

SUMMARIES OF SUBSTANTIVE RATIFIED LEGISLATION

**2013 GENERAL ASSEMBLY
2014 REGULAR SESSION**



**RESEARCH DIVISION
N.C. GENERAL ASSEMBLY
NOVEMBER 2014**

300 copies of this document were published at an estimated cost of or about \$3.10 per copy.

November 2014

To the Members of the 2014 Session of the 2013 General Assembly:

This publication contains summaries of all substantive legislation of general applicability and certain local legislation having general import from the 2014 Regular Session. Most local acts are not analyzed in this publication. Significant appropriations matters related to the subject area specified also are 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. 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: Denise Huntley Adams, Dee Atkinson, Cindy Avrette, Susan Barham, Brenda Carter, Drupti Chauhan, Erika Churchill, Karen Cochrane-Brown, Judy Collier, Heather Fennell, Trina Griffin, Jennifer L. Hillman, Tim Hovis, Jeff Hudson, Amy Jo Johnson, Sara Kamprath, Brad Krehely, Peter Ledford, Mariah Matheson, Theresa Matula, Kara McCraw, Jennifer McGinnis, Harrison Moore, Jennifer Mundt, Bill Patterson, Jan Paul, Giles S. Perry, Patsy Pierce, Kelly Quick Tornow, Wendy Graf Ray, Barbara Riley, Greg Roney, Chris Saunders, and Susan Sitze. Jeff Cherry, Sean Dail, Dan Etefagh, Luke Gillenwater, Matthew Meinig, Phyllis Pickett, Ben Stanley, and Myra Torain of the Legislative Drafting Division, also contributed to this document. Jennifer Mundt is chief editor of this year's publication, and Chris Saunders and Sara Kamprath are co-editors. Mariah Matheson, 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 to which 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 publication also is available on the Internet. Go to the General Assembly's homepage at <http://www.ncleg.net>. Click on "Research Division," then "Publications," then "Summaries of Substantive Ratified Legislation." Each summary is hyperlinked to the final bill text, the bill history, and any applicable fiscal note.

I hope this publication 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,



O. Walker Reagan
Director of Research

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TABLE OF CONTENTS

CHAPTER 1: AGRICULTURE AND WILDLIFE	<u>1</u>
ENACTED LEGISLATION	<u>1</u>
<i>North Carolina Farm Act of 2014</i>	<u>3</u>
<i>Technical and Other Corrections</i>	<u>5</u>
<i>Regulatory Reform Act of 2014</i>	<u>5</u>
CHAPTER 2: ALCOHOL BEVERAGE CONTROL	<u>7</u>
ENACTED LEGISLATION	<u>7</u>
<i>Regulatory Reform Act of 2014</i>	<u>8</u>
CHAPTER 3: CHILDREN AND FAMILIES	<u>9</u>
ENACTED LEGISLATION	<u>9</u>
<i>Technical and Other Corrections</i>	<u>9</u>
CHAPTER 4: CIVIL LAW AND PROCEDURE	<u>11</u>
ENACTED LEGISLATION	<u>11</u>
<i>Technical and Other Corrections</i>	<u>12</u>
<i>Regulatory Reform Act of 2014</i>	<u>13</u>
CHAPTER 5: COMMERCIAL LAW AND CONSUMER PROTECTION	<u>15</u>
ENACTED LEGISLATION	<u>15</u>
<i>Technical and Other Corrections</i>	<u>16</u>
CHAPTER 6: COURTS, JUSTICE, AND CORRECTIONS	<u>17</u>
ENACTED LEGISLATION	<u>17</u>
<i>Corrections</i>	<u>17</u>
<i>Courts</i>	<u>19</u>
STUDIES	<u>23</u>
CHAPTER 7: CRIMINAL LAW AND PROCEDURE	<u>25</u>
ENACTED LEGISLATION	<u>25</u>
<i>North Carolina Farm Act of 2014</i>	<u>28</u>
<i>Technical and Other Corrections</i>	<u>28</u>
<i>Regulatory Reform Act of 2014</i>	<u>29</u>
CHAPTER 8: EDUCATION	<u>31</u>
ENACTED LEGISLATION	<u>31</u>
<i>Public Schools</i>	<u>31</u>
<i>Higher Education</i>	<u>46</u>
<i>Community Colleges</i>	<u>47</u>
<i>Universities</i>	<u>48</u>
STUDIES	<u>51</u>
<i>Referrals to Existing Commissions/Committees</i>	<u>51</u>

<i>Referrals to Departments, Agencies, Etc.</i>	<u>52</u>
CHAPTER 9: ENVIRONMENT AND NATURAL RESOURCES AND ENERGY	<u>55</u>
ENACTED LEGISLATION	<u>55</u>
<i>Air Quality</i>	<u>55</u>
<i>Coastal Issues</i>	<u>56</u>
<i>Energy</i>	<u>57</u>
<i>Environmental Health</i>	<u>60</u>
<i>Fisheries</i>	<u>60</u>
<i>Miscellaneous</i>	<u>62</u>
<i>Parks and Public Spaces</i>	<u>64</u>
<i>Solid/Hazardous Waste</i>	<u>65</u>
<i>Water Quality/Quantity/Groundwater</i>	<u>68</u>
STUDIES	<u>72</u>
<i>Referrals to Departments, Agencies, Etc.</i>	<u>72</u>
CHAPTER 10: FINANCE	<u>75</u>
ENACTED LEGISLATION	<u>75</u>
<i>Income Tax Changes</i>	<u>75</u>
<i>Sales Tax Changes</i>	<u>76</u>
<i>Excise Tax Changes</i>	<u>80</u>
<i>Property Tax</i>	<u>81</u>
<i>Local Taxes</i>	<u>82</u>
<i>Miscellaneous</i>	<u>82</u>
STUDIES	<u>83</u>
<i>Referrals to Existing Commissions/Committees</i>	<u>83</u>
CHAPTER 11: HEALTH AND HUMAN SERVICES	<u>85</u>
ENACTED LEGISLATION	<u>85</u>
<i>Technical and Other Corrections</i>	<u>93</u>
<i>Regulatory Reform Act of 2014</i>	<u>94</u>
STUDIES	<u>95</u>
<i>New/Independent Studies/Commissions</i>	<u>95</u>
<i>Referrals to Existing Commissions/Committees</i>	<u>95</u>
<i>Referrals to Departments, Agencies, Etc.</i>	<u>96</u>
CHAPTER 12: INSURANCE	<u>101</u>
ENACTED LEGISLATION	<u>101</u>
<i>North Carolina Farm Act of 2014</i>	<u>102</u>
<i>Technical and Other Corrections</i>	<u>103</u>
<i>Regulatory Reform Act of 2014</i>	<u>103</u>
CHAPTER 13: LABOR AND EMPLOYMENT	<u>105</u>
ENACTED LEGISLATION	<u>105</u>

