety or the Secretary of Transportation. Permits issued under this provision are subject to marking and flagging requirements, posted road and bridge limits, and an escort vehicle requirement if operated at night.

This act became effective July 27, 2007. (GSP)

Unified Carrier Registration/Commercial Drivers License Changes

S.L. 2007-492 ([HB 769](#)) makes the following changes to the motor vehicle statutes relating to commercial drivers licenses and motor carriers:

- **Disqualification for Refusing Drug or Alcohol Test.** – The act requires an employer to notify the Division of Motor Vehicles when an employee refuses to participate in a required drug or alcohol test. Upon receiving this notification, the Division must disqualify a commercial drivers license holder from operating a commercial motor vehicle, until the Division receives proof that the driver has successfully completed a substance abuse assessment and recommended treatment, as required by federal law. (Prior to this act, these provisions applied only when the license holder took and failed a drug or alcohol test. This allowed a driver to refuse to take the test, quit his or her job, and work for another company.)
- **Unified Motor Carrier Registration Agreement.** – The act also gives the Commissioner of Motor Vehicles the authority to enter into the Unified Carrier Registration Agreement (UCRA) established by federal law in 2005. Upon entering into the UCRA, the Division of Motor Vehicles would abide by its requirements, and motor carriers would be allowed to operate in North Carolina if registered under the UCRA.

No state is currently participating in the UCRA, because the fee structure has not been approved. However, a fee structure is anticipated by 2008. In order to participate in the UCRA and collect fees, North Carolina needs this authorizing legislation.

The UCRA applies to all motor carriers required to register with the United States Department of Transportation, including private, for hire, and exempt motor carriers, as well as brokers, freight forwarders, and leasing companies. Exempt carriers and interstate motor carriers applying for an emergency permit will continue to pay the applicable State fees, in addition to the UCRA fees. The UCRA does not apply to intrastate motor carriers. Fees collected under the UCRA and distributed to North Carolina go into the Highway Fund.

Prior to January 1, 2007, a number of states, including North Carolina, were participating in the Single State Registration System (SSRS). Under the SSRS, only regulated for-hire motor carriers were covered, and the carriers were required to register in each of the states in which they wished to travel. The SSRS distributed the applicable fees to each state. On January 1, 2007, Congress repealed the SSRS.

This act became effective August 30, 2007. (WGR)

Miscellaneous

Travel and Tourism Board Members from the Charter Boat/Headboat Industry

S.L. 2007-67 ([HB 987](#)). See **State Government**.

Facilitate Distribution of E-Blend Fuel

S.L. 2007-82 ([SB 567](#)) authorizes retail outlets and other entities that dispense fuel to dispense E-blend fuel, which as defined in the act is a motor vehicle fuel blend of petroleum and more than 10% but less than or equal to 85% ethanol by volume, if specified conditions are met. The manufacturer of the dispensing equipment must provide a written statement of opinion that the equipment is compatible with E-blend fuel and does not present a hazard to the public, and must have initiated the process of applying to an independent testing laboratory to have the equipment listed for use in dispensing E-blend fuels. The dispensing equipment must comply with State law requirements for dispensing E-10 fuel, and must clearly disclose that E-blend fuel is being dispensed, and state the percentage of ethanol in the E-blend fuel.

This act became effective June 14, 2007, and expires July 1, 2009. (BC)

Mercury Switch Removal Program Amendments

S.L. 2007-142 ([HB 1758](#)). See **Environment and Natural Resources**.

Department of Transportation Maintenance Program/ Division of Motor Vehicles Registration

S.L. 2007-164 ([SB 830](#)), as amended by S.L. 2007-209, Sec. 1 ([SB 1350](#), Sec. 1) and S.L. 2007-484, Sec. 41.5 ([SB 613](#), Sec. 41.5), requires the Department of Transportation (Department) to establish performance standards for maintenance and operation of State highways and amends various motor vehicle laws and registration requirements.

- **Performance Standards Established.** – The act requires the Department to establish new performance standards for maintenance and operation of the State highway system. North Carolina law already required the Department to survey the condition of highways in each even numbered year, prepare a report of its findings, and use it develop an annual maintenance program. The act directs the Department to use the new performance standards to prepare the report.
- **Speed Zone Signs.** – The act repeals the statute that required signs to be posted at the beginning and ending points of speed zones, as well as at least 600 feet in advance of a speed zone. The act requires that a sign be posted at least 600 feet in advance of the speed zone, to indicate the change in the speed limit.
- **Grounds for Refusal to Register Vehicle.** – The act specifies that the Division of Motor Vehicles is not required to refuse registration or issuance of a certificate of title or any transfer of registration of a motor vehicle, on the grounds that the vehicle has a suspended or revoked registration, if the purpose is to abide by ignition interlock installation requirements. It also clarifies that refusal for not paying a required fee includes failure to pay registration fees or taxes due, as determined by an audit of any person registered, or required to register, a vehicle under the International Registration Plan (IRP).

- **Registration Allowed/Ignition Interlock Installation Requirements.** – North Carolina law requires the Division to revoke the registration of all motor vehicles in a person's name, when the person has been convicted of an impaired driving offense, and their license had been previously revoked for an impaired driving offense. Generally, the person is not allowed to register a vehicle in the person's name until the person's drivers license is restored, but this act allows registration to abide by ignition interlock installation requirements.
- **Denial of Registration for Failure to Pay Fees/Vehicle Registered Through the International Registration Plan (IRP).** – North Carolina law authorizes audits of persons registered, or required to be registered, under the IRP. Registrants are responsible for payment of deficiencies in registration fees and taxes, as determined by those audits. This act provides that failure to pay within 30 days of billing is cause for the denial of registration of a vehicle registered through the IRP, or a vehicle no longer registered through the IRP.

The provision of this act pertaining to denial of registration of vehicles registered through the IRP becomes effective July 1, 2008. The remainder of the act became effective July 4, 2007. (WGR)

Study Safety Restraints on School Buses

S.L. 2007-191 ([SB 812](#)) directs the Child Fatality Task Force to study and analyze the feasibility of requiring the use of safety restraints by passengers on school buses and school activity buses. The Task Force is asked to consider whether safety restraints are necessary to enhance the safety of passengers on school buses, and to evaluate the cost of installing passenger restraint systems on buses currently owned and operated by local boards of education, as well as the cost of requiring passenger restraint systems on buses to be purchased, leased, or contracted for use on or after July 1, 2009. The Task Force is to report its findings and recommendations to the 2008 Regular Session of the 2007 General Assembly on or before May 1, 2008.

This act became effective July 8, 2007. (BC)

Rental Car Fee Reform

S.L. 2007-235 ([SB 1118](#)). See **Consumer Protection**.

Judicial Department Access to Social Security Number Information

S.L. 2007-249 ([SB 1287](#)). See **Courts, Justice, and Corrections**.

Motor Vehicle Inspection Changes

S.L. 2007-364 ([SB 509](#)) increases from 30 to 60 days the period of time within which a motor vehicle that is inspected at an inspection station, and fails the inspection, is entitled to be reinspected at that station without paying another inspection fee. This provision becomes effective January 1, 2009.

Effective August 17, 2007, the act waives the civil penalty for failure to meet the emissions inspection requirement while on active military duty outside the state, provided no person operated the vehicle from the date the inspection sticker expired and the person obtained a current sticker within 30 days after returning to the State.

Effective July 1, 2008, the act amends penalty provisions for persons who own or lease vehicles subject to emissions inspections. The penalty will be \$50 for failure to have the vehicle inspected within 4 months after it is required to be inspected (currently, the penalty is \$100 for a pre-1981 vehicle, \$250 for a 1981 or newer model.) The will be a \$250 penalty for instructing or allowing or allowing a person to tamper with an emission control device to make it inoperable, or for incorrectly stating the vehicle's county of registration to avoid having an emissions inspection of the vehicle. (BC)

State Diesel Vehicles' Warranties/B-20 Fuel

S.L. 2007-420 ([SB 1277](#)) requires that every new motor vehicle purchased by the State, that is designed to operate on diesel fuel, be covered by an express manufacturer's warranty that allows the use of B-20 fuel. "B-20 fuel" is a blend of 20% by volume biodiesel fuel and 80% by volume petroleum-based diesel fuel. The requirement does not apply if the intended use of the new vehicle, as determined by the agency, requires a type of vehicle for which the warranty is not available.

This act becomes effective January 1, 2008, and applies to motor vehicles transferred to or purchased by the State on or after that date. (WGR)

Diesel School Buses to Use Minimum B-20 Fuel

S.L. 2007-423 ([SB 1452](#)). See **Environment and Natural Resources**.

Joint Legislative Transportation Oversight Study of Auto Insurance Rate Evasion

S.L. 2007-443, Sec. 5 ([HB 729](#), Sec. 5) authorizes the Joint Legislative Transportation Oversight Committee to study the issues related to automobile insurance rate evasion and report its findings, together with any recommended legislation, to the 2008 Session of the 2007 General Assembly upon its convening.

This section became effective August 23, 2007. (GSP)

See **Insurance** for the summary of the remaining portions of the act.

Allow Cyclists to Use Public Lands

S.L. 2007-449 ([SB 1383](#)) authorizes any State agency, or other entity that owns, leases, or manages land with State funds, to allow access to cyclists, so long as that use is not prohibited by State or federal law and the use of bicycles in the area would not cause substantial harm to the land or the environment. A property may be open and available for use upon establishment of a usage agreement specifying terms and conditions for use of the land. A usage agreement is to be established by the land manager and any local cycling group or organization intending to use the land. Upon establishment of the usage agreement, any bicyclist may use the land pursuant to the agreement. Any land open and available for use by bicyclists will also be available to members of the public for hiking and walking. Any hiking, walking, or use of bicycles on game lands administered by the Wildlife Resources Commission is restricted to roads and trails designated for vehicular use, and further restrictions may apply, where necessary to protect sensitive wildlife habitat or species.

This act becomes effective January 1, 2008. (BC)

Scrap Vehicle Purchase/Parts-Records

S.L. 2007-505 ([SB 1364](#)). See **Business and Commerce**.

Updating of Jury List

S.L. 2007-512 ([HB 943](#)). See **Courts, Justice, and Corrections**.

Motor Fuel Tax Exemption for Biodiesel

S.L. 2007-524 ([SB 1272](#)). See **Finance**.

Organ and Tissue Donation/The Heart Prevails

S.L. 2007-538 ([HB 1372](#)). See **Health and Human Services**.

For a complete list of the studies and reports authorized by the 2007 Session of the 2007 General Assembly, please refer to the Appendix contained in this publication.

Chapter 26

Utilities

Heather Fennell (HF), Denise Huntley (DH), Steve Rose (SR)

Enacted Legislation

Master Meter for Electric/Natural Gas

S.L. 2007-98 ([SB 1178](#)) amends the statute which prohibits master gas and electric meters in multi-unit residential buildings, except where they are used for central heat, air conditioning, or water heating using solar power or other energy conserving designs. The act expands the exceptions to the statute's application to existing hotels or motels that are converted into condominiums or town houses.

This act became effective June 20, 2007. (HF)

Streamline Telecommunications Promotions

S.L. 2007-157 ([SB 680](#)) changes the requirements for promotional offerings by local telephone companies, including competing local providers, by allowing promotional offerings for any tariffed service by giving one day's notice to the Utilities Commission. If the service is a regulated service and available for resale, the telephone company must provide a means for interested parties to receive notice at least one day prior to the effective date of the offering. Promotional offerings for non-tariffed services may be implemented without notice.

This act became effective June 29, 2007. (HF)

Natural Gas Customer Usage Tracking Rate

S.L. 2007-227 ([HB 1086](#)) allows the Utilities Commission to include a "customer utilization tracker" in a general use case for natural gas local distribution companies. This program will track the usage of residential customers and allow natural gas local distribution companies to include in the general rates the amount of the margin that is lost due to the decline in customer usage. Industrial rate schedules are excluded from the program.

This act became effective July 18, 2007. (HF)

Increase Criminal Penalty/Theft of Metals

S.L. 2007-301 ([HB 367](#)). See **Criminal Law and Procedure**.

Coordinate Statewide Enhanced 911 System

S.L. 2007-383 ([HB 1755](#)). See **State Government**.

Promote Renewable Energy/Baseload Generation

S.L. 2007-397 ([SB 3](#)). See **Environment and Natural Resources**.

Electric Suppliers/Electricities Assignment

S.L. 2007-419 ([HB 1395](#)) changes the method for resolving territorial disputes between electric membership corporations and municipalities that provide electricity. The current method is to request resolution by a member of the Public Staff. Under this act, disputes will be resolved by the Utilities Commission.

Current law requires electric membership corporations and cities that provide electric service to negotiate agreements concerning the provision of electric service outside the corporate limits of the cities as those limits stood on June 1, 2005. The negotiations were to have occurred between June 1, 2005, and May 31, 2007. Any disputes remaining could be mediated. If no resolution was reached in mediation, or mediation was waived, the dispute was to be resolved by a member of the Public Staff of the Utilities Commission.

The act repeals the expired negotiation requirement, the mediation requirement, and the authority for resolution by a member of the Public Staff. It authorizes electric membership corporations and municipalities that provide electricity to petition the Utilities Commission to resolve any negotiations undertaken by the parties between June 1, 2005, and May 31, 2007, regarding provision of electric service outside municipal limits that have not resulted in an agreement. Either party may file such a petition. The Commission must consider the public convenience and necessity. Rate differentials between the city and the electric membership corporation may not be considered.