CHAPTER 14: LOCAL GOVERNMENT	<u>109</u>
ENACTED LEGISLATION	<u>109</u>
<i>North Carolina Farm Act of 2014</i>	<u>112</u>
<i>Technical and Other Corrections</i>	<u>113</u>
<i>Regulatory Reform Act of 2014</i>	<u>113</u>
CHAPTER 15: MILITARY, VETERANS, AND INDIAN AFFAIRS	<u>115</u>
ENACTED LEGISLATION	<u>115</u>
CHAPTER 16: OCCUPATIONAL BOARDS AND LICENSING	<u>117</u>
ENACTED LEGISLATION	<u>117</u>
<i>North Carolina Farm Act of 2014</i>	<u>118</u>
<i>Technical and Other Corrections</i>	<u>119</u>
<i>Regulatory Reform Act of 2014</i>	<u>120</u>
CHAPTER 17: PROPERTY, TRUSTS, AND ESTATES	<u>123</u>
ENACTED LEGISLATION	<u>123</u>
<i>Technical and Other Corrections</i>	<u>124</u>
<i>Regulatory Reform Act of 2014</i>	<u>125</u>
CHAPTER 18: RESOLUTIONS	<u>127</u>
JOINT RESOLUTIONS	<u>127</u>
CHAPTER 19: RETIREMENT	<u>129</u>
ENACTED LEGISLATION	<u>129</u>
CHAPTER 20: STATE GOVERNMENT	<u>135</u>
ENACTED LEGISLATION	<u>135</u>
<i>Elections</i>	<u>150</u>
<i>Information Technology</i>	<u>151</u>
<i>North Carolina Farm Act of 2014</i>	<u>154</u>
<i>Regulatory Reform Act of 2014</i>	<u>154</u>
<i>Technical and Other Corrections</i>	<u>156</u>
CHAPTER 21: TRANSPORTATION	<u>159</u>
ENACTED LEGISLATION	<u>159</u>
<i>North Carolina Farm Act of 2014</i>	<u>166</u>
<i>Technical and Other Corrections</i>	<u>167</u>
<i>Regulatory Reform Act of 2014</i>	<u>168</u>
CHAPTER 22: UTILITIES	<u>169</u>
ENACTED LEGISLATION	<u>169</u>
<i>Regulatory Reform Act of 2014</i>	<u>170</u>
INDEX	<u>171</u>

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Chapter 1

Agriculture and Wildlife

Jeff F. Cherry (JFC), Mariah Matheson (MM), Jennifer McGinnis (JLM), Chris Saunders (CS)

Enacted Legislation

Omnibus Tax Law Changes: Agricultural Exemption Certificate

S.L. 2014-3, Part III ([HB 1050](#), Part III). See **Finance**.

Plant Sciences Research and Innovation Initiative

S.L. 2014-100, Sec. 13.1 ([SB 744](#), Sec. 13.1) directs the Commissioner of Agriculture to jointly develop, with the College of Agriculture and Life Sciences at North Carolina State University (NCSU) and other stakeholders, a formal proposal and economic needs assessment for the establishment of a public/private partnership between NCSU, other academic institutions, agribusiness and bioscience companies, the Department of Agriculture and Consumer Services (DACS), and other State agencies for the "Plant Sciences Research and Innovation Initiative" and for the "Food Processing Initiative." DACS and NCSU must jointly submit a copy of the proposal and report on the results of the economic needs assessment to the Agriculture and Forestry Awareness Study Commission and the General Assembly by January 1, 2015.

This section became effective July 1, 2014. (MM)

Agricultural Well Development as Criteria for Agricultural Water Resources Assistance Program Funding

S.L. 2014-100, Sec. 13.3 ([SB 744](#), Sec. 13.3) clarifies a duty of the Soil and Water Conservation Commission (Commission) with respect to the Agricultural Water Resources Assistance Program, by adding development of agricultural wells to the Commission's responsibility for establishing criteria to allocate funds to local soil and water conservation districts.

This section became effective August 7, 2014. (JLM)

Certification of Private Pesticide Applicators

S.L. 2014-100, Sec. 13.10 ([SB 744](#), Sec. 13.10) and S.L. 2014-103, Sec. 16 ([HB 366](#), Sec. 16), authorize the Pesticide Board to adopt rules to classify private pesticide applicators.

These sections also direct the Structural Pest Control Committee (Committee) to adopt rules regarding ancillary activities that may be performed in association with the control of wood-destroying organisms or household pests, and exempts the Committee from the Administrative Procedure Act for the purpose of issuing these rules.

These sections became effective July 1, 2014. (CS)

Increase Fees Associated with National Poultry Improvement Plan

S.L. 2014-100, Sec. 13.11 ([SB 744](#), Sec. 13.11) directs the Department of Agriculture and Consumer Services to charge the following fees for certification in the National Poultry Improvement Plan:

- An initial certification fee of \$50 plus \$0.10 per bird.
- An annual recertification fee of \$10 plus \$0.10 per bird.

This section became effective August 7, 2014, and applies to certifications or recertifications issued on or after that date. (CS)

Fees for Forest Management Plans

S.L. 2014-100, Sec. 13.13, ([SB 744](#), Sec. 13.13), as amended by S.L. 2014-120, Sec. 58 ([SB 734](#), Sec. 58), requires the Board of Agriculture (Board) to establish a schedule of fees for the preparation of forest management plans, which may not exceed the amount necessary to offset the costs of the Department of Agriculture and Consumer Services to prepare forest management plans. The Board must: (i) adopt permanent rules by July 1, 2016, but until that date is allowed to set such fees without complying with the rulemaking requirements of the Administrative Procedure Act; and (ii) post the fee schedule on its Web site and provide notice of the schedule to certain persons.

This section became effective July 1, 2014. (JLM)

Tennessee Valley Authority Settlement Funds

S.L. 2014-100, Sec. 13.15 ([SB 744](#), Sec. 13.15) appropriates \$500,000 for the 2013-2014 fiscal year to the North Carolina Agricultural Water Resources Assistance Program for specific counties in western North Carolina. This section also appropriates \$500,000 for the 2014-2015 fiscal year to WNC Communities to fund lighting efficiency projects for public schools in areas served by that organization, provided that no more than \$50,000 may be used for administrative expenses. This section also clarifies that grants awarded for "Environmental Mitigation Projects" from Tennessee Valley Authority Settlement Agreement funds may not be used to purchase conservation easements.

This section became effective July 1, 2014. (CS)

Efficiencies Reporting By Natural and Economic Resources Agencies

S.L. 2014-100, Sec. 14.2A ([SB 744](#), Sec. 14.2A). See **State Government**.