A city and electric membership corporation may agree to allow the entity that does not have the right to serve particular premises pursuant to an order of the Utilities Commission under this bill to serve those premises upon request of the affected consumer, subject to approval by the Commission. The Commission also may change the previously authorized city or electric membership corporation serving particular premises, if the affected consumer desires the change and the Commission finds that the authorized provider cannot properly serve the premises or that the rates, conditions, or regulations applied to the consumer are unreasonably discriminatory.

This act became effective August 21, 2007. Any disputes already filed with the Public Staff are transferred to the Utilities Commission, and the Commission may exercise its jurisdiction upon payment of the filing fee by the petitioner. (SR)

Wireless Telecommunications Facilities

S.L. 2007-526 ([SB 831](#)). See **Local Government**.

For a complete list of the studies and reports authorized by the 2007 Session of the 2007 General Assembly, please refer to the Appendix contained in this publication.

Job Maintenance and Capital Development Fund

[HB 1761](#) would have created a fund in the Department of Commerce (Department) to be used to encourage businesses to maintain high-paying jobs and make capital investments in the State.

Under the bill, in order to be eligible for a grant a company would have been required to:

- Intend to invest at least \$200 million of private funds within a 5-year period in improvements to real property in the State and additions to tangible personal property to be used in the State.
- Employ or maintain employment of least 2,400 full-time employees in the State.
- Be located in a Tier One county at the time the application is made.
- Provide health insurance to all full-time employees, have no serious Occupational Safety and Health Act violations within the past 3 years, and have no serious environmental law violations within the past 3 years.

The Economic Investment Committee would have to recommend the grants to the Department. The Department would have been authorized to enter into up to five grants, with the maximum total per year in grants not to exceed \$4 million, and a maximum of cumulative grants of no more than \$40 million. The Department would have been required to report quarterly to the Joint Legislative Committee on Governmental Operations on grants awarded under this bill. The bill would have become effective July 1, 2007.

[HB 1761](#) was vetoed by the Governor on August 30, 2007 with the following message:

"House Bill 1761 would set a dangerous precedent for North Carolina's economic development policy and is not fair to her taxpayers. It calls for the state to give up to \$40 million in cash to an existing company in one county with little or no regard for how much the company actually pays in state and local taxes, what wages it pays now or in the future, or whether it lays off nearly 25% of its workforce. Never in the history of the state has anyone given a company up to \$40 million and allowed them to lay off hundreds of workers.

We are proud of the employer and its hard working employees that House Bill 1761 was designated to help. But this bill does not protect those employees or the state of North Carolina.

Therefore, I veto the bill."

As a result of the veto, the Governor called the General Assembly into a veto session and into an Extra Session on September 10, 2007, to consider this issue. Upon the enactment of S.L. 2007-552 ([HB 4](#) (Extra Session)), the veto session was adjourned *sine die* with no action having been taken to override the veto.

S.L. 2007-552 ([HB 4](#), Extra Session) differs from [HB 1761](#) in the following substantive ways:

- Increases the investment period from 5 to 6 years.
- Requires newly-hired employees to be legally authorized to work in the United States.
- Requires a minimum wage standard of 140% of the average county wage.
- Provides for a reduction in the amount of the grant proportionate to any reduction in workforce, with no grant if the workforce is reduced by more than 20%.

- Adds factors to be considered in determining whether to award a grant to include the amount of taxes paid.
- Increases the maximum commitments for grants from \$40 million to \$60 million.
- Requires the Joint Select Committee on Economic Development Incentives to report to the 2009 General Assembly on all economic incentives provided in the State. (WR)

Job Maintenance and Capital Development Fund

S.L. 2007-552 (Extra Session) ([HB 4](#) (Extra Session)). See **Business and Commerce**.

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APPENDIX

STUDIES AND REPORTS AUTHORIZED BY 2007
SESSION

**Legislative Study
Commissions
and Committees**

STUDIES & REPORTS DIRECTED OR AUTHORIZED BY THE 2007 NC GENERAL ASSEMBLY

| BOARD, COMMISSION, COMMITTEE OR DEPARTMENT- ISSUES | REPORTING DATE | STATUTORY AUTHORITY |
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| <p><u>Administration, Department of</u></p> <ul style="list-style-type: none"> ✓ Energy Policy Grants, Strategic Plan and Guidelines ✓ Governor's Advocacy Council for Persons with Disabilities Redesignation and Its' Effect on State Employees (In cooperation with the Office of State Personnel) ✓ Minority and Women-Owned Businesses Study, Availability/Utilization of ✓ State Energy Office Staffing Analysis Implementation Report ✓ Sustainable Energy Efficient Buildings Program Performance Review | <p>Shall report to the Energy Policy Council, and the Chairs of the House of Representatives and Senate Appropriations Committee by November 1, 2007</p> <p>Shall report to the House of Representatives and Senate Appropriations Subcommittee on General Government by May 1, 2008</p> <p>May report to the North Carolina General Assembly</p> <p>Shall report to the House of Representatives and Senate General Government Appropriations Committees by May 1, 2008</p> <p>Shall report to the Chairs of the House of Representatives and Senate General Government Appropriations Subcommittees, the Environmental Review Commission, and the Joint Legislative Commission on Governmental Operations a preliminary report by December 1, 2010 and a final report by December 1, 2011</p> | <p>S.L. 2007-323 § 19.3.(a)</p> <p>S.L. 2007-323 § 19.1.(k)</p> <p>S.L. 2007-345 § 9.2.</p> <p>S.L. 2007-323 § 19.3.(e)</p> <p>S.L. 2007-546 § 1.(h)</p> |
| <p><u>Administrative Office of the Courts</u></p> <ul style="list-style-type: none"> ✓ Business Court Activities Report, North Carolina ✓ Clerks of Superior Court, Continuation Review Report on ✓ Court System Performance Measures, Report on ✓ District Attorneys, Continuation Review Report on Conference of | <p>Shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by March 1 of each year</p> <p>Shall report to the Appropriations Committees of the Senate and House of Representatives by February 1, 2008</p> <p>Shall report to the Joint Legislative Commission on Governmental Operations and the Chairs of the House of Representatives and Senate Appropriations Committees and interim report by December 31, 2007 and a final report by May 1, 2008</p> <p>Shall report to the Appropriations Committees of the Senate and House of Representatives by February 1, 2008</p> | <p>S.L. 2007-323 § 14.6.</p> <p>S.L. 2007-323 § 6.21.(a)</p> <p>S.L. 2007-323 § 14.18.</p> <p>S.L. 2007-323 § 6.21.(a)</p> |

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| <p><u>Administrative Office of the Courts - CONTINUED</u></p> <ul style="list-style-type: none"> ✓ District Attorneys Progress Report, Additional Allocation of ✓ Domestic Violence Victim's Separate Courthouse Seating Space Study and Recommendations | <p>Shall report to the Joint Legislative Commission of Governmental Operations, the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, and the NCGA Fiscal Research Division by October 1, 2007</p> <p>Shall report to the Joint Legislative Committee on Domestic Violence May 1, 2008</p> | <p>S.L. 2007-323 § 14.14.(b)</p> <p>S.L. 2007-15 § 2.</p> |
| <p><u>Agricultural Advancement Consortium</u></p> <ul style="list-style-type: none"> ✓ Equine Industry Assessment Report and Maximizing the Industry's Economic Impact | <p>Shall report to the Governor, the Joint Legislative Commission on Governmental Operations, and the Chairs of the Senate and House of Representatives Appropriations Committees within 12 months of funds becoming available</p> | <p>S.L. 2007-323 § 13.14A.(d)</p> |
| <p><u>Association of Community Development Corporations, Inc., North Carolina</u></p> <ul style="list-style-type: none"> ✓ Program Activities, Objectives, Accomplishments, and Itemized Audited Financial Statement | <p>Shall report to the Joint Legislative Commission on Government Operations and the NCGA Fiscal Research Division on January 15, 2008 and January 15, 2009. Shall also submit to the NCGA Fiscal Research Division a copy of the corporation's annual audited financial statement within 30 days of issuance</p> | <p>S.L. 2007-323 § 13.11.(a)(1)(2)(3)</p> |
| <p><u>Automotive Research, North Carolina Center for</u></p> <ul style="list-style-type: none"> ✓ Planned Projects, Objectives, Fund Sources, and Itemized Expenditure Report | <p>Shall report to the Governor, the Joint Legislative Commission on Governmental Operations, and the NCGA Fiscal Research Division by December 31, 2007 and April 30, 2008</p> | <p>S.L. 2007-323 § 13.5.(e)</p> |
| <p><u>Biotechnology Center</u></p> <ul style="list-style-type: none"> ✓ Program Activities, Objectives, Accomplishments, and Itemized Audited Financial Statement | <p>Shall report to the Joint Legislative Commission on Government Operations and the NCGA Fiscal Research Division on January 15, 2008 and January 15, 2009. Shall also submit to the NCGA Fiscal Research Division a copy of the corporation's annual audited financial statement within 30 days of issuance</p> | <p>S.L. 2007-323 § 13.10.(c)(1)(2)(3)</p> |

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| <p><u>Building Code Council, North Carolina</u></p> <ul style="list-style-type: none"> ✓ Energy Efficiency Due to Insulated Water Lines Report and Recommendations | <p>Shall report to the Environmental Review Commission and the 2008 Regular Session of the 2007 General Assembly by April 1, 2008</p> | <p>S.L. 2007-542 § 2.</p> |
| <p><u>Charlotte Regional Partnership, Inc.</u></p> <ul style="list-style-type: none"> ✓ Program Activities, Objectives, Accomplishments, and Itemized Expenditure Report | <p>Shall report to the Department of Commerce, the Office of State Budget and Management, the Joint Legislative Commission on Government Operations, the Joint Legislative Economic Development Oversight Committee, and the NCGA Fiscal Research Division by February 15 of each year</p> | <p>S.L. 2007-323 § 13.7.(g)</p> |
| <p><u>Child and Family Leadership Council, North Carolina</u></p> <p style="text-align: center;">CREATED</p> <ul style="list-style-type: none"> ✓ Findings and Recommendations | <p>Shall report to the Office of the Governor, the Joint Appropriations Committees and Subcommittees, and Subcommittees on Education, Justice and Public Safety, Health and Human Services, and the NCGA Fiscal Research Division semiannually on January 1 and July 1</p> | <p>S.L. 2007-323 § 10.9.(b)(4)a</p> |
| <p><u>Child Fatality Task Force, North Carolina</u></p> <ul style="list-style-type: none"> ✓ School Bus Safety Restraints Feasibility Report | <p>Shall report to the 2008 Regular Session of the 2007 General Assembly by May 1, 2008.</p> | <p>S.L. 2007-191 § 1.</p> |
| <p><u>Children's Services, Task Force on the Coordination of</u></p> <p style="text-align: center;">CREATED</p> <ul style="list-style-type: none"> ✓ Findings and Recommendations | <p>Shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services and the NCGA Fiscal Research Division by April 1 of each year</p> | <p>S.L. 2007-323 § 10.10(i)(c)</p> |

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| <p><u>Coalition of Farms and Rural Families</u></p> <ul style="list-style-type: none"> ✓ Program Activities, Objectives, Accomplishments, and Itemized Audited Financial Statement | <p>Shall report to the Joint Legislative Commission on Government Operations and the NCGA Fiscal Research Division on January 15, 2008 and January 15, 2009. Shall also submit to the NCGA Fiscal Research Division a copy of the corporation's annual audited financial statement within 30 days of issuance</p> | <p>S.L. 2007-323 § 13.11.(a)(1)(2)(3)</p> |
| <p><u>Commerce, Department of</u></p> <ul style="list-style-type: none"> ✓ NC Green Business Fund Disbursements ✓ Regional Economic Development Commission Allocation Implementation Provisions Study | <p>Shall report to The Joint Legislative Commission on Governmental Operations, Chairs of the House of Representatives and Senate Finance Committees, the Chairs of the House of Representatives and Senate Appropriations Committees, and the NCGA Fiscal Research Division each fiscal year by September 1</p> <p>Shall report in writing to the Chairs of the House of Representatives and Senate appropriations Subcommittees on Natural and Economic Resources, the Office of State Budget and Management, and the NCGA Fiscal Research Division by September 1, 2007</p> | <p>S.L. 2007-323 § 13.2.(a)</p> <p>S.L. 2007-323 § 13.7.(d)</p> |
| <p><u>Community College System, North Carolina</u></p> <ul style="list-style-type: none"> ✓ College Information System Project Implementation ✓ Distance Learning and Online Capabilities ✓ Facilities and Equipment Funds Report ✓ Faculty Salary Plan Implementation ✓ Learn and Earn Online Program Operation Report (in cooperation with the University of North Carolina and the State Board of Education) | <p>Shall report on a quarterly basis to the Joint Legislative Education Oversight Committee</p> <p>Shall report to the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, and the NCGA Fiscal Research Division by March 1, 2008</p> <p>Shall report to the Office of State Budget and Management and the NCGA Fiscal Research Division beginning September 1, 2007</p> <p>Shall report to the President Pro Tempore of the Senate, the Speaker of the House or Representatives, the Office of State Budget and Management, and the NCGA Fiscal Research Division by December 1, 2007 and every year thereafter through December 9, 2009</p> <p>Shall report to the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, and the NCGA Fiscal Research Division by April 15, 2008</p> | <p>S.L. 2007-323 § 8.1.(c)</p> <p>S.L. 2007-323 § 8.4.</p> <p>S.L. 2007-323 § 8.10.(b)</p> <p>S.L. 2007-323 § 8.5.(g)</p> <p>S.L. 2007-323 § 7.27.(h)</p> |

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| <p><u>Community Development Initiative, Inc., North Carolina</u></p> <ul style="list-style-type: none"> ✓ Program Activities, Objectives, Accomplishments, and Itemized Audited Financial Statement | <p>Shall report to the Joint Legislative Commission on Government Operations and the NCGA Fiscal Research Division on January 15, 2008 and January 15, 2009. Shall also submit to the NCGA Fiscal Research Division a copy of the corporation's annual audited financial statement within 30 days of issuance</p> | <p>S.L. 2007-323 § 13.11.(a)(1)(2)(3)</p> |
| <p><u>Correction, Department of</u></p> <ul style="list-style-type: none"> ✓ Closed Prison Facilities, Report on Transfer of Leases and Other Uses for ✓ Community Corrections, National Best Practice Programs for ✓ Community Service Work Program and Offender Payments Report ✓ Community Service Work Program Coordinators Caseload Report ✓ Criminal Justice Partnership Program, Continuation Review Report on ✓ Federal Grant Reporting, Received or Pre-Approved (In cooperation with the Department of Justice, the Department of Crime Control and Public Safety, the Judicial Department, and the Department of Juvenile Justice and Delinquency Prevention) ✓ Inmate Construction Program ✓ Inmate Residential Program Status Report | <p>Shall report to the Legislative Commission on Governmental Operations, the Joint Legislative Corrections, Crime Control and Juvenile Justice Oversight Committee and a annual summary report</p> <p>Research and Planning Division shall report to the House of Representatives and Senate Appropriations Committees, the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by March 1 of each year</p> <p>Shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by February 1 of each year</p> <p>Shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by February 1 of each year</p> <p>Shall report to the House of Representatives and Senate Appropriations Committees by February 1, 2008</p> <p>Shall report to the Joint Legislative Commission on Government Operations, the Chairs of the House of Representatives and Senate Appropriations Committees, and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by May 1 of each year</p> <p>Shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by April 1, 2008</p> <p>Shall report an interim evaluation report on March 1, 2008 and the final report on March 1, 2009 as a component of the Department's annual report</p> | <p>S.L. 2007-323 § 17.7.</p> <p>S.L. 2007-323 § 17.15.(d)</p> <p>S.L. 2007-323 § 17.17.</p> <p>S.L. 2007-323 § 17.17.</p> <p>S.L. 2007-323 § 6.21.(c)</p> <p>S.L. 2007-323 § 17.5.</p> <p>S.L. 2007-323 § 17.4.</p> <p>S.L. 2007-323 § 17.3.(b)</p> |

| <u>Correction, Department of - CONTINUED</u> | | |
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| ✓ Mutual Agreement Parole Program | Shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by March 1 of each year | S.L. 2007-323 § 17.1. |
| ✓ Prisoners Awaiting Transfer and Jail Backlogs, Report on Expenditure of Funds to Reimburse Counties for | Shall report quarterly to the Joint Legislative Committee on Government Operations, the Joint Legislative Corrections, Crime Control and Juvenile Justice Oversight Committee, the Chairs of the House of Representatives and Senate Appropriations Committee and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety | S.L. 2007-323 § 17.6. |
| ✓ Probation and Parole Caseloads Report | Shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by March 1 of each year | S.L. 2007-323 § 17.16.(a) |
| ✓ Probation and Parole Caseloads Study and Recommendations | Shall report to the House of Representatives and Senate Appropriations Subcommittee on Justice and Public Safety by January 1, 2009 | S.L. 2007-323 § 17.16.(c) |
| ✓ Sex Offenders, Electronic Monitoring Program and Use of Global Positioning Systems for | Shall report to the Chairs of the House of Representatives and Senate Appropriations Committees, the Chairs of the House of Representatives and Senate Appropriations Subcommittee on Justice and Public Safety and the Joint Legislative Corrections, Crime Control and Juvenile Justice Oversight Committee by March 1 of each year | S.L. 2007-323 § 17.14. |
| ✓ State-County Criminal Justice Partnership Program | Shall report to the Chairs of the House of Representatives and Senate Appropriations Committees, the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by March 1 of each year | S.L. 2007-323 § 17.15.(c) |
| ✓ Swannanoa Valley Youth Development Center Progress Report (In cooperation with the Department of Juvenile Justice and Delinquency Prevention) | Shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by October 1, 2007 and quarterly during the 2007-2009 fiscal biennium | S.L. 2007-323 § 18.11. |

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| <p><u>Council of Government Funds</u></p> <ul style="list-style-type: none"> ✓ Planned Projects, Objectives, Fund Sources, and Itemized Expenditure Report | <p>Shall report to the Joint Legislative Commission on Governmental Operations and the NCGA Fiscal Research Division by January 15, 2008 and January 15, 2009. Also provide the NCGA Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance</p> | <p>S.L. 2007-323 § 13.6.(e)(1)(2)(3)</p> |
| <p><u>Crime Control and Public Safety, Department of</u></p> <ul style="list-style-type: none"> ✓ Alcohol and Chemical Dependency Program Report ✓ Alcohol Enforcement Division's Automated Systems Expansion Report ✓ Federal Grant Reporting, Received or Pre-Approved (In cooperation with the Department of Correction, the Department of Justice, the Judicial Department, and the Department of Juvenile Justice and Delinquency Prevention) ✓ Flood Zones Study, Construction and Repair in Regulated ✓ Law Enforcement Support Services, Geospatial and Technology Program Alternative Source Funding Study ✓ State Medical Assistance Teams Permanent Funding Report and Recommendations (In cooperation with the Department of Health and Human Services) ✓ Tarheel Challenge Program, Annual Evaluation of | <p>Shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Juvenile Justice and Public Safety by March 1 of each year</p> <p>Shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittee on Justice and Public Safety and the Chairs of the Joint Legislative Corrections, Crime Control and Juvenile Justice Oversight Committee by February 1, 2008 and May 1, 2008</p> <p>Shall report to the Joint Legislative Commission on Government Operations, the Chairs of the House of Representatives and Senate Appropriations Committees, and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by May 1 of each year</p> <p>Division of Emergency Management shall report to the Joint Legislative Commission on Seafood and Aquaculture by March 1, 2008</p> <p>Shall report to the Joint Legislative Corrections, Crime Control and Juvenile Justice Oversight Committee and the Chairs of the House of Representatives and Senate Appropriations Subcommittee on Justice and Public Safety by March 1, 2008</p> <p>Shall report the Fiscal Research Division by January 1, 2008</p> <p>Shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by March 1 of each biennium year</p> | <p>S.L. 2007-323 § 17.3.</p> <p>S.L. 2007-323 § 16.6.</p> <p>S.L. 2007-323 § 17.5.</p> <p>S.L. 2007-485 § 6.</p> <p>S.L. 2007-323 § 16.3.(a)</p> <p>S.L. 2007-107 § 4.2.(a)</p> <p>S.L. 2007-323 § 16.1.</p> |

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| <p><u>Dropout Prevention, Committee on</u></p> <p style="text-align: center;">CREATED</p> <p>✓ Findings and Recommendations</p> | <p>Shall report to the Joint Legislative Commission on Dropout Prevention and High School Graduation by December 1, 2007</p> | <p>S.L. 2007-323 § 7.32.(e)</p> |
| <p><u>Dropout Prevention and High School Graduation, Joint Legislative Commission on</u></p> <p style="text-align: center;">CREATED</p> <p>✓ Findings and Recommendations</p> | <p>Shall submit an interim report to the Joint Legislative Education Oversight Committee by May 1, 2008 and shall submit a final report by the convening of the 2009 General Assembly to be filed with the President Pro Tempore of the Senate, the Speaker of the House of the Representatives and the Legislative Librarian</p> | <p>S.L. 2007-323 § 7.32.(f)(8)</p> |
| <p><u>E-NC Authority</u></p> <p>✓ Program Activities, Development and Evaluation Report</p> | <p>Shall report to the Joint Legislative Commission on Government Operations by September 30, 2007 and quarterly thereafter</p> | <p>S.L. 2007-323 § 13.16.(b)</p> |
| <p><u>Eckerd Family Youth Alternatives, Inc.</u></p> <p>✓ Eckerd Family Focus on Rehabilitative Treatment Project Progress Report (In cooperation with the Department of Juvenile Justice and Delinquency Prevention)</p> | <p>Shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by April 1, 2008 and quarterly thereafter</p> | <p>S.L. 2007-323 § 18.10.</p> |
| <p><u>Economic Development Incentives, Joint Select Committee on</u></p> <p>✓ Economic Development Incentives, Comprehensive Descriptive Listing and Fiscal Report of</p> | <p>Shall make an interim report to the 2008 Regular Session of the 2007 General Assembly and a final report to the 2008 General Assembly</p> | <p>S.L. 2007-552 § 4. (Extra Session)</p> |

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| <p><u>Education Assistance Authority</u></p> <ul style="list-style-type: none"> ✓ John B. McLendon Scholarship Fund Report ✓ Student and Licensure Student Enrollment Documented Report | <p>Shall report to the Joint Legislative Education Oversight Committee by June 1, 2008 and annually thereafter</p> <p>Shall report to the Secretary of Administration, the House and Senate Appropriations Subcommittees on Education and the Joint Legislative Education Oversight Committee</p> | <p>S.L. 2007-323 § 9.13.(b)(f1)</p> <p>S.L. 2007-323 § 9.18.(a)(g)</p> |
| <p><u>Education Cabinet</u></p> <ul style="list-style-type: none"> ✓ E-learning and NC Virtual Progress Report | <p>Shall report to the Joint Legislative Oversight Committee on Information Technology, the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, the State Information Technology Officer, and the NCGA Fiscal Research Division by January 1, 2008 and annually thereafter</p> | <p>S.L. 2007-323 § 7.28.(g)</p> |
| <p><u>Education Oversight Committee, Joint Legislative</u></p> <ul style="list-style-type: none"> ✓ Community College Access Study ✓ Damaged/Lost Textbooks Study, Recovering Costs of | <p>Shall report to the 2008 Regular Session of the 2007 General Assembly by April 30, 2008</p> <p>Shall report the results of this study to the General Assembly by March 31, 2008</p> | <p>S.L. 2007-323 § 8.6.</p> <p>S.L. 2007-275 § 1.</p> |
| <p><u>Education, State Board of</u></p> <ul style="list-style-type: none"> ✓ ABCs of Public Education, Restructuring of ✓ Charter School Evaluation ✓ Disadvantaged Students Supplemental Funding ✓ High Schools Evaluation Report, Small Restructured | <p>Shall report to the Joint Legislative Education Oversight Committee by January 15, 2008</p> <p>Shall report to the Joint Legislative Education Oversight Committee and the NCGA Fiscal Research Division</p> <p>Shall report to the Office of State Budget and Management, the Joint Legislative Education Oversight Committee, and the NCGA Fiscal Research Division by January 15 of each year</p> <p>Shall report to the Office of State Budget and Management, the Joint Legislative Education Oversight Committee, and the NCGA Fiscal Research Division by January 15 of each year</p> | <p>S.L. 2007-323 § 7.18.(b)</p> <p>S.L. 2007-323 § 7.16.(b)</p> <p>S.L. 2007-323 § 7.8.(b)</p> <p>S.L. 2007-323 § 7.21.</p> |

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| <p><u>Education, State Board of - CONTINUED</u></p> <ul style="list-style-type: none"> ✓ Learn and Earn High Schools Report Evaluation of ✓ Learn and Earn Online Program Operation Report (in cooperation with the University of North Carolina and the North Carolina Community College System) ✓ Low-Wealth Counties, Use of Supplemental Funding in ✓ Low-Wealth Counties, Supplanted Funds With ✓ Mentor Teach Funds, Most Effective in Teacher Retraining ✓ Mentor Teach Funds, Most Effective Programs ✓ Principal's Executive Program Performance Study (in cooperation with the University of North Carolina Board of Governors) ✓ School Connectivity Initiative ✓ School Technology Pilot Program ✓ Small School System Supplemented Funding, Supplanted Funds | <p>Shall report to the Office of State Budget and Management, the Joint Legislative Education Oversight Committee, the NCGA Fiscal Research Division by January 15 of each fiscal year</p> <p>Shall report to the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, and the NCGA Fiscal Research Division by April 15, 2008</p> <p>Shall report to the Joint Legislative Education Oversight Committee</p> <p>Shall report to the Joint Legislative Education Oversight Committee by May 1, 2008</p> <p>Shall report to the Joint Legislative Education Oversight Committee by October 15 of each biennium year</p> <p>Shall report to the Joint Legislative Education Oversight Committee and the NCGA Fiscal Research Division by December 15 of each biennium year</p> <p>Shall report to the Joint Legislative Education Oversight Committee by April 1, 2008</p> <p>Shall report to the Joint Legislative Education Oversight Committee, the Joint Legislative Oversight Committee on Information Technology, the Office of State Budget and Management, the State Information Technology Officer, and the NCGA Fiscal Research Division on January 15, 2008 and annually thereafter</p> <p>Shall report to the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, and the NCGA Fiscal Research Division by March 15, 2009</p> <p>Shall report to the Joint Legislative Education Oversight Committee by May 1, 2008</p> | <p>S.L. 2007-323 § 7.19.(d)</p> <p>S.L. 2007-323 § 7.27.(h)</p> <p>S.L. 2007-323 § 7.6.(b)</p> <p>S.L. 2007-323 § 7.6.(i)</p> <p>S.L. 2007-323 § 7.17.(c)</p> <p>S.L. 2007-323 § 7.17.(d)</p> <p>S.L. 2007-323 § 9.10.(c)</p> <p>S.L. 2007-323 § 7.28.(d)</p> <p>S.L. 2007-323 § 7.39.(a)</p> <p>S.L. 2007-323 § 7.7.(e)</p> |
| <p><u>Elections, State Board of</u></p> <ul style="list-style-type: none"> ✓ Same-Day Registration Study, Feasibility and Timetable for Implementation at All Voting Places | <p>Shall report to the Joint Legislative Commission on Governmental Operations by March 1, 2009</p> | <p>S.L. 2007-253 § 4.</p> |