Wildlife Licensing Changes

S.L. 2014-100, Sec. 14.25 ([SB 744](#), Sec. 14.25) makes clarifying and conforming changes to various wildlife license statutes to make the definitions of "effective date" and "disabled veteran" consistent across all license statutes and to clarify that the age of persons eligible for an Adult Resident Lifetime Sportsman License is between 12 and 70 years old.

This section became effective July 1, 2014. (JFC)

Oversight of Cervids

S.L. 2014-100, Sec. 14.26 ([SB 744](#), Sec. 14.26) prohibits the Wildlife Resources Commission (WRC) from issuing a transportation permit for the importation of cervids into the State prior to July 1, 2017. This prohibition does not limit the issuance of new captivity licenses or permits for cervid facilities originating within the State from facilities with an existing captivity license or permit. The WRC must follow the United States Department of Agriculture's Chronic Wasting Disease Program Standards (USDA Standards) in its regulation of cervids. The WRC must allow the sale of antlers, antler velvet, or hides from captive populations of cervids.

No later than March 1, 2015, the WRC must report to the Agriculture and Forestry Awareness Study Commission on the differences between the USDA Standards and rules adopted by the WRC. The report must include a list and a brief summary of rules adopted by the WRC in effect immediately prior to the enactment of this section that are more stringent than the USDA Standards.

This section became effective July 1, 2014. (MM)

Agriculture Gas Expansion Fund

S.L. 2014-100, Sec. 15.13 ([SB 744](#), Sec. 15.13) establishes the Expanded Gas Products Service to Agriculture Fund (Fund) as a special revenue fund in the Department of Commerce (Department) to support eligible projects that would reduce infrastructure costs, increase energy efficiency or reduce energy consumption, reduce energy costs, or enhance the feasibility of the project or the provision of propane gas service. The Department is exempted from the Administrative Procedure Act for the purpose of developing criteria and administering the Fund.

This section became effective July 1, 2014. (CS)

North Carolina Farm Act of 2014

Maintain the Confidentiality of Environmental Investigations for Agricultural Operations and Direct the Department of Environment and Natural Resources to Adopt Rules for a Formal Complaint Procedure

S.L. 2014-103, Sec. 1 ([HB 366](#), Sec. 1). See **Environment and Natural Resources and Energy**.

Clarify the Authority of Local Governments to Adopt Ordinances Related to Fertilizer

S.L. 2014-103, Sec. 2 ([HB 366](#), Sec. 2). See **Local Government**.

Study the State's Participation in the Commercial Vehicle Safety Alliance North American Standard Inspection Program

S.L. 2014-103, Sec. 4 ([HB 366](#), Sec. 4). See **Transportation**.

Clarify the Meaning of the Terms "Planting and Harvesting Season" and "Planting and Harvesting Period" for Purposes

of Applying Federal Laws or Regulations Relating to Hours of Service Rules for Certain Drivers Transporting Agricultural Products

S.L. 2014-103, Sec. 5 ([HB 366](#), Sec. 5). See **Transportation**.

Amend the Chairmanship of the Agriculture and Forestry Awareness Study Commission

S.L. 2014-103, Sec. 6 ([HB 366](#), Sec. 6) amends the chairmanship of the Agriculture and Forestry Awareness Study Commission to allow the President Pro Tempore of the Senate and the Speaker of the House of Representatives to appoint one additional member of the Senate and House, respectively, to serve as cochair.

This section became effective August 6, 2014. (CS)

Allow the Commissioner of Agriculture to Appoint Law Enforcement Officers to Carry Out the Law Enforcement Responsibilities of the Department of Agriculture

S.L. 2014-103, Sec. 7 ([HB 366](#), Sec. 7) authorizes the Commissioner of Agriculture to appoint as many Department of Agriculture and Consumer Services (Department) law-enforcement officers as he or she deems necessary to carry out the Department's law-enforcement responsibilities. These officers must meet the training standards of the North Carolina Criminal Justice Education and Training Standards Commission and take the constitutional oath of office.

This section became effective August 6, 2014. (CS)

Amend Horse Industry Promotion Act

S.L. 2014-103, Sec. 8 ([HB 366](#), Sec. 8) amends the definition of "commercial horse feed" under the Horse Industry Promotion Act to include any commercial feed labeled or marketed for equine use.

This section became effective August 6, 2014. (CS)

Pesticide Use for Moles

S.L. 2014-103, Sec. 9 ([HB 366](#), Sec. 9) authorizes the use of any pesticide registered by the Pesticide Board (Board) to control any species of mole other than the Star-Nosed mole if Board rules are followed and hazards to nontarget species are minimized.

This section became effective August 6, 2014. (CS)

Add Agricultural Facilities to First Degree Trespass

S.L. 2014-103, Sec. 10 ([HB 366](#), Sec. 10). See **Criminal Law and Procedure**.

Designate "Got to Be NC" Marketing Campaign as the Official Agricultural Marketing Campaign for the State

S.L. 2014-103, Sec. 15 ([HB 366](#), Sec. 15) and S.L. 2014-100, Sec. 13.4 ([SB 744](#), Sec. 13.4) designate the "Got To Be NC" marketing campaign of the North Carolina Department of Agriculture and Consumer Services as the official agricultural marketing campaign for the State, and adds "seafood" to the list of products promoted by the campaign.

This section became effective August 6, 2014. (CS)

Exempt State Fair Admission Fees from Rule Making

S.L. 2014-103, Sec. 17 ([HB 366](#), Sec. 17) and S.L. 2014-100, Sec. 13.2 ([SB 744](#), Sec. 13.2). See **State Government**.

Technical and Other Corrections

Clarifying and Conforming Changes to the Statutes Pertaining to the Tobacco Growers Assessment Act

S.L. 2014-115, Sec. 42.7 ([HB 1133](#), Sec. 42.7) clarifies that the assessment in the Tobacco Growers Assessment Act applies to tobacco produced in North Carolina, rather than tobacco marketed in North Carolina.

This section became effective August 11, 2014. (MM)

Regulatory Reform Act of 2014

Speed Limit Waiver in State Parks and Forests

S.L. 2014-120, Sec. 31 ([SB 734](#), Sec. 31). See **Transportation**.

Scope of Local Authority for Ordinances

S.L. 2014-120, Sec. 32 ([SB 734](#), Sec. 32). See **Local Government**.

Hunting Trials

S.L. 2014-120, Sec. 36 ([SB 734](#), Sec. 36) directs the Wildlife Resources Commission (WRC) to clarify the rules governing which participants in retriever field trials are required to possess a hunting license, including out-of-state participants, judges, and spectators. The WRC is required to hold public hearings and consult with field trial groups active in the State in developing the rules.

This section became effective September 18, 2014. (JLM)

Chapter 2
Alcohol Beverage Control
Brenda J. Carter (BJC) and Kelly Quick Tornow (KQT)

Enacted Legislation

Omnibus Tax Law Changes: Tax Law Compliance Changes

S.L. 2014-3, Part X ([HB 1050](#), Part X). See **Finance**.