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| <p><u>Employee Hospital and Medical Benefits, Committee on</u></p> <ul style="list-style-type: none"> ✓ Indemnity to PPO Insurance Transition Plan Report and Recommendations | <p>Shall report to the 2008 Regular Session of the 2007 General Assembly and the Chairs of the House of Representatives and Senate Appropriations Committees by May 1, 2008</p> | <p>S.L. 2007-323 § 28.22.(k)</p> |
| <p><u>Energy Committed to Offenders, Inc.</u></p> <ul style="list-style-type: none"> ✓ Inmate Population and Average Cost Report | <p>Shall report to the Joint Legislative Commission on Governmental Operations by February 1 of each year</p> | <p>S.L. 2007-323 § 17.9.</p> |
| <p><u>Environment and Natural Resources, Department of</u></p> <ul style="list-style-type: none"> ✓ Deep River State Trail Advisability Study to Add to State Parks System ✓ Emergency Drinking Water Fund Implementation Report, Bernard Allen Memorial (In cooperation with Commission for Health Services and Local Health Departments) ✓ Environmental Stewardship Initiative, Continuation Review Report on ✓ Grassroots Science Program, Operating Budgets and Attendance ✓ Hazardous Waste Facilities Regulations Report ✓ Mining Permit Application Fees Annual Report ✓ Water Resources Development Project Funds ✓ Waterfront Access and Marine Industry Fund Expenditure Report | <p>Shall report to the Joint Legislative Commission on Government Operations by March 1, 2008</p> <p>Shall report to the Environmental Review Commission, the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources, and the NCGA Fiscal Research Division by October 1 of each year. The first report required by G.S. 87-98(e) as enacted by subsection a shall be submitted on or before October 1, 2008</p> <p>Shall report to the Appropriations Committees of the Senate and House of Representatives by February 1, 2008</p> <p>Shall report to the NCGA Fiscal Research Division by March 1, 2008 and March 1, 2009</p> <p>Shall report to the Environmental Review Commission by February 15, 2008</p> <p>Shall report to the Environmental Review Commission, the Mining Commission and the NCGA Fiscal Research Division annually by September 1</p> <p>Shall make semi-annual reports to the Joint Legislative Commission on Governmental Operations, the Office of State Budget and Management, and the NCGA Fiscal Research Division</p> <p>Director of the Division of Marine Fisheries shall report to the Joint Legislative Committee on Seafood and Aquaculture on a quarterly basis</p> | <p>S.L. 2007-323 § 12.9.</p> <p>S.L. 2007-323 § 12.2.(a)</p> <p>S.L. 2007-323 § 6.21.(d)</p> <p>S.L. 2007-323 § 12.5.(b)</p> <p>S.L. 2007-107 § 1.8.(d)</p> <p>S.L. 2007-323 § 30.2.(a)(c)</p> <p>S.L. 2007-323 § 29.3.(c)</p> <p>S.L. 2007-323 § 29.14.(e)</p> |

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| <p><u>Environmental Review Commission</u></p> <ul style="list-style-type: none"> ✓ Solid Waste Management Facilities Franchise Units and the Transportation of Solid Waste by Barge or Rail Study Report ✓ Vehicle Parking Report, Limit Impervious Surfaces for ✓ Water Basin Transfer Study | <p>Shall report to the 2008 Regular Session of the 2007 General Assembly</p> <p>May Report to the 2008 Regular Session of the 2007 General Assembly upon its convening</p> <p>May submit an interim report to the 2008 Regular Session of the 2007 General Assembly and shall submit a final report to the 2009 General Assembly</p> | <p>S.L. 2007-550 § 18.</p> <p>S.L. 2007-323 § 6.22.(b)</p> <p>S.L. 2007-518 § 1.(a)</p> |
| <p><u>Fiscal and Modernization Study Commission, State and Local</u></p> <ul style="list-style-type: none"> ✓ Extend Deadline for Reporting Findings and Recommendations | <p>Shall report to the 2007 Regular Session of the 2008 General Assembly by May 1, 2008 and may present one or more interim reports</p> | <p>S.L. 2007-169 § 1.</p> |
| <p><u>Fiscal Research Division, North Carolina General Assembly</u></p> <ul style="list-style-type: none"> ✓ FTE Funding Formula Study ✓ North Carolina School of Science and Mathematics Enrollment Growth Formula Study (In cooperation with the University of North Carolina and the Office of State Budget and Management) | <p>Shall report to the Joint Legislative Education Oversight Committee, the Chairs of the Senate Committee on Appropriations/Base Budget and the Chairs of the House of Representatives Appropriations Committee by April 15, 2008</p> <p>Shall report funding request based on the formula to the 2008 Regular Session of the 2007 North Carolina General Assembly</p> | <p>S.L. 2007-323 § 8.8.</p> <p>S.L. 2007-323 § 9.1.</p> |
| <p><u>Focused Education Reform Pilot Program</u></p> <ul style="list-style-type: none"> ✓ Report and Recommendations | <p>May report to the General Assembly</p> | <p>Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets Pg. F4, no. 23</p> |
| <p><u>General Statutes Commission, North Carolina</u></p> <ul style="list-style-type: none"> ✓ Organ Donation Statutes as related to the Revised Uniform Anatomical Gift Act: Report and Recommendations | <p>Shall report to the 2008 Regular Session of the 2007 General Assembly upon its' convening</p> | <p>S.L. 2007-538 § 1.3.</p> |

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| <p><u>Geographic Information and Analysis, Center for</u></p> <ul style="list-style-type: none"> ✓ Geographic Information System (GIS) Study (In cooperation with the Office of State Budget and Management, the State Information Officer, and the Geographic Information Coordinating Council) | <p>Shall report to the 2008 Regular Session of the 2007 General Assembly by April 30, 2008</p> | <p>S.L. 2007-323 § 6.13.(b)</p> |
| <p><u>Geographic Information Coordinating Council</u></p> <ul style="list-style-type: none"> ✓ Geographic Information System (GIS) Study (In cooperation with the Office of State Budget and Management, the State Information Officer, and the Center for Geographic Information and Analysis) | <p>Shall report to the 2008 Regular Session of the 2007 General Assembly by April 30, 2008</p> | <p>S.L. 2007-323 § 6.13.(b)</p> |
| <p><u>Governor's Crime Commission</u></p> <ul style="list-style-type: none"> ✓ Gang Activity Study ✓ Gang Prevention Funds Report, Use of ✓ Juvenile Accountability Block Grants Appropriations of State Funds for Federal Matching Funds Report (In cooperation with the Department of Juvenile Justice and Delinquency Prevention and the Office of State Budget and Management) | <p>Shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by March 1 of each year</p> <p>Shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by April 15, 2008</p> <p>Shall report to the House of Representatives and Senate Appropriations Committees and the Joint Legislative Commission on Governmental Operations</p> | <p>S.L. 2007-323 § 16.8.(a)</p> <p>S.L. 2007-323 § 16.5.(c)</p> <p>S.L. 2007-323 § 18.5.</p> |
| <p><u>Harriet's House</u></p> <ul style="list-style-type: none"> ✓ Findings, Recommendations and Appropriations | <p>Shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by February 1 of each year</p> | <p>S.L. 2007-323 § 17.13.(a)</p> |

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| <p><u>Hazardous Materials Task Force, Regulation of</u></p> <ul style="list-style-type: none"> ✓ Hazardous Materials Facilities Building/Fire Code Review, Findings and Recommendations | <p>Shall report to the 2008 Regular Session of the 2007 General Assembly, the Governor, the North Carolina Building Code Council, and the Environmental Review Commission by April 1, 2008</p> | <p>S.L. 2007-107 § 4.1.(j)</p> |
| <p><u>Health and Human Services, Department of</u></p> <ul style="list-style-type: none"> ✓ Adult Care Homes Pilot Program, Quality Improvement Consultation Program for ✓ Adult Care Homes Proposed Rating Certification System Implementation Statewide ✓ Adult Care Homes Proposed High Ratings Reward System ✓ Adult Care Homes Proposed Rating System Implementation at Other Licensed Certified Facilities Report ✓ Adult Care Homes Staff Training Study, Appropriate Care for Mentally Ill Patients and Non-Mentally-Ill Patients and Its' Fiscal Impact ✓ Aged, Blind, and Disabled Medicare Recipients, Expand Community Care and Improve Quality of Care for ✓ Area and County Mental Health, Developmental Disabilities, and Substance Abuse Service Authorities, Excess Funds Reverted to Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs by ✓ CAP-MR/DD Program and CAP-Children's Program Based on Family Income and Cost Sharing | <p>Division of Aging and Adult Services shall report to Secretary of the Department of Health and Human Services, 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</p> <p>Shall report to the North Carolina Study Commission on Aging and Interim Report by October 1, 2009 and a final report by October 1, 2010</p> <p>Shall report to the North Carolina Commission on Aging by March 1, 2008</p> <p>Shall report to the North Carolina Study Commission Aging by October 1, 2009</p> <p>Shall report to the Study Commission on Aging, and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services by March 1, 2008</p> <p>Shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services the NCGA Fiscal Research Division by March 1, 2008</p> <p>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 Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services on October 1, 2007 and February 1, 2008</p> <p>Shall report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services and the NCGA Fiscal Research Division by March 1, 2008</p> | <p>S.L. 2007-323 § 10.10.(g)</p> <p>S.L. 2007-544 § 3.(g)</p> <p>S.L. 2007-544 § 3.(d)</p> <p>S.L. 2007-544 § 3.(f)</p> <p>S.L. 2007-156 § 1.(c)</p> <p>S.L. 2007-323 § 10.46.(b)</p> <p>S.L. 2007-323 § 10.51.(c)</p> <p>S.L. 2007-323 § 10.45.(a)</p> |

| <u>Health and Human Services, Department of - CONTINUED</u> | | |
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| ✓ CAP-MR/DD Program and CAP-Children's Program, Division of Medical Assistance Savings Based on Cost Sharing | Shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services the NCGA Fiscal Research Division by March 1, 2009 | S.L. 2007-323 § 10.45.(c) |
| ✓ Center for Medicare or Medicaid Services, Develop and Apply for Additional Home and Community Based Waivers for Persons With Developmental Disabilities to | Shall report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services by March 1, 2008 | S.L. 2007-323 § 10.49.(dd) |
| ✓ Child Care Fund Matching Requirement, Findings and Recommendations | Shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services the NCGA Fiscal Research Division by April 1, 2008 | S.L. 2007-323 § 10.17.(b) |
| ✓ Child Development Service Agency, Report on Effort to Increase Amount of Receipts Collected by | Division of Public Health 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 NCGA Fiscal Research Division by February 1, 2008 | S.L. 2007-323 § 10.21.(b) |
| ✓ Child Support Program Report, Enhance Performance Standards | 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 NCGA Fiscal Research Division by May 1 of each even-numbered year beginning in 2008 | S.L. 2007-323 § 10.28.(b) |
| ✓ Children's Early Intervention Services Report | Division of Public Health 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 NCGA Fiscal Research Division by February 1, 2008 | S.L. 2007-323 § 10.21.(a) |
| ✓ Community Support Services, Appropriate to Client's Critical Needs and Cost Effective | Shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services and the NCGA Fiscal Research Division by November 1, 2007 and March 1, 2008 | S.L. 2007-323 § 10.49.(ee)(10) |
| ✓ Community Support Services, Evaluation of Use and Cost to Identify Existing and Potential Areas of Over Utilization and Over Expenditure | 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 Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services beginning October 1, 2007 and monthly thereafter | S.L. 2007-323 § 10.49.(ee) |
| ✓ Comprehensive Treatment Services Program for Children at Risk (In coordination with the Department of Juvenile Justice and Delinquency Prevention, the Department of Public Instruction and other affected agencies) | Shall report to the 2008 Regular Session of the 2007 General Assembly | S.L. 2007-323 § 10.10.(g) |