Alcoholic Beverage Control Commission/Use of Funds Credited to Alcoholic Beverage Control Commission Fund

S.L. 2014-100, Sec. 15.1 ([SB 744](#), Sec. 15.1) provides that moneys in the Alcoholic Beverage Control Commission Fund may be expended only upon an appropriation by an act of the General Assembly.

This section became effective July 1, 2014. (BJC)

Transfer Alcoholic Beverage Control Commission to Department of Public Safety

S.L. 2014-100, Sec. 15.2A ([SB 744](#), Sec. 15.2A) transfers the Alcoholic Beverage Control Commission (Commission) from the Department of Commerce to the Department of Public Safety and makes conforming statutory changes. The Commission will exercise its powers independently of the Secretary of Public Safety.

This section became effective October 1, 2014. (BJC)

Alcoholic Beverage Control Commission/30-Day Suspension of Permit for Certain Criminal Charges

S.L. 2014-100, Sec. 15.2A1 ([SB 744](#), Sec. 15.2A1) requires the Alcoholic Beverage Control (ABC) Commission to immediately suspend an establishment's ABC permits for a period of 30 days if Alcohol Law Enforcement agents or local ABC Board officers provide advance notice to the Commission's Legal Division staff of an ongoing undercover operation and, upon execution of the search warrant resulting from the undercover operation, 5 or more persons are criminally charged with violations of the gambling, disorderly conduct, prostitution, controlled substance, or felony criminal counterfeit trademark laws.

This section became effective October 1, 2014, and applies to criminal charges filed on or after that date. (BJC)

Alcoholic Beverage Control Permit Fee Increase

S.L. 2014-100, Sec. 16B.2 ([SB 744](#), Sec. 16B.2) increases the fees for renewing an Alcoholic Beverage Control permit. Application fees for renewal will be the same amount as the initial fee, except the renewal application fee for a wine shop permit remains at \$500. The renewal application fee for each mixed beverages permit and each guest room cabinet permit is

increased from \$750 to \$1,000. The annual malt beverage/wine registration and inspection fee is increased from \$200 to \$400 for each permit held.

This section became effective July 1, 2014, and applies to fees assessed or collected for permits issued or renewed on or after that date. (BJC)

Regulatory Reform Act of 2014

Alcoholic Beverage Control Permits/Schools and Colleges

S.L. 2014-120, Sec. 14 ([SB 734](#), Sec. 14) rewrites the law prohibiting the issuance of permits for the sale of alcoholic beverages to businesses on the campus or property of a public school, college, or university. The section creates an exception that allows restaurants, eating establishments, food businesses, and retail businesses on North Carolina State University's Centennial Campus to obtain a permit to sell alcoholic beverages. The section also rewrites the exception that allows the issuance of permits for the sale of beer and wine at performing arts centers on property owned or leased by a constituent institution of The University of North Carolina by making the exception applicable to all public colleges and universities and removing the 2,000-seat limitation.

This section became effective September 18, 2014. (BJC)

Community College Brewing Course Waiver

S.L. 2014-120, Sec. 17 ([SB 734](#), Sec. 17) authorizes the Alcoholic Beverage Control Commission (Commission) to grant a brewing, distillation, and fermenting course authorization to a college or community college offering the course as part of its curriculum. The college or community college may possess and sell malt beverages manufactured and produced during the course to wholesalers or retailers in limited quantities upon obtaining appropriate permits, and the school may obtain a malt beverage special event permit allowing it to give free tastings or sell its malt beverages at festivals and other similar events approved by the Commission. The sale of products raised or produced incident to the operation of a community college or college brewing, distillation, or fermentation program is exempt from the Umstead Act, a law that generally prohibits the sale of merchandise or services by governmental units in competition with citizens of the State.

This section became effective September 18, 2014. (BJC)

Enacted Legislation

Verification/Jurisdiction in Juvenile Cases

S.L. 2014-16 ([HB 1103](#)) amends the statute providing for judicial review of matters prior to an adjudicatory hearing in juvenile cases. This act adds a requirement that the court consider whether the petition seeking adjudication that a juvenile is abused, neglected, or dependent has been properly verified and invokes jurisdiction. A petition initiating a case alleging that a juvenile is abused, neglected, or dependent is required by law to be properly signed and verified to invoke subject matter jurisdiction. Without it, all proceedings in a case are void and judgments entered are without legal effect.

This act became effective October 1, 2014. (WGR)

Disapprove Industrial Commission Rules

S.L. 2014-77, Sec. 8 ([SB 794](#), Sec. 8). See **Labor and Employment**.

Child Protective Services Improvement Initiative

S.L. 2014-100, Sec. 12C.1 ([SB 744](#), Sec. 12C.1). See **Health and Human Services**.

Clarify Work First Family Assistance Income Levels

S.L. 2014-100, Sec. 12C.2 ([SB 744](#), Sec. 12C.2) amends the statute that prescribes the maximum net family annual income eligibility standards for Work First Family Assistance.

This section became effective July 1, 2014. (JPP)

Technical and Other Corrections

Guardian Ad Litem Fees

S.L. 2014-115, Sec. 21 ([HB 1133](#), Sec. 21) clarifies that the Office of Indigent Defense Services has the authority to pay the fees of a guardian ad litem who is appointed to represent a parent respondent in an abuse, neglect, or dependency case.

This section became effective August 11, 2014. (WGR)

Address on Child Support Orders

S.L. 2014-115, Sec. 44.5 ([HB 1133](#), Sec. 44.5) requires IV-D child support orders and orders containing income withholding requirements to include the custodial parent's address, or the child's address if the custodial parent and child are at different addresses. An order does not have to contain the address of the parent or child if either of the following apply:

- There is an existing order prohibiting disclosure of the address to the obligor.

- The court has determined that notice to the obligor is inappropriate because the obligor has made verbal or physical threats that constitute domestic violence. This section became effective August 11, 2014. (WGR)

Chapter 4

Civil Law and Procedure

Brenda J. Carter (BJC), Brad Krehely (BK), Bill Patterson (BP)

Enacted Legislation

Groundwater Contamination Claims/Exemption from Statute of Repose

S.L. 2014-17 ([SB 574](#)), as amended by S.L. 2014-44 ([SB 58](#)), provides that claims for personal injury or property damage caused by groundwater contaminated by a hazardous substance, pollutant or contaminant, including personal injury or property damage resulting from consumption, exposure or use of water supplied from such contaminated groundwater, is not subject to the 10-year statute of repose. This act does not change existing law relating to product liability actions based upon disease.