| <u>Health and Human Services, Department of - CONTINUED</u> | | |
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| ✓ Comprehensive Treatment Services Program for Children at Risk, Program Funding Information for | Shall report to the 2008 Regular Session of the 2007 General Assembly | S.L. 2007-323 § 10.10.(g) |
| ✓ Connect, Inc., Does Not Duplicate Local Employment Security Commission Services | 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 NCGA Fiscal Research Division by May 1, 2008 | S.L. 2007-323 § 10.55.(m) |
| ✓ Coordination of Children's Services Annual Report, Task Force on | Shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services and the NCGA Fiscal Research Division on April 1 of each year | S.L. 2007-323 § 10.10.(i) |
| ✓ Coordination of Children's Services Implementation, Task Force on | Shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services and the NCGA Fiscal Research Division on April 1, 2008 and April 1, 2009 | S.L. 2007-323 § 10.10.(k) |
| ✓ County Demonstration Grants Implementation Report | Division of Social Services 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 NCGA Fiscal Research Division by February 1, 2008 | S.L. 2007-323 § 10.55.(o) |
| ✓ Dental Supplies/Division of Public Health, Continuation Review Report on | Shall report to the Appropriations Committees of the Senate and House of Representatives by February 1, 2008 | S.L. 2007-323 § 6.21.(f) |
| ✓ Developmental Center Downsizing, Compliance Plan for | 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 NCGA Fiscal Research Division a progress report by January 15, 2008 and final report by May 1, 2009 | S.L. 2007-323 § 10.50.(d) |
| ✓ Developmental Center Downsizing, Development Plan for | 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 NCGA Fiscal Research Division by February 1, 2008 | S.L. 2007-323 § 10.50.(c) |
| ✓ Eliminating Health Disparities Appropriated Funds Report, Community Focused | 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 NCGA Fiscal Research Division by March 1, 2008 | S.L. 2007-323 § 6.25.(c) |

| <u>Health and Human Services, Department of - CONTINUED</u> | | |
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| ✓ Emergency Room Visits, Local Management Entity Aggregate Data on Visits Due to Mental Illness, Developmental Disability, and Substance Abuse Disorder | Shall report on a quarterly basis beginning with the 2007-08 fiscal year | S.L. 2007-323 § 10.49.(r) |
| ✓ Health Promotion and Disease Prevention Inventory Plan | 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 NCGA Fiscal Research Division by February 1, 2008 | S.L. 2007-323 § 10.25.(a) |
| ✓ Housing Assistance, Development and Financing for Individuals with Mental Health, Developmental or Substance Abuse Disabilities (In cooperation with the North Carolina Housing Finance Agency) | Shall report to Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services a interim report on March 1, 2008 and a final report on March 1, 2009 | S.L. 2007-323 § 10.49.(h1) |
| ✓ Housing Assistance for Individuals with Mental Health, Developmental or Substance Abuse Disabilities, Housing Aggregate Totals for (In cooperation with the North Carolina Housing Finance Agency) | Shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services and the NCGA Fiscal Research Division by May 1, 2008 and no later than May 1, 2009 | S.L. 2007-323 § 10.49.(h2)(3) |
| ✓ Indigent and Uninsured State Designated Rural Health Centers, Public Health Departments, and Community Health Centers Continuing and Expansion Support Funds Report | Shall report to the 2008 Regular Session of the 2007 General Assembly upon its' convening | S.L. 2007-323 § 10.6.(d) |
| ✓ Intensive Family Preservation Services Program | 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 NCGA Fiscal Research Division each even-numbered year beginning in 2008 | S.L. 2007-323 § 10.33.(d) |
| ✓ Interlocal Agreements for Mental Health, Developmental Disabilities, or Substance Abuse Services Study Review | Shall report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services by December 1, 2009 | S.L. 2007-504 § 2.4.(b) |
| ✓ Medicaid Changes to the Program Report | Shall report to the Joint Legislative Health Care Oversight Committee | S.L. 2007-323 § 10.36.(g)(2) |
| ✓ Medicaid Cost-Containment Activities | 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 NCGA Fiscal Research Division. On October 1, 2007 shall report the amounts paid and savings through fiscal years 2003-04 through 2005-07 | S.L. 2007-323 § 10.37. |

| <u>Health and Human Services, Department of - CONTINUED</u> | | |
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| ✓ Medicaid Dual Eligible Special Needs Plan Pilot Program | 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 NCGA Fiscal Research Division by May 1, 2008 | S.L. 2007-323 § 10.40F.(c) |
| ✓ Medicaid Medical Policy Changes | Shall provide the Office of State Budget and Management and the NCGA Fiscal Research Division a quarterly report | S.L. 2007-323 § 10.36.(b)(4) |
| ✓ Medicaid Use of Funds, Allocation of Costs, and Other Authorizations | 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 NCGA Fiscal Research Division | S.L. 2007-323 § 10.36.(a)(4) |
| ✓ Medicaid Utilization Review, Process for Local Management Entities to Meet Standards Using Outside Contract Vendors | Shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the NCGA Fiscal Research Division by July 1, 2008 | S.L. 2007-323 § 10.49.(ee) |
| ✓ Medicaid Personal Care Services for Medical Necessity | 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 NCGA Fiscal Research Division by May 1, 2008 | S.L. 2007-323 § 10.36.(d)(21) |
| ✓ Medicaid Target Prescriber Prescriptions and Refills | Shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the NCGA Fiscal Research Division by January 1, 2008 and quarterly thereafter | S.L. 2007-323 § 10.36.(d)(28) |
| ✓ Medicaid Use of Funds, Allocation of Costs, and Use of Funds for Development and Acquisition of Equipment Software | 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 NCGA Fiscal Research Division | S.L. 2007-323 § 10.36.(a)(4) |
| ✓ MMIS+ Development and Implementation Reporting | Shall report to the Joint Legislative Oversight Committee on Information Technology, 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 a interim report by January 31, 2008. A final report shall also include the above and the Joint Legislative Commission on Government Operations and report by May 1, 2008 | S.L. 2007-323 § 10.40D.(c)(1)(2) |

| <u>Health and Human Services, Department of - CONTINUED</u> | | |
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| ✓ Multiply Diagnosed Adults, Appropriate Services to | Shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services and the NCGA Fiscal Research Division on May 1, 2008 and May 1, 2009 | S.L. 2007-323 § 10.52.(d) |
| ✓ NC FAST: North Carolina Families Accessing Services Through Technology, Automation Initiative and Compliance | 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 NCGA Fiscal Research Division by January 1, 2008 | S.L. 2007-323 § 10.55.(j) |
| ✓ NC Kid's Care, Findings and Recommendations | Shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Joint Legislative Commission on Governmental Operations and the NCGA Fiscal Research Division a interim report by January 1, 2008 and a final report by February 1, 2008 | S.L. 2007-323 § 10.48.(b) |
| ✓ North Carolina Health Choice Administrative Transition Plan (In cooperation with the Teachers' and State Employees' Comprehensive Major Medical Plan) | Shall report to the Committee on Employee Hospital and Medical Benefits by February 1, 2008 | S.L. 2007-323 § 28.22.(j) |
| ✓ Older Adults Status Report, Service Levels and Needs of | Division of Aging and Adult Services shall report to the 2008 Regular Session of the 2007 General Assembly, the North Carolina Study Commission on Aging and to the board of county commissioners of each county studied by April 1, 2008 | S.L. 2007-448 § 1. |
| ✓ Older Adult Needs and Services, A Study of All North Carolina Counties | Division of Aging and Adult Services shall report to the North Carolina Study Commission on by January 1, 2008 | S.L. 2007-448 § 2. |
| ✓ Public Policy, Office of: Continuation Review Report on | Shall report to the Appropriations Committees of the Senate and House of Representatives by February 1, 2008 | S.L. 2007-323 § 6.21.(f) |
| ✓ Reduce Hospital Use and Build Community Services, Proposal Based on Pilot Program Results to | Division of Mental Health, Developmental Disabilities, and Mental Health Services shall report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse services a interim report by October 15, 2007 and a second report on October 15, 2008 with a final report by February 1, 2009 | S.L. 2007-323 § 49.(s4) |

| <u>Health and Human Services, Department of - CONTINUED</u> | | |
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| ✓ Regional Local Crisis Services, Local Management Entities Report to the Department on Proposed and Actual Use of Funds | Shall report with the assistance of a consultant yet to be determined to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the NCGA Fiscal Research Division quarterly. | S.L. 2007-323 § 10.49.(o) |
| ✓ Respite Care, Delivery and Availability of | Shall report to the Study Commission on Aging by March 1, 2008 | S.L. 2007-39 § 1.(b) |
| ✓ Skilled Nursing Facilities Reimbursement Rates | 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 NCGA Fiscal Research Division by December 1, 2008 | S.L. 2007-323 § 10.39A.(c) |
| ✓ State and Federal Funds to Area Mental Health Authorities and County Programs, Revised System of Allocating | 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 NCGA Fiscal Research Division by October 1, 2007 for review | S.L. 2007-323 § 10.51.(b) |
| ✓ State-County Special Assistance, Transfer of Funds or Modifications of Rates of | 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 NCGA Fiscal Research Division | S.L. 2007-323 § 10.13.(e) |
| ✓ State Medical Assistance Teams Permanent Funding Report and Recommendations (In cooperation with the Department of State Crime Control and Public Safety) | Shall report the Fiscal Research Division by January 1, 2008 | S.L. 2007-107 § 4.2.(a) |
| ✓ Students With Hearing and Visual Impairments, Evaluation of Educational Services to (In cooperation with the Department of Public Instruction) | Shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Education/Public Instruction, the House of Representatives Appropriations Subcommittee on Education, and the NCGA Fiscal Research Division by April 1, 2008 | S.L. 2007-323 § 10.20.(b) |
| ✓ Transition of Patients from State Psychiatric Hospitals to Community or Other Long-Term Care Facilities. Report on | Shall report to the Joint Legislative Commission on Governmental Operations, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the NCGA Fiscal Research Division by December 1, 2007 and May 1, 2008 | S.L. 2007-323 § 10.49.(u) |

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| <p><u>Health and Human Services, Department of - CONTINUED</u></p> <ul style="list-style-type: none"> ✓ Transitional Residential Treatment Program for Difficult Behaviors Related to Mental Illness ✓ Uniform Screening Tool Development to Determine Mental Health of Individuals Admitted to Long-Term Care Facilities ✓ Work First Program, Goals and Requirements for | <p>Shall report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services by March 1, 2008</p> <p>Shall report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services by March 1, 2008</p> <p>Shall report to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services for each fiscal year</p> | <p>S.L. 2007-323 § 10.49.(i)</p> <p>S.L. 2007-323 § 10.49.(k)</p> <p>S.L. 2007-323 § 10.35A.(a)(2)</p> |
| <p><u>Health Insurance Risk Pool, North Carolina</u></p> <ul style="list-style-type: none"> ✓ Healthy Behaviors Initiative Report | <p>Executive Director shall report to the NC Health Insurance Risk Pool Board and the General Assembly no later than one year after the program's implementation</p> | <p>S.L. 2007-532 § 1.3.</p> |
| <p><u>Health Services, Commission for</u></p> <ul style="list-style-type: none"> ✓ Emergency Drinking Water Fund Implementation Report, Bernard Allen Memorial (In cooperation with Department of Environment and Natural Resources and Local Health Departments) | <p>Shall report to the Environmental Review Commission, the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources, and the NCGA Fiscal Research Division by October 1 of each year. The first report required by G.S. 87-98(e) as enacted by subsection a shall be submitted on or before October 1, 2008</p> | <p>S.L. 2007-323 § 12.2.(a)</p> |
| <p><u>Housing Finance Agency, North Carolina</u></p> <ul style="list-style-type: none"> ✓ Home Protection and Loan Fund Pilot Program ✓ Housing 400 Initiative Progress Report (in cooperation with the Department of Health and Human Services) ✓ Housing Assistance and Finance Agencies for Individuals with Disabilities Report (In cooperation with the Department of Health and Human Services) | <p>Shall report to the Chairs of the House of Representatives and Senate Appropriations Committees by April 1, 2008</p> <p>Division of Medical Assistance 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 NCGA Fiscal Research Division by March 1, 2009</p> <p>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 NCGA Fiscal Research Division by March 1, 2008 Shall report to the Joint Legislative Education Oversight Committee by December 1, 2009 and each December 1 thereafter</p> | <p>S.L. 2007-323 § 22.1.(a)(6)</p> <p>S.L. 2007-323 § 10.49.(h1)</p> <p>S.L. 2007-323 § 10.49.(h1)</p> |

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| <p><u>Housing Finance Agency, North Carolina - CONTINUED</u></p> <ul style="list-style-type: none"> ✓ Migrant Worker Housing Financing, Construction, and Rehabilitation Study Report | <p>Shall report to the Joint Legislative Committee on Governmental Operations by July 1, 2008</p> | <p>S.L. 2007-548 § 6.</p> |
| <p><u>Indigent Defense Services, Office of</u></p> <ul style="list-style-type: none"> ✓ Case Volume, Rule Changes, Funding Procedures, and State Audit Report ✓ Grant-In-Aid Activities Report ✓ Match for Grant Funds ✓ New Public Defender Offices, Location and Establishment of | <p>Shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by March 1 of each year</p> <p>Shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by February 1, 2008</p> <p>Shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Commission on Government Operations</p> <p>Shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the NCGA Fiscal Research Division by October 1, 2007</p> | <p>S.L. 2007-323 § 14.5.</p> <p>S.L. 2007-323 § 14.3.</p> <p>S.L. 2007-323 § 14.6.</p> <p>S.L. 2007-323 § 14.4.(b)</p> |
| <p><u>Industrial Commission, North Carolina</u></p> <ul style="list-style-type: none"> ✓ Strategic Plan Finding and Recommendations | <p>Shall report to the Joint Legislative Commission on Governmental Operations by October 1 of each year</p> | <p>S.L. 2007-323 § 13.4A.(b)</p> |
| <p><u>Institute for Minority Economic Development, Inc., North Carolina</u></p> <ul style="list-style-type: none"> ✓ Program Activities, Objectives, Accomplishments, and Itemized Audited Financial Statement | <p>Shall report to the Joint Legislative Commission on Government Operations and the NCGA Fiscal Research Division on January 15, 2008 and January 15, 2009. Shall also submit to the NCGA Fiscal Research Division a copy of the corporation's annual audited financial statement within 30 days of issuance</p> | <p>S.L. 2007-323 § 13.11.(a)(1)(2)(3)</p> |
| <p><u>Institute of Medicine, North Carolina</u></p> <ul style="list-style-type: none"> ✓ End-of-Life Medical Care Issues Study, Finding and Recommendations | <p>Shall report to the 2013 General Assembly, the North Carolina Bar Association, and the North Carolina Medical Society by January 30, 2013</p> | <p>S.L. 2007-502 § 19.</p> |

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| <p><u>Institute of Medicine's Substance Abuse Services Task Force, North Carolina</u></p> <p style="text-align: center;">CREATED</p> <ul style="list-style-type: none"> ✓ Findings and Recommendation | <p>Shall report to the 2008 Regular Session of 2007 General Assembly, the Chairs of Senate Health Committee, the House of Representatives Health Committee, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services and the Governor an interim report by the Assembly's convening and a final report shall be submitted no later than the convening of the 2009 General Assembly.</p> | <p>S.L. 2007-323 § 10.53A.(e)</p> |
| <p><u>Insurance, Department of</u></p> <ul style="list-style-type: none"> ✓ Life Insurance Confirmation of Benefits, Status, and Claim Forms Findings and Recommendations | <p>Commissioner shall report to the Joint Legislative Committee on Governmental Operations by April 1, 2008</p> | <p>S.L. 2007-507 § 16.</p> |
| <p><u>Judicial Department, North Carolina</u></p> <ul style="list-style-type: none"> ✓ Federal Grant Reporting, Received or Pre-Approved (In cooperation with the Department of Correction, the Department of Justice, the Department of Crime Control and Public Safety, and the Department of Juvenile Justice and Delinquency Prevention) ✓ Worthless Check Funds Report, Collection of | <p>Shall report to the Joint Legislative Commission on Government Operations, the Chairs of the House of Representatives and Senate Appropriations Committees, and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by May 1 of each year</p> <p>Shall report to the Joint Legislative Commission on Governmental Operations and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety prior to using any funds within this section</p> | <p>S.L. 2007-323 § 17.5.</p> <p>S.L. 2007-323 § 14.8.</p> |
| <p><u>Justice, Department of</u></p> <ul style="list-style-type: none"> ✓ Federal Grant Reporting, Received or Pre-Approved (In cooperation with the Department of Correction, the Department of Crime Control and Public Safety, the Judicial Department, and the Department of Juvenile Justice and Delinquency Prevention) ✓ Fingerprint System Replacement Report, Statewide Automated | <p>Shall report to the Joint Legislative Commission on Government Operations, the Chairs of the House of Representatives and Senate Appropriations Committees, and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by May 1 of each year</p> <p>Shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittee on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations with the first report due by February 1, 2008 and the second report by May 1, 2008</p> | <p>S.L. 2007-323 § 17.5.</p> <p>S.L. 2007-323 § 15.1.</p> |

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| <p><u>Juvenile Assessment Center</u></p> <ul style="list-style-type: none"> ✓ Findings, Recommendations and Appropriations | <p>Shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittee 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. 2007-323 § 18.3.(b)</p> |
| <p><u>Juvenile Justice and Delinquency Prevention, Department of</u></p> <ul style="list-style-type: none"> ✓ Community Programs: Annual Findings, Recommendations and Appropriations of the Eckerd and Camp Woodson Wilderness Camp programs, Teen Courts program, Boys and Girls Clubs, Support Our Students program, and the Governor's One-on-One Program ✓ Comprehensive Treatment Services Program for Children at Risk (In coordination with the Department of Health and Human Services, the Department of Public Instruction and other affected agencies) ✓ Eckerd Family Focus on Rehabilitative Treatment Project Progress Report (In cooperation with Eckerd Family Youth Alternatives, Inc.) ✓ Federal Grant Reporting, Received or Pre-Approved (In cooperation with the Department of Correction, the Department of Justice, the Department of Crime Control and Public Safety, and the Judicial Department) ✓ Juvenile Accountability Block Grants Appropriations of State Funds for Federal Matching Funds Report (In cooperation with the Office of State Budget and Management and the Governor's Crime Commission) ✓ Juvenile Crime Prevention Council, Continuation Review Report on ✓ Juvenile Crime Prevention Council, Effectiveness and Cost Benefit Report | <p>Shall report to Joint Legislative Corrections, Crime Control and Juvenile Justice Oversight Committee, the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the Appropriations Subcommittee on Justice and Public Safety by March 1 of each year</p> <p>Shall report to the 2008 Regular Session of the 2007 General Assembly</p> <p>Shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by April 1, 2008 and quarterly thereafter</p> <p>Shall report to the Joint Legislative Commission on Government Operations, the Chairs of the House of Representatives and Senate Appropriations Committees, and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by May 1 of each year</p> <p>Shall report to the House of Representatives and Senate Appropriations Committees and the Joint Legislative Commission on Governmental Operations</p> <p>Shall report to the Appropriations Committees of the Senate and House of Representatives by February 1, 2008</p> <p>Shall report to the Chairs of the House of Representatives and Senate Appropriations Committees, the Chairs of the Joint Legislative Corrections, Crime Control, the Juvenile Justice Oversight Committee and the NCGA Fiscal Research Division by April 1 of each year</p> | <p>S.L. 2007-323 § 18.4.</p> <p>S.L. 2007-323 § 10.10.(g)</p> <p>S.L. 2007-323 § 18.10.</p> <p>S.L. 2007-323 § 17.5.</p> <p>S.L. 2007-323 § 18.5.</p> <p>S.L. 2007-323 § 6.21.(b)</p> <p>S.L. 2007-323 § 18.2.(c)</p> |

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| <p><u>Juvenile Justice and Delinquency Prevention, Department of</u> <u>- CONTINUED</u></p> <ul style="list-style-type: none"> ✓ Juvenile Crime Prevention Council Grant Reporting and Certification Report ✓ Rural Hospitals, Allocation of Funds to Assist ✓ State Detention Centers Overview Report ✓ Swannanoa Valley Youth Development Center Progress Report (In cooperation with the Department of Corrections) ✓ Youth Development Center Capital Projects Progress Reports ✓ Youth Development Center Treatment Staffing Model Report | <p>Shall report to the Joint Legislative Commission of Governmental Operations and the House of Representatives and Senate Appropriations Committees by April of each year</p> <p>Office of Rural Health and Community Care shall Report to Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the NCGA Fiscal Research Division by March 1, 2008</p> <p>Shall report to the Joint Legislative Corrections, Crime Control and Juvenile Justice Oversight Committee and to the Chairs of the House of Representatives and Senate Appropriations Subcommittee on Justice and Public Safety by March 1, 2008</p> <p>Shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Pubic Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by October 1, 2007 and quarterly during the 2007-2009 fiscal biennium</p> <p>Shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on a quarterly basis beginning on October 1, 2007</p> <p>Shall Report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by April 1, 2008</p> | <p>S.L. 2007-323 § 18.2.(a)</p> <p>S.L. 2007-323 § 10.7.</p> <p>S.L. 2007-323 § 18.8.</p> <p>S.L. 2007-323 § 18.11.</p> <p>S.L. 2007-323 § 18.7.</p> <p>S.L. 2007-323 § 18.6.(c)</p> |
| <p><u>Kerr-Tar Regional Economic Development Corporation</u></p> <ul style="list-style-type: none"> ✓ Program Activities, Objectives, Accomplishments, and Itemized Audited Financial Statement | <p>Shall report to the Joint Legislative Commission on Government Operations and the NCGA Fiscal Research Division on January 15, 2008 and January 15, 2009. Shall also submit to the NCGA Fiscal Research Division a copy of the corporation's annual audited financial statement within 30 days of issuance</p> | <p>S.L. 2007-323 § 13.9.(1)(2)(3)</p> |

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| <p><u>Land Loss Prevention Project</u></p> <ul style="list-style-type: none"> ✓ Program Activities, Objectives, Accomplishments, and Itemized Audited Financial Statement | <p>Shall report to the Joint Legislative Commission on Government Operations and the NCGA Fiscal Research Division on January 15, 2008 and January 15, 2009. Shall also submit to the NCGA Fiscal Research Division a copy of the corporation's annual audited financial statement within 30 days of issuance</p> | <p>S.L. 2007-323 § 13.11.(a)(1)(2)(3)</p> |
| <p><u>Legal Education Assistance Foundation, North Carolina</u></p> <ul style="list-style-type: none"> ✓ Loan Assistance Statistics and Expenditures | <p>Shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittee on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations by March 1 of each year</p> | <p>S.L. 2007-323 § 15.6.</p> |
| <p><u>Legislative Research Commission</u></p> <ul style="list-style-type: none"> ✓ Juveniles Adjudicated Delinquent for DWI Study, Dispositional Alternatives for ✓ Life Prolonging Measures Requirement Study ✓ Prosecutorial Resources Available to District Attorneys, Use and Management of | <p>May make an interim report to the 2007 Regular Session of the 2008 General Assembly and shall make its final report to the 2009 General Assembly upon its convening</p> <p>Shall report its recommendations to the 2008 Regular Session of the 2007 General Assembly</p> <p>May report to the Chairs of the House of Representatives and Senate Appropriations Committee, Chairs of the House of Representatives and Senate Appropriations Subcommittee on Justice and Public Safety and the NCGA Fiscal Research Division by March 15, 2008</p> | <p>S.L. 2007-493 § 32.</p> <p>S.L. 2007-502 § 18.</p> <p>S.L. 2007-323 § 14.15.(b)</p> |
| <p><u>Mental Health, Developmental Disabilities, and Substance Abuse Services, Joint Legislative Oversight Committee on</u></p> <ul style="list-style-type: none"> ✓ Medicaid 1915(b) Waiver and LME Effectiveness Study As A Local Service Provider ✓ First Commitment Pilot Program Review ✓ Rule-Making Authority for Secretary of Health and Human Services and the Commission for Mental Health, Developmental Disabilities and Substance Abuse Services Study | <p>Shall report to the 2008 Regular Session of 2007 General Assembly</p> <p>Shall report to the 2010 Regular Session of the 2009 General Assembly</p> <p>Shall report to the 2008 Regular Session of the 2007 General Assembly upon its convening</p> | <p>S.L. 2007-323 § 10.49.(z1)</p> <p>S.L. 2007-504 § 1.1.(b)</p> <p>S.L. 2007-504 § 2.6.</p> |

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| <p><u>Minority Support Center, North Carolina</u></p> <ul style="list-style-type: none"> ✓ Program Activities, Objectives, Accomplishments, and Itemized Audited Financial Statement | <p>Shall report to the Joint Legislative Commission on Government Operations and the NCGA Fiscal Research Division on January 15, 2008 and January 15, 2009. Shall also submit to the NCGA Fiscal Research Division a copy of the corporation's annual audited financial statement within 30 days of issuance</p> | <p>S.L. 2007-323 § 13.11.(a)(1)(2)(3)</p> |
| <p><u>Occupational Licensing Boards Reporting Requirement</u></p> <ul style="list-style-type: none"> ✓ Annual Financial Report | <p>Shall report to the Secretary of State, the Attorney General, the Office of State Budget and Management, and the Joint Legislative Procedure Oversight Committee annually for each fiscal year</p> | <p>S.L. 2007-323 § 23.2</p> |
| <p><u>Opportunities Industrialization Centers</u></p> <ul style="list-style-type: none"> ✓ Program Activities, Objectives, Accomplishments, and Itemized Audited Financial Statement | <p>For each center receiving funds shall report to the Joint Legislative Commission on Government Operations and the NCGA Fiscal Research Division on January 15, 2008 and January 15, 2009. Shall also submit to the NCGA Fiscal Research Division a copy of the corporation's annual audited financial statement within 30 days of issuance and file a annual financial statement with the State Auditor</p> | <p>S.L. 2007-323 § 13.15.(b)(1)(2)(3)(4)</p> |
| <p><u>Our Children's Place</u></p> <ul style="list-style-type: none"> ✓ Findings, Recommendations and Appropriations | <p>Shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by February 1, 2008</p> | <p>S.L. 2007-323 § 17.13.(d)</p> |
| <p><u>Partnership for Children, Inc., The North Carolina</u></p> <ul style="list-style-type: none"> ✓ Early Childhood Education and Development Initiatives Enhancements Contributions Report ✓ Private Cash and In-Kind Contributions Report | <p>Shall report to the Joint Legislative Commission on Governmental Operations</p> <p>Shall report to the Joint Legislative Commission on Governmental Operations</p> | <p>S.L. 2007-323 § 10.19.(c)</p> <p>S.L. 2007-323 § 10.19.(c)</p> |