This act became effective June 20, 2014, and applies to actions filed, arising, or pending on or after that date. (BP)

Venue for Certain Challenges to Acts of the General Assembly

S.L. 2014-100, Sec. 18B.16 ([SB 744](#), Sec. 18B.16) provides that any claim in a civil proceeding challenging the facial validity of an act of the General Assembly on the basis that the act violates the North Carolina Constitution or federal law must be heard and determined by a three-judge panel of the Superior Court of Wake County appointed by the Chief Justice of the Supreme Court if the challenge to the act's facial validity is raised by the claimant in the claimant's complaint or amended complaint, or by the defendant in the defendant's answer, responsive pleading, or within 30 days of filing the defendant's answer or responsive pleading.

This section provides a direct appeal to the North Carolina Supreme Court from any court order, whether final or interlocutory, holding that an act of the General Assembly is facially invalid on the basis that it violates the North Carolina Constitution or federal law.

For actions to which the State or a political subdivision of the State is a party, this section also provides a right of appeal to the Court of Appeals from an adverse ruling by a trial court:

- Granting or denying interlocutory, temporary or permanent injunctive or declaratory relief restraining the State or one of its political subdivisions from enforcing the act as applied against a party in a civil action, or
- Denying a motion to stay an injunction restraining the State or one of its political subdivisions from enforcing the act as applied against a party in a civil action.

This section's provisions setting forth the procedure for appointment of judges to the three-judge panel became effective September 1, 2014. The remaining provisions of this section became effective August 7, 2014, and apply to any claim asserted in a pleading or amended pleading filed on or after that date challenging the validity of an act of the General Assembly on its face or as applied to a set of factual circumstances on the basis that the act violates the North Carolina Constitution or federal law. (BP)

Pleading Monetary Relief Sought in Cases Designable as Mandatory Complex Business Cases

S.L. 2014-102, Sec. 7 ([SB 853](#), Sec. 7) requires that pleadings setting forth a claim for relief in certain actions eligible for designation as mandatory complex business cases to be heard

by a Business Court Judge must state whether or not the amount of damages sought is equal to or greater than \$5 million. This change will facilitate enforcement of the requirement enacted in another section of this act, that such cases having an amount in controversy of at least at least \$5 million must be heard by a Business Court Judge. See **Courts, Justice, and Corrections**.

This section became effective August 6, 2014, and applies to actions commenced on or after that date. (BP)

Delete Statutory Forms/Procedure for Setting Aside Exempt Property

S.L. 2014-107, Part III ([SB 773](#), Part III) deletes the statutory forms for judgment debtors claiming personal and real property exemptions and directs the Administrative Office of the Courts to continue to provide forms for that purpose.

This Part became effective October 1, 2014, and does not affect any debtor's statements issued before that date. (BJC)

Limit Successor Asbestos-Related Liabilities

S.L. 2014-110, Part IV ([SB 648](#), Part IV) limits the liability of a corporation for asbestos-related claims if that liability resulted from the corporation's merger or consolidation with another corporation occurring prior to January 1, 1972. The successor corporation's liability for asbestos-related claims is limited to the fair market value of the gross assets of the corporation from which the asbestos-related liability was assumed at the time of the merger or consolidation.

This Part becomes effective January 1, 2015, and applies to all asbestos claims filed against a successor corporation on or after that date. (BP)

Technical and Other Corrections

Intervention by Legislative Officers in Proceedings Challenging North Carolina Statutes or Constitution Provisions

S.L. 2014-115, Sec. 18 ([HB 1133](#), Sec. 18) amends the law concerning the standing of the Speaker of the House of Representatives and the President Pro Tempore of the Senate to intervene on behalf of the General Assembly as a party in any judicial proceeding challenging a North Carolina statute or provision of the North Carolina Constitution. The section corrects a reference to the rule of civil procedure governing interventions at the trial level and clarifies the procedure by which legislative officers may intervene at the appellate level.

This section became effective August 11, 2014. (BJC)

Pleading Monetary Relief Sought in Cases Asserting Negligence or Punitive Damages Claims

S.L. 2014-115, Sec. 18.5 ([HB 1133](#), Sec. 18.5) amends the requirements for pleadings that set forth a claim for relief. The section provides that in all negligence actions and in all claims for punitive damages in any civil action where the matter in controversy exceeds \$25,000, the pleading must not state the demand for monetary relief, but must state that the relief demanded is for damages incurred or to be incurred in excess of \$25,000. This change from

\$10,000 to \$25,000 brings the pleading requirement into conformity with the increase in jurisdictional amounts for district and superior court enacted in 2013.

This section became effective August 11, 2014. (BJC)

Regulatory Reform Act of 2014

Good Samaritan Law

S.L. 2014-120, Sec. 18 ([SB 734](#), Sec. 18) clarifies that a person who provides emergency services voluntarily and without expectation of compensation for those services is protected from liability under the Good Samaritan Law.

This section became effective September 18, 2014. (BK)

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Chapter 5

Commercial Law and Consumer Protection

Brad Krehely (BK), Peter Ledford (PL), Bill Patterson (BP), Greg Roney (GR)

Enacted Legislation

Conform Pledge of Joint Account Laws

S.L. 2014-61 ([HB 1117](#)) conforms the laws governing the pledge of joint accounts in credit unions, savings and loan associations, and savings banks to the laws governing the pledge of joint accounts in banks. In 2012, the General Assembly enacted the Banking Law Modernization Act that made changes to the statute on joint accounts that governed banks. The changes in the banking statute clarify that, unless otherwise specifically agreed between the bank and all of the joint tenants in writing, a pledge of a joint account by any one of the joint tenants:

- Is a valid pledge and transfer of the account or amount pledged.
- Binds all of the joint tenants.
- Does not operate to sever or terminate the joint ownership.
- Survives the death of any joint tenant.

This act became effective July 7, 2014, and applies to joint accounts created before, on, or after that date. (GR)

Business Court Modernization

S.L. 2014-102, Sec. 6 ([SB 853](#), Sec. 6) simplifies the process by which corporations and limited liability companies that are incorporated or organized in North Carolina can accomplish an internal reorganization through the use of a holding company, by permitting such internal reorganizations to occur without a vote of shareholders under specified conditions.

This section became effective October 1, 2014, and applies to plans of merger adopted on or after that date. (BP)

North Carolina Commerce Protection Act of 2014

S.L. 2014-110, Parts II and III ([SB 648](#), Parts II and III) do the following:

Prevent the Abuse of Patents. – Part II makes a bad faith assertion of patent infringement an unfair and deceptive trade practice. An assertion of patent infringement involves a communication asserting that patent infringement has occurred or that certain entities need to license a patent. This section sets forth various factors that may be considered by the court in determining whether the person making the assertion is doing so in bad faith or in good-faith.

This section specifically exempts assertions concerning drugs and biological products regulated under the Food, Drug, and Cosmetic Act; assertions concerning asexually reproducing plant patents; assertions concerning rights under the Plant Variety Protection Act; assertions concerning usage of pesticide products enforced by the Environmental Protection Agency under federal law; assertions by or on behalf of North Carolina institutions of higher education, technology transfer organizations, or 501(c)(3) nonprofit research organizations; and assertions by an entity primarily engaged in research and development, manufacturing, or the provisions of goods or commercial services or an affiliate of that entity.