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| <p><u>Partnership for the Sounds, Inc.</u></p> <ul style="list-style-type: none"> ✓ Program Activities, Objectives, Accomplishments, and Itemized Audited Financial Statement | <p>Shall report to the Joint Legislative Commission on Government Operations and the NCGA Fiscal Research Division on January 15, 2008 and January 15, 2009. Shall also submit to the NCGA Fiscal Research Division a copy of the corporation's annual audited financial statement within 30 days of issuance</p> | <p>S.L. 2007-323 § 13.11.(a)(1)(2)(3)</p> |
| <p><u>Performance Evaluation Division of North Carolina General Assembly</u></p> <ul style="list-style-type: none"> ✓ Agriculture Research Stations and Research Farms, Study of Structure and Management Practices of ✓ Seven Regional Economic Development Commissions Structure and Funding Report and Recommendations | <p>Shall report to the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources and the NCGA Fiscal Research Division by May 1, 2008</p> <p>Shall report to the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources and the NCGA Fiscal Research Division by March 1, 2008</p> | <p>S.L. 2007-323 § 11.4.(b)</p> <p>S.L. 2007-323 § 13.7.(f)</p> |
| <p><u>Piedmont Triad Regional Partnership</u></p> <ul style="list-style-type: none"> ✓ Program Activities, Objectives, Accomplishments, and Itemized Expenditure Report | <p>Shall report to the Department of Commerce, the Office of State Budget and Management, the Joint Legislative Commission on Government Operations, the Joint Legislative Economic Development Oversight Committee, and the NCGA Fiscal Research Division by February 15 of each year</p> | <p>S.L. 2007-323 § 13.7.(g)</p> |
| <p><u>Project Challenge North Carolina, Inc.</u></p> <ul style="list-style-type: none"> ✓ Findings, Recommendations and Appropriations | <p>Shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittee 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. 2007-323 § 18.3.(a)</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 House of Representatives and Senate Appropriations Committees, and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by April 1, 2008</p> | <p>S.L. 2007-323 § 17.11.(c)</p> |

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| <p><u>Public Instruction, Department of</u></p> <ul style="list-style-type: none"> ✓ Child Nutrition Findings and Recommendations ✓ Comprehensive Treatment Services Program (In coordination with Department of Juvenile Justice and Delinquency Prevention, the Department of Public Instruction and other affected agencies) ✓ More at Four Program and Office of School Readiness Report ✓ Students With Disabilities, Evaluation of Delivery of Education Services ✓ Students With Hearing and Visual Impairments, Evaluation of Educational Services (In cooperation with the Department of Health and Human Services) | <p>Child Nutrition Services Section shall report to the Joint Legislative Education Oversight Committee during the 2008 Regular Session of the 2007 General Assembly</p> <p>Shall report to the 2008 Regular Session of the 2007 General Assembly</p> <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 NCGA Fiscal Research Division by February 1, 2008</p> <p>Department shall report, to the Joint Legislative Education Oversight Committee by March 1, 2008</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, the Senate Appropriations Committee on Education/Public Instruction, the House of Representatives Appropriations Subcommittee on Education, and the NCGA Fiscal Research Division by April 1, 2008</p> | <p>S.L. 2007-323 § 7.36A.(c)</p> <p>S.L. 2007-323 § 10.10.(g)</p> <p>S.L. 2007-323 § 7.24.(c)</p> <p>S.L. 2007-295 § 1.</p> <p>S.L. 2007-323 § 10.20.(b)</p> |
| <p><u>Public School Funding Formulas, Joint Legislative Study Committee on</u></p> <p style="text-align: center;">CREATED</p> <ul style="list-style-type: none"> ✓ Public School Funding Formulas: Findings and Recommendations | <p>Shall report to the 2008 Regular Session of the 2007 General Assembly</p> | <p>S.L. 2007-323 § 7.31.(d)</p> <p>S.L. 2007-545 § 5.3.</p> |
| <p><u>Regional Economic Development Commission</u></p> <ul style="list-style-type: none"> ✓ Program Activities, Objectives, Accomplishments, and Itemized Expenditure Report | <p>Shall report to the Department of Commerce, the Office of State Budget and Management, the Joint Legislative Commission on Government Operations, the Joint Legislative Economic Development Oversight Committee, and the NCGA Fiscal Research Division by February 15 of each year</p> | <p>S.L. 2007-323 § 13.7.(g)</p> |

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| <p><u>Research Triangle Regional Partnership</u></p> <ul style="list-style-type: none"> ✓ Program Activities, Objectives, Accomplishments, and Itemized Expenditure Report | <p>Shall report to the Department of Commerce, the Office of State Budget and Management, the Joint Legislative Commission on Government Operations, the Joint Legislative Economic Development Oversight Committee, and the NCGA Fiscal Research Division by February 15 of each year</p> | <p>S.L. 2007-323 § 13.7.(g)</p> |
| <p><u>Revenue, Department of</u></p> <ul style="list-style-type: none"> ✓ Corporate Income Tax Revenue Study and a Review of the Reverse Neutral Income Tax Rate ✓ Local Government Annual Replacement Revenue Distribution Report ✓ Railroad Intermodal Facility Tax Incentive Claims Report | <p>Shall report to the Revenue Laws Study Committee by May 1, 2009</p> <p>The Secretary shall report to the Revenue Laws Study Committee by January 31, 2004 and each January 31 thereafter to January 32, 2013</p> <p>Shall report by May 1 of each year</p> | <p>S.L. 2007-323 § 31.18.(d)</p> <p>S.L. 2007-323 § 31.16.3.(c)(d)</p> <p>S.L. 2007-323 § 31.23.(a)</p> |
| <p><u>Revenue Laws Study Committee</u></p> <ul style="list-style-type: none"> ✓ Dunn v. State of NC and the Ruling's Implication on the Use and Scope of Class Action Lawsuits to Challenge the Constitutionality of a Tax: Report and Recommendations ✓ Homestead Exclusion Study ✓ Non-Development Property Tax Relief Study ✓ Nutritional Supplements Sold by Chiropractors Report, Sales Tax Exemption for ✓ Reverse Neutral Income Tax Rate Implementation and Recommendations ✓ Transportation Infrastructure Development and Funding Improvement Study Report (In cooperation with the Joint Legislative Transportation Oversight Committee) | <p>Shall report its findings to the 2008 Regular Session of the 2007 General Assembly</p> <p>May report to the General Assembly</p> <p>May report to the 2008 Regular Session of the 2007 General Assembly</p> <p>May report to the General Assembly</p> <p>Shall report to the 2010 Regular Session of the 2009 General Assembly</p> <p>Shall report to the 2008 Regular Session of the 2007 General Assembly</p> | <p>S.L. 2007-491 § 45.</p> <p>S.L. 2007-497 § 1.2.</p> <p>S.L. 2007-497 § 4.2.</p> <p>S.L. 2007-525 § 14.</p> <p>S.L. 2007-323 § 31.18.(d)</p> <p>S.L. 2007-524 § 2.</p> |

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| <p><u>Rural Economic Development Center</u></p> <ul style="list-style-type: none"> ✓ Economic Infrastructure Program Annual Report, North Carolina ✓ Local Government Water and Sewer Grants Progress Report, Funds for ✓ Program Activities, Objectives, Accomplishments, and Itemized Audited Financial Statement ✓ Rural Economic Transition Program Progress Report | <p>Shall report to the Joint Legislative Commission on Government Operations by January 15 of each year</p> <p>Shall report to the Joint Legislative Commission on Government Operations by December 1, 2007</p> <p>Shall report to the Joint Legislative Commission on Government Operations and the NCGA Fiscal Research Division on January 15, 2008 and January 15, 2009. Shall also submit to the NCGA Fiscal Research Division a copy of the corporation's annual audited financial statement within 30 days of issuance</p> <p>Shall report to the Joint Legislative Commission on Government Operations by February 15, 2008</p> | <p>S.L. 2007-323 § 13.13.(d)</p> <p>S.L. 2007-323 § 13.13A.(n)</p> <p>S.L. 2007-323 § 13.12.(e)(1)(2)(3)</p> <p>S.L. 2007-323 § 13.14.(i)</p> |
| <p><u>State Budget and Management, Office of</u></p> <ul style="list-style-type: none"> ✓ BEACON HR/Payroll System (In cooperation with the Office of State Controller and the Office of State Personnel) ✓ Geographic Information System (GIS) Study (In cooperation with the Center for Geographic Information and Analysis, State Information Officer, and the Geographic Information Coordinating Council) ✓ Information Technology Projects, Efficiency and Cost-Effectiveness of ✓ Inmate Road Squads and Litter Crews Cost/Benefit Study ✓ Juvenile Accountability Block Grants Appropriations of State Funds for Federal Matching Funds Report (In cooperation with the Department of Juvenile Justice and Delinquency Prevention and the Governor's Crime Commission) ✓ Lapsed Salary Use, Study of | <p>Shall report to the chairs of the House of Representatives Appropriations Committee, Chairs of the Senate Committee on Appropriations/Base Budget, Joint Legislative Oversight Committee and the Fiscal Research Division by April 30, 2008 and then by January 1, 2009 and annually thereafter</p> <p>Shall report to the 2008 Regular Session of the 2007 General Assembly by April 30, 2008</p> <p>Shall report to the 2008 Regular Session of the 2007 General Assembly by February 1, 2008</p> <p>Shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Study Committee and the Joint Legislative Transportation Oversight Committee by March 1, 2008</p> <p>Shall report to the House of Representatives and Senate Appropriations Committees and the Joint Legislative Commission on Governmental Operations</p> <p>Shall report to the Joint Legislative Commission on Government Operations by April 30, 2008</p> | <p>S.L. 2007-323 § 6.7.(c)</p> <p>S.L. 2007-323 § 6.13.(b)</p> <p>S.L. 2007-323 § 6.12.(b)</p> <p>S.L. 2007-323 § 17.2.</p> <p>S.L. 2007-323 § 18.5.</p> <p>S.L. 2007-323 § 6.18.(b)</p> |

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| <p><u>State Budget and Management, Office of - CONTINUED</u></p> <ul style="list-style-type: none"> ✓ North Carolina School of Science and Mathematics Enrollment Growth Formula Study (In cooperation with the University of North Carolina and the NCGA Fiscal Research Division) ✓ Staffing Analysis of Business Functions (In cooperation with the Office of State Controller and the Office of State Personnel) ✓ State Energy Office Staffing and Job Classifications Study ✓ University Facilities Repair and Renovations Reserve Allocation Fund (In cooperation of with the University of North Carolina General Administration) ✓ Workers' Compensation Program Study of State Agencies: Recommendations and Improvements | <p>Shall report funding request based on the formula to the 2008 Regular Session of the 2007 North Carolina General Assembly</p> <p>Shall report to the chairs of the House of Representatives Appropriations Committee, Chairs of the Senate Committee on Appropriations/Base Budget, Joint Legislative Oversight Committee and the Fiscal Research Division by April 30, 2008 and then by January 1, 2009 and annually thereafter</p> <p>Shall report to the Joint Legislative Commission on Governmental Operations and the NCGA Fiscal Research Division by October 31, 2007</p> <p>Shall report to the Senate Appropriations and Base Budget Committee, the House of Representatives Appropriations Committee, the House of Representatives Appropriations Subcommittee on Capital, the Senate Finance Subcommittee on Capital and Infrastructure Improvements and the NCGA Fiscal Research Division by April 1, 2008</p> <p>Shall report to the Legislative Commission on Governmental Operations and the NCGA Fiscal Research Division a final report by March 1, 2008</p> | <p>S.L. 2007-323 § 9.1.</p> <p>S.L. 2007-323 § 6.7.(c)</p> <p>S.L. 2007-323 § 19.3.(e)</p> <p>S.L. 2007-323 § 29.5.(b)</p> <p>S.L. 2007-323 § 23.3.</p> |
| <p><u>State Chief Information Officer</u></p> <ul style="list-style-type: none"> ✓ BEACON Data Integration, Strategic Implementation Plan (In cooperation with the Office of the State Controller) ✓ Geographic Information System (GIS) Study (In cooperation with the Office of State Budget and Management, the Center for Geographic Information and Analysis, and the Geographic Information Coordinating Council) | <p>Shall report to the 2008 Regular Session of the 2007 General Assembly by April 30, 2008 and semi-annual reports to the Joint Legislative Oversight Committee for Information Technology by October 1, 2007 and April 1, 2008</p> <p>Shall report to the 2008 Regular Session of the 2007 General Assembly by April 30, 2008</p> | <p>S.L. 2007-323 § 6.8.(d)</p> <p>S.L. 2007-323 § 6.12.(b)</p> |
| <p><u>State Controller, Office of</u></p> <ul style="list-style-type: none"> ✓ BEACON Data Integration, Strategic Implementation Plan (In cooperation with the State Chief Information Officer) | <p>Shall report to the 2008 Regular Session of the 2007 General Assembly by April 30, 2008 and semi-annual reports to the Joint Legislative Oversight Committee for Information Technology by October 1, 2007 and April 1, 2008</p> | <p>S.L. 2007-323 § 6.8.(d)</p> |

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| <p><u>State Controller, Office of - CONTINUED</u></p> <ul style="list-style-type: none"> ✓ BEACON HR/Payroll System (In cooperation with the Office of State Budget and Management and the Office of State Personnel) ✓ E-Commerce Long-Range Strategy Report ✓ Staffing Analysis of Business Functions (In cooperation with the Office of State Budget and Management and the Office of State Personnel) | <p>Shall report to the chairs of the House of Representatives Appropriations Committee, Chairs of the Senate Committee on Appropriations/Base Budget, Joint Legislative Oversight Committee and the Fiscal Research Division by April 30, 2008 and then by January 1, 2009 and annually thereafter</p> <p>Shall report to the 2008 Regular Session of the 2007 General Assembly by April 20, 2008; Periodic updates may be requested by Joint Legislative Commission on Government Operations</p> <p>Shall report to the chairs of the House of Representatives Appropriations Committee, Chairs of the Senate Committee on Appropriations/Base Budget, Joint Legislative Oversight Committee and the Fiscal Research Division by April 30, 2008 and then by January 1, 2009 and annually thereafter</p> | <p>S.L. 2007-323 § 6.7.(c)</p> <p>S.L. 2007-323 § 6.14.</p> <p>S.L. 2007-323 § 6.7.(c)</p> |
| <p><u>State Education Assistance Authority</u></p> <ul style="list-style-type: none"> ✓ Education Access Rewards North Carolina Scholar Fund | <p>Shall report to the Joint Legislative Education Oversight Committee by December 1, 2009 and each December 1 thereafter</p> | <p>S.L. 2007-323 § 9.7.(a)(f)</p> |
| <p><u>State Highway Patrol</u></p> <ul style="list-style-type: none"> ✓ VIPER System Build Out Funds, Findings, and Recommendations | <p>Shall report to the Joint Legislative Transportation Oversight Committee and the Joint Corrections, Crime Control, and Juvenile Justice Oversight Committee by March 1, 2008</p> | <p>S.L. 2007-323 § 27.19.</p> |
| <p><u>State Personnel, Office of</u></p> <ul style="list-style-type: none"> ✓ ALE Non-Sworn Job Classification Review Study ✓ Architect and Engineer Salaries and Position Classification Review Study ✓ BEACON HR/Payroll System (In cooperation with the Office of State Budget and Management and the Office of State Controller) | <p>Shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the State Personnel Commission by February 1, 2008</p> <p>Shall report as soon as possible, but in no later than six months from the effective date of this section, July 26, 2007</p> <p>Shall report to the chairs of the House of Representatives Appropriations Committee, Chairs of the Senate Committee on Appropriations/Base Budget, Joint Legislative Oversight Committee and the Fiscal Research Division by April 30, 2008 and then by January 1, 2009 and annually thereafter</p> | <p>S.L. 2007-323 § 16.2.(c)</p> <p>S.L. 2007-446 § 3.</p> <p>S.L. 2007-323 § 6.7.(c)</p> |

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| <p><u>State Personnel, Office of - CONTINUED</u></p> <ul style="list-style-type: none"> ✓ Career Banding Initiative, Continuation of ✓ Governor's Advocacy Council for Persons with Disabilities Redesignation and Its' Effect on State Employees (In cooperation with the Department of Administration) ✓ Staffing Analysis of Business Functions (In cooperation with the Office of State Budget and Management and the Office of State Controller) | <p>Shall report to the Joint Legislative Commission on Governmental Operations providing quarterly updates</p> <p>Shall report to the House of Representatives and Senate Appropriations Subcommittee on General Government by May 1, 2008</p> <p>Shall report to the chairs of the House of Representatives Appropriations Committee, Chairs of the Senate Committee on Appropriations/Base Budget, Joint Legislative Oversight Committee and the Fiscal Research Division by April 30, 2008 and then by January 1, 2009 and annually thereafter</p> | <p>S.L. 2007-323 § 28.18B.</p> <p>S.L. 2007-323 § 19.1.(k)</p> <p>S.L. 2007-323 § 6.7.(c)</p> |
| <p><u>State Treasurer, Department of</u></p> <ul style="list-style-type: none"> ✓ NC Green Business Fund Investments and Deposits Report ✓ State Employee Service Records, Funds for Auditing and Reporting Requirements | <p>Shall report to the Joint Legislative Commission on Governmental Operations, the Chairs of the House of Representatives and Senate Appropriations Committees, the Chairs of the House of Representatives and Senate Finance Committees and the NCGA Fiscal Research Division on a quarterly basis</p> <p>Retirement Systems Division shall report to the Joint Legislative Commission on General Government and the Chairs of the House of Representatives Appropriations Subcommittee on General Government, the Senate Appropriations Subcommittee on General Government and Information Technology, and the NCGA Fiscal Research Division on October 31, 2007 and quarterly thereafter</p> | <p>S.L. 2007-323 § 13.2.(b)</p> <p>S.L. 2007-323 § 26.1.(b)</p> |
| <p><u>Summit House</u></p> <ul style="list-style-type: none"> ✓ Findings, Recommendations and Appropriations | <p>Shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by February 1 of each year</p> | <p>S.L. 2007-323 § 17.13.(b)</p> |
| <p><u>Teachers' and State Employees Comprehensive Major Medical Plan</u></p> <ul style="list-style-type: none"> ✓ Benefit Plan Year Conversion from a Fiscal Year to a Calendar Year Basis, Report and Recommendations | <p>Executive Administrator shall report to the Committee on Employee Hospital and Medical Benefits and the NCGA Fiscal Research Division by April 1, 2008</p> | <p>S.L. 2007-521 § 1.</p> |

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| <p><u>Teachers' and State Employees Comprehensive Major Medical Plan - CONTINUED</u></p> <ul style="list-style-type: none"> ✓ North Carolina Health Choice Administrative Transition Plan (In cooperation with the Department of Health and Human Services) ✓ Wellness Pilot Programs and State Employee Participations | <p>Shall report to the Committee on Employee Hospital and Medical Benefits by February 1, 2008</p> <p>Shall report to the Committee on Employee Hospital and Medical Benefits by May 1, 2008</p> | <p>S.L. 2007-323 § 28.22.(j)</p> <p>S.L. 2007-323 § 28.22B.(b)</p> |
| <p><u>Teaching Fellows Program</u></p> <ul style="list-style-type: none"> ✓ Administrative Funding and Minority Recruitment Report | <p>Shall report to the Joint Legislative Education Oversight Committee by March 15, 2008</p> | <p>S.L. 2007-323 § 7.25.(c)</p> |
| <p><u>Transportation, Department of</u></p> <ul style="list-style-type: none"> ✓ Budget Plan to Maintain Division Budgets While Repaving Interstate 40 between Hwy 751 and Hwy 147 in Durham County ✓ Driver's Licenses and Registration Plates One-Stop Shop Business Plan Study ✓ License Plate Recall Program ✓ Productivity Pilot Programs ✓ Rural Funding Programs Consolidation by the Public Transportation Division Study Report ✓ Small Construction and Contingency Funds Report | <p>Shall report to the Joint Legislative Transportation Oversight Committee by October 1, 2007</p> <p>The Division of Motor Vehicles shall report to the Joint Legislative Transportation Oversight Committee, the Joint Appropriations Subcommittee for Transportation, and the NCGA Fiscal Research Division by March 15, 2008</p> <p>Division of Motor Vehicles shall report the Joint Appropriations Subcommittee on Transportation and the NCGA Fiscal Research Division by May 1, 2008</p> <p>Shall report to the Joint Legislative Transportation Oversight Committee 30 days prior to implementation</p> <p>Shall report to the Joint Appropriations Subcommittee on Transportation and the NCGA Fiscal Research Division by March 15, 2008</p> <p>Shall report to the Joint Legislative Transportation Oversight Committee and the NCGA Fiscal Research Division a quarterly report</p> | <p>S.L. 2007-323 § 27.18.</p> <p>S.L. 2007-323 § 27.1.</p> <p>S.L. 2007-323 § 27.11.(a)</p> <p>S.L. 2007-323 § 27.9.(c)</p> <p>S.L. 2007-323 § 27.4.</p> <p>S.L. 2007-323 § 27.5.</p> |

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| <p><u>Transportation Oversight Committee, Joint Legislative</u></p> <ul style="list-style-type: none"> ✓ Motor Vehicle Insurance Rate Evasion Fraud Study ✓ Transportation Infrastructure Development and Funding Improvement Study Report (In cooperation with the Revenue Laws Study Committee) | <p>May report to the 2008 Regular Session of the 2007 General Assembly upon its convening</p> <p>Shall report to the 2008 Regular Session of the 2007 General Assembly</p> | <p>S.L. 2007-443 § 5.</p> <p>S.L. 2007-524 § 2.</p> |
| <p><u>University of North Carolina</u></p> <ul style="list-style-type: none"> ✓ Commercial Hazardous Waste Facility Fires, Emission and Transport of Pollutants at ✓ Learn and Earn Online Program Operation Report (in cooperation with the North Carolina Community College System and the State Board of Education) ✓ North Carolina School of Science and Mathematics Enrollment Growth Formula Study (In cooperation with the NCGA Fiscal Research Division and the Office of State Budget and Management) | <p>May report to the North Carolina General Assembly and the University of North Carolina Board of Governors</p> <p>Shall report to the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, and the NCGA Fiscal Research Division by April 15, 2008</p> <p>Shall report funding request based on the formula to the 2008 Regular Session of the 2007 North Carolina General Assembly</p> | <p>S.L. 2007-107 § 5.3.(b)</p> <p>S.L. 2007-323 § 7.27.(h)</p> <p>S.L. 2007-323 § 9.1.</p> |
| <p><u>University of North Carolina Board of Governors</u></p> <ul style="list-style-type: none"> ✓ Center of Nursing, Continuation Review Report on ✓ Constituent University's Housing System and Fire Protection Implementation Study ✓ Principal's Executive Program Performance Study (in cooperation with the State Board of Education) ✓ State Personnel Act As It Applies to UNC Employees, Task Force Review and Recommendations of ✓ Teachers to Students with Disabilities Report, Efficacy of Preparation for | <p>Shall report to the Appropriations Committees of the Senate and House of Representatives by February 1, 2008</p> <p>Shall report to the Joint Legislative Commission on Governmental Operations annually by January 1 and July 1 until all residence halls have fire sprinkler protection</p> <p>Shall report to the Joint Legislative Education Oversight Committee by April 1, 2008</p> <p>Shall report to the Joint Legislative Education Oversight Committee during the 2008 Regular Session of the 2007 General Assembly</p> <p>Shall report to the Joint Legislative Education Oversight Committee by May 15, 2008</p> | <p>S.L. 2007-323 § 6.21.(e)</p> <p>S.L. 2007-323 § 29.5.(d)</p> <p>S.L. 2007-323 § 9.10.(c)</p> <p>S.L. 2007-413 § 1.(b)</p> <p>S.L. 2007-284 § 2.</p> |

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| <p><u>University of North Carolina Board of Governors - CONTINUED</u></p> <ul style="list-style-type: none"> ✓ UNC Faculty Workload Study | <p>Shall report to the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, and the NCGA Fiscal Research Division by March 8, 2008</p> | <p>S.L. 2007-323 § 9.2.(b)</p> |
| <p><u>University of North Carolina General Administration</u></p> <ul style="list-style-type: none"> ✓ Budget Code 16012 New Budget Structure ✓ University Facilities Repair and Renovations Reserve Allocation Fund (In cooperation of with the Office of State Budget and Management) | <p>Shall report to the NCGA Fiscal Research Division by March 31, 2008</p> <p>Shall report to the Senate Appropriations and Base Budget Committee, the House of Representatives Appropriations Committee, the House of Representatives Appropriations Subcommittee on Capital, the Senate Finance Subcommittee on Capital and Infrastructure Improvements and the NCGA Fiscal Research Division by April 1, 2008</p> | <p>S.L. 2007-323 § 9.8.(b)</p> <p>S.L. 2007-323 § 29.5.(b)</p> |
| <p><u>Utilities Commission, The North Carolina</u></p> <ul style="list-style-type: none"> ✓ Renewable Energy/Demand Reduction of Other States Analysis and Report | <p>Shall report to the Governor, Environmental Review Commission, and the Joint Legislative Utility Review Committee no later than September 1, 2008</p> | <p>S.L. 2007-397 § 4.(c)</p> |
| <p><u>Wildlife Resources Commission</u></p> <ul style="list-style-type: none"> ✓ Wildlife Wounded by Hunters, Report and Recommendations | <p>Shall report to the 2008 Regular Session of the 2007 General Assembly, the Chairs of the House Wildlife Resources Committee and the Senate Agriculture and Natural Resources Committee by May 1, 2008</p> | <p>S.L. 2007-401 § 7.</p> |
| <p><u>Women at Risk</u></p> <ul style="list-style-type: none"> ✓ Findings, Recommendations and Appropriations | <p>Shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by February 1 of each year</p> | <p>S.L. 2007-323 § 17.13.(c)</p> |

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| <p><u>Women/Domestic Violence Commission, North Carolina Council for</u></p> <ul style="list-style-type: none"> ✓ Domestic Violence Shelters Security Guidelines Review and Recommendations | <p>Shall report to the Joint Legislative Committee on Domestic Violence by May 1, 2008</p> | <p>S.L. 2007-15 § 1.</p> |
| <p><u>WOW E-Community Development Corporation</u></p> <ul style="list-style-type: none"> ✓ Fiscal Year Projects, Objectives, Accomplishments and Expenditures | <p>Shall report to the Governor, the Joint Legislative Commission on Government Operations and the NCGA Fiscal Research Division by April 30, 2008 and provide the IRS Form 990 and annual audited financial statement within 30 days of release</p> | <p>S.L. 2007-323 § 13.17.(e)(f)</p> |

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