If the court determines there is a reasonable likelihood of bad faith patent assertion, the court must require the person making the assertion to post a bond equal to the estimated costs and fees incurred by the target to litigate the claim and the amount likely to be recovered by the

target due to the State claim created by the act, not to exceed \$500,000. The court may waive the requirement where the person making the assertion has assets equal to the amount of the proposed bond or for good cause. The bond does not insulate the person making the assertion from liability above the bond amount, and the bond may be used for amounts awarded but not paid within 30 days of payment being ordered by a court.

Other provisions relating to the civil cause of action include the following:

- The Attorney General is empowered to make rules, conduct investigations, bring civil actions, or enter assurances of discontinuance.
- Targets are authorized to bring an action in Superior Court against the person making the assertion, and damages that may be awarded include equitable relief, damages, costs and fees, and exemplary damages equal to \$50,000 or three times the total of damages, costs, and fees, whichever is greater.
- The court is required to join interested parties on motion of the Attorney General or a target if the person making the assertion has no substantial interest in the patent other than making demands or asserting the patent claim in litigation.
- Joined parties may be held jointly and severally liable if the party making the assertion is unable to pay amounts awarded.
- Making a demand to a North Carolina target subjects the person to the jurisdiction of North Carolina courts.

Part II became effective August 6, 2014, and applies to causes of action commenced on or after that date and demands made on or after that date.

Shareholder Assent to Exclusive Forum. – Part III amends the North Carolina Business Corporations Act to provide that a provision in the articles of incorporation or bylaws of a corporation that specifies a forum or venue in North Carolina as the exclusive forum or venue for litigation relating to the internal affairs of the corporation is valid and enforceable.

Part III became effective August 6, 2014. (PL)

Technical and Other Corrections

Amend Definition of "Home Loan"

S.L. 2014-115, Sec. 31 ([HB 1133](#), Sec. 31) amends the definition of "home loan" in the statute dealing with contract rates on home loans secured by first mortgages or first deeds of trust to include loans secured by an equivalent first security interest in a manufactured home. This section removes an ambiguity in the existing statute.

This section became effective August 11, 2014. (BK)

Licensure as a Transitional Mortgage Loan Originator

S.L. 2014-115, Sec. 39 ([HB 1133](#), Sec. 39) clarifies that federally registered loan originators (in addition to those licensed in other states) are eligible to apply for a licensure as a transitional mortgage loan originator.

This section became effective August 11, 2014. (BK)

Chapter 6

Courts, Justice, and Corrections

Brenda J. Carter (BJC), Erika Churchill (EC), Sean Dail (SD), Jennifer Hillman (JLH),
Brad Krehely (BK), Peter Ledford (PL), Bill Patterson (BP), Jan P. Paul (JPP),
Wendy Graf Ray (WGR), Susan L. Sitze (SLS), Kelly Quick Tornow (KQT)

Enacted Legislation

Corrections

Omnibus Tax Law Changes: Tax Vapor Products and Prohibit Use of Vapor Products in Jails

S.L. 2014-3, Part XV ([HB 1050](#), Part XV). See **Finance**.

Delay Transfer/Cleveland County Correctional Facility

S.L. 2014-19 ([HB 183](#)) delays the transfer date of the Cleveland County Correctional Facility to the Board of Trustees of Cleveland Community College until July 1, 2016.
This act became effective June 24, 2014. (KQT)

Jail Dormitory Minimum Standards

S.L. 2014-22 ([SB 463](#)). See **Local Government**.

All Misdemeanants to Serve Sentences in Local Confinement Facilities

S.L. 2014-100, Sec. 16C.1 ([SB 744](#), Sec. 16C.1) eliminates provisions for the serving of misdemeanor sentences in the State prison system, and requires them to be served in local confinement facilities. Misdemeanants with sentences of greater than 90 days will serve their sentences in local confinement facilities that participate in the Statewide Misdemeanant Confinement Program (SMCP). The North Carolina Sheriffs' Association administers the SMCP, a voluntary program that pays counties with surplus jail bed capacity for the housing, transportation, and medical care of misdemeanants.

This section became effective October 1, 2014, and applies to persons placed on probation or sentenced for impaired driving on or after January 1, 2015, and, for all other misdemeanors, to persons placed on probation or sentenced on or after October 1, 2014. (SD)

Remove Limitation on Community Work Crew Fee

S.L. 2014-100, Sec. 16C.2 ([SB 744](#), Sec. 16C.2) removes the maximum amount of \$150 per day that the Division of Adult Correction (Division) of the Department of Public Safety may charge to a unit of local government for use of a community work crew. The Division may continue charge a unit of local government the cost to the Division to provide the crew.

This section became effective July 1, 2014. (PL)

Evaluation of Electrical Devices, Appliances, and Equipment Used by the Division of Adult Correction

S.L. 2014-100, Sec. 16C.4 ([SB 744](#), Sec. 16C.4) provides that any electrical devices, appliances, and equipment used by the Division of Adult Correction of the Department of Public Safety (DPS), that are not evaluated by the Central Engineering Section of DPS, must be evaluated by a qualified testing laboratory in the same manner as all other electrical devices, appliances, and equipment.

This section became effective July 1, 2014. (SLS)

Adult and Juvenile Inmate Medical Costs

S.L. 2014-100, Sec. 16C.6 ([SB 744](#), Sec. 16C.6) clarifies that various laws regarding adult inmate medical costs also apply to juvenile inmate medical costs.

This section became effective July 1, 2014. (KQT)

Clarify the Imposition of Confinement in Response to Violations

S.L. 2014-100, Sec. 16C.8 ([SB 744](#), Sec. 16C.8) clarifies that a 90-day term of confinement imposed for a felony probation violation must be served in the custody of the Division of Adult Correction of the Department of Public Safety and may not be reduced by credit for time served, which must instead be applied to the suspended sentence. This section further clarifies that a defendant must serve a period of confinement for a misdemeanor probation violation in the facility where the defendant would have served an active sentence.

This section became effective October 1, 2014, and applies to probation violations occurring on or after that date. (JPP)

Allow the Commissioner of Agriculture to Appoint Law Enforcement Officers to Carry Out the Law Enforcement Responsibilities of the Department of Agriculture

S.L. 2014-103, Sec. 7 ([HB 366](#), Sec. 7). See **Agriculture and Wildlife**.

Allow Videoconferencing Between a Treatment Facility and a Courtroom in Inpatient Commitment Hearings

S.L. 2014-107, Part VI ([SB 773](#), Part VI) allows interactive videoconferencing for inpatient commitment hearings between a treatment facility where the respondent is being treated and a courtroom.

This section became effective August 6, 2014. (KQT)

Furnishing Tobacco Products, Including Vapor Products, to Inmates

S.L. 2014-115, Sec. 23 ([HB 1133](#), Sec. 23) authorizes local confinement facilities to give or sell vapor products or FDA-approved tobacco cessation products, including over-the-counter

nicotine replacement therapies such as gum, patches, and lozenges, to inmates while in the custody of the local confinement facility.

This section becomes effective December 1, 2014, and applies to offenses committed on or after that date. (KQT)

Send Expunction Order to State Bureau of Investigation

S.L. 2014-115, Sec. 27 ([HB 1133](#), Sec. 27) provides that the clerk of superior court must send a certified copy of an order expunging a conviction to the State Bureau of Investigation (SBI) and requires the SBI to forward the order to the Federal Bureau of Investigation.

This section becomes effective December 1, 2014, and applies to petitions filed on or after that date. (KQT)

Add Retired Qualified Correctional Officers/Course Exemption

S.L. 2014-119, Sec. 7 ([HB 369](#), Sec. 7) adds retired qualified correctional officers to the persons exempt from taking an approved firearms safety and training course in order to obtain a concealed handgun permit.

This section became effective September 18, 2014. (SLS)

For summaries of additional provisions of S.L. 2014-119 (H369), see the **Criminal Law and Procedure** and **State Government** Chapters.

Courts

Verification/Jurisdiction in Juvenile Cases

S.L. 2014-16 ([HB 1103](#)). See **Children and Families**.

Statutory Changes Related to the Disposition of Settlement Funds

S.L. 2014-100, Sec. 6.6 ([SB 744](#), Sec. 6.6). See **State Government**.

Regulation of Unmanned Aircraft Systems

S.L. 2014-100, Secs. 7.11 and 34.30 ([SB 744](#), Secs. 7.11 and 34.30). See **Criminal Law and Procedure**.

Compensation of Court Reporters

S.L. 2014-100, Sec. 18B.3 ([SB 744](#), Sec. 18B.3) amends a provision in the Appropriations Act of 2013 which directed the Administrative Office of the Courts (AOC) to study deployment of court reporters and directed the AOC to report its findings and recommendations to the Joint Legislative Oversight Committee on Justice and Public Safety (Committee) by February 1, 2014. The amendments make the February 1, 2014 report an interim report, and direct the AOC to make a final report of its findings and recommendations to the Committee and the General Assembly by January 1, 2015.

This section became effective July 1, 2014. (PL)

Training for Superior and District Court Judges

S.L. 2014-100, Sec. 18B.5 ([SB 744](#), Sec. 18B.5) mandates that the School of Government at the University of North Carolina at Chapel Hill, in cooperation with various groups including the State Crime Laboratory, ensure that the continuing judicial education programs coordinated by the School of Government incorporate content related to proper custody and handling of biological evidence, including relevant information about the work of the State Crime Laboratory. The topic must also be addressed in continuing legal education programs for superior and district court judges on a regular basis.

This section became effective July 1, 2014. (KQT)

Abolish Four Special Superior Court Judgeships/Provide for Two Additional Business Court Judges/Procedure for Nomination and Confirmation of Special Superior Court Judges

S.L. 2014-100, Sec. 18B.6 ([SB 744](#), Sec. 18B.6) abolishes four existing special superior court judgeships upon the retirement, resignation, removal from office, death, or expiration of the term of the incumbent judge, and creates two new special superior court judgeships with the intention that they be designated as business court judges by the Chief Justice. The two new judgeships are created upon the abolition of two of the four existing judgeships as specified in this section. Effective September 1, 2014, all special superior court judgeships will be filled through a confirmation process in which the Governor nominates a potential judge and the General Assembly confirms or rejects the nominee. If the Governor fails to submit a nominee within a specified period of time, the judgeship will be filled by enactment of a bill.

Except as otherwise provided, this section became effective July 1, 2014. (SD)

Allocation of Assistant District Attorneys

S.L. 2014-100, Sec. 18B.7 ([SB 744](#), Sec. 18B.7) provides that the Administrative Office of the Courts' report to the General Assembly regarding recommendations for the allocation of assistant district attorneys for the upcoming fiscal biennium must include the workload formula established through the National Center for State Courts on which each recommended allocation is based. This section also clarifies that the number of assistant district attorneys allocated to each district attorney is developed by the General Assembly after consulting the workload formula established through the National Center for State Courts.

This section became effective July 1, 2014. (KQT)

Authorize the Court to Assess a Fee for the Costs of the Services of a Private Hospital Performing Toxicological Testing for a Prosecutorial District

S.L. 2014-100, Sec. 18B.14 ([SB 744](#), Sec. 18B.14) requires the district or superior court judge to order payment of \$600 in cases where, as part of a defendant's conviction, a private hospital under contract with a prosecutorial district has performed toxicological testing for the presence of alcohol or controlled substances. The \$600 cost can be assessed only if the court finds that the work performed by the local hospital is the equivalent of the same kind of work performed by the North Carolina State Crime Laboratory. This section also requires the district or superior court judge, upon conviction of the defendant, to order payment of \$600 for the services of an expert witness who is employed by a private hospital performing toxicological testing under

contract with a prosecutorial district and who completes a chemical analysis and provides testimony about that analysis in a defendant's trial. The cost can be assessed only in cases in which the expert witness provides testimony about the chemical analysis in the defendant's trial and can be in addition to any cost assessed for the private hospital's toxicological testing.

This section becomes effective December 1, 2014, and applies to fees assessed or collected on or after that date. (KQT)

Three-Judge Panel to Rule on Claims that an Act of the General Assembly is Facially Invalid on the Basis that the Act Violates the North Carolina Constitution or Federal Law

S.L. 2014-100, Sec. 18B.16 ([SB 744](#), Sec. 18B.16). See **Civil Law and Procedure**.

Business Court Modernization

S.L. 2014-102, Secs. 1 through 5 ([SB 853](#), Secs. 1 through 5) make the following changes to the law relating to the North Carolina Business Court:

- Provides a direct appeal to the Supreme Court from final judgments and appealable interlocutory orders of a Business Court Judge. This provision became effective October 1, 2014, and applies to actions designated as mandatory complex business cases on or after that date.
- Requires Business Court Judges to issue a written opinion with orders granting or denying motions to dismiss, motions for summary judgment, motions for a new trial, motions for relief from a judgment, or any order finally disposing of a complex business case other than orders affecting a settlement agreement or jury verdict.
- Modifies the procedures for designating cases to be heard by the Business Court, revises the categories of cases that may be so designated, and requires certain categories of cases to be so designated. This provision became effective October 1, 2014, and applies to actions commenced or petitions filed on or after that date.
- Increases the filing fee for complex business court cases from \$1,000 to \$1,100, and makes this a court cost that is assessable or recoverable in civil actions. This provision became effective October 1, 2014, and applies to actions commenced or petitions filed on or after that date.
- Requires the Administrative Office of the Courts to submit a semiannual report to each member of the General Assembly containing the following information, together with any explanation provided by the Business Court: the number of Business Court cases pending for more than three years; the number of motions pending for more than six months; and cases in which bench trials have been concluded for more than six months without entry of judgment.

Except as otherwise provided, these sections became effective August 6, 2014. (BP)

Grounds for Dismissal of Summary Ejectment Appeal

S.L. 2014-115, Sec. 19 ([HB 1133](#), Sec. 19) allows a plaintiff to serve a motion to dismiss an appeal in a summary ejectment action if the defendant failed to comply with any obligation set forth in the bond, and clarifies that if a defendant is not required to make a payment, failure to pay may not be used by the court as a basis to dismiss the appeal.

This section became effective October 1, 2014, and applies to all actions for summary ejectment filed on or after that date. (BP)

Powers of Magistrates/Open Burning Offenses

S.L. 2014-115, Sec. 20 ([HB 1133](#), Sec. 20) adds misdemeanor or infraction cases involving open burning offenses to the list of cases for which a magistrate may accept written appearances, waivers of trial or hearing and pleas of guilty or admission of responsibility, and to enter judgment and collect fines, penalties, and costs.

This section became effective August 11, 2014. (PL)

Disposition of Seized Firearms

S.L. 2014-115, Sec. 24.5 ([HB 1133](#), Sec. 24.5) amends the statute dealing with disposition of seized firearms when those firearms are no longer being used in a criminal trial by removing the requirement that the court receive a written request from a law enforcement agency before the court may order the firearm turned over to the agency.

This section became effective August 11, 2014. (EC)

Clarify Procedure for Subpoenas to Investigate Financial Exploitation of Disabled and Older Adults

S.L. 2014-115, Sec. 44 ([HB 1133](#), Sec. 44) clarifies the procedures for obtaining and challenging a subpoena to investigate the financial exploitation of disabled and older adults by specifying the following procedures: (i) an investigating entity may obtain a subpoena by filing a petition in district court; (ii) a financial institution may challenge the subpoena by filing a motion based on specified grounds; and (iii) court records of the proceedings are not public documents and must be maintained accordingly.

This section became effective August 11, 2014, and applies to petitions for a subpoena filed on or after that date. (BK)

Remote Testimony by Forensic and Chemical Analysts

S.L. 2014-119, Sec. 8 ([HB 369](#), Sec. 8) authorizes forensic and chemical analysts to testify from a remote location by video transmission if all of the following conditions are met:

- The State has provided a copy of the report to the defendant's attorney or to the defendant if the defendant has no attorney.
- The State notifies the defendant's attorney, or the defendant if the defendant has no attorney, at least 15 business days before the proceeding at which the evidence would be used of its intention to use remote testimony.
- The defendant's attorney, or the defendant if the defendant has no attorney, fails to file a written objection with the court, with a copy to the State, at least five business days before the proceeding at which the testimony will be presented that the defendant objects to the introduction of remote testimony.

This section became effective September 1, 2014, and applies to testimony admitted on or after that date. (SLS)

For summaries of additional provisions of S.L. 2014-119 (H369), see the **Criminal Law and Procedure** and **State Government** Chapters.

Studies

Status Reports Filed by Corporations or Disinterested Public Agents Serving as Guardians for Incompetent Wards

S.L. 2014-100, Sec. 12D.4 ([SB 744](#), Sec. 12D.4). See **Health and Human Services**.

Report on Treatment for Effective Community Supervision Program

S.L. 2014-100, Sec. 16C.7 ([SB 744](#), Sec. 16C.7) requires the Division of Adult Correction of the Department of Public Safety, to include the following information in its annual report on the Treatment for Effective Community Supervision program:

- The amount of any funds carried over from the previous fiscal year.
- Data on each program's utilization, capacity, and completion rates.
- The educational progress and employment status of people who received services.

This section became effective July 1, 2014. (KQT)

Study 340B Drug Pricing Opportunities

S.L. 2014-100, Sec. 16C.13 ([SB 744](#), Sec. 16C.13) requires the Division of Adult Correction of the Department of Public Safety (DPS), in conjunction with the University of North Carolina Health Care System, to study opportunities for the State to obtain savings under the federal 340B Drug Pricing Program on drugs provided to prisoners in State correctional facilities. DPS must report the results of the study by December 1, 2014, to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and to the General Assembly.

This section became effective July 1, 2014. (KQT)

Final Report on Criminal Case Information System

S.L. 2014-100, Sec. 18A.2 ([SB 744](#), Sec. 18A.2) amends the date on which the report due on the development and implementation of a component of the criminal case information system to be used by public defenders from March 1, 2015, to July 1, 2015, to the Joint Legislative Oversight Committee on Justice and Public Safety and the Appropriations Subcommittee on Justice and Public Safety.

This section became effective July 1, 2014. (EC)

Amend Various Provisions Requiring Reports on the Operations of the Courts

S.L. 2014-100, Sec. 18B.1 ([SB 744](#), Sec. 18B.1) makes changes to reporting requirements dealing with operations of the courts, including the following:

- Provides that the Court Information Technology Fund report is due annually by August 1 of each year to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and the General Assembly. The report must include amounts credited and expended in the preceding fiscal year (was preceding six months).

- Provides that the North Carolina Innocence Inquiry Commission must submit its report annually by February 1 of each year (was beginning January 1, 2008 and annually thereafter).
- Deletes the requirement that all community mediation centers must report annually to the Mediation Network of North Carolina on the program's funding and activities.
- Recodifies provisions dealing with the annual report on Business Court activities.
- Provides that the Office of Indigent Services must report to the Joint Legislative Oversight Committee on Justice and Public Safety and the General Assembly by February 1 of each year on: the volume and cost of cases handled by public defenders and assigned counsel, actions to improve the cost effectiveness of indigent defense services, and recommendations in changes to the law or funding procedures.
- Clarifies that the Office of Indigent Defense Services' requests for proposals from private law firms or not-for-profit organizations to provide for indigent clients must be issued to the Joint Legislative Oversight Committee on Justice and Public Safety and the General Assembly by October 1 of each year.

This section became effective July 1, 2014. (BK)

Annual Report on Criminal Court Cost Waivers

S.L. 2014-100, Sec. 18B.2 ([SB 744](#), Sec. 18B.2) requires the Administrative Office of the Courts (AOC) to aggregate criminal court cost waivers by the district in which the waiver or waivers were granted and by the name of each judge granting a waiver or waivers when the AOC makes its annual report to the General Assembly on waivers of criminal court costs.

This section became effective July 1, 2014. (KQT)

Report on Family Court Programs

S.L. 2014-100, Sec. 18B.4 ([SB 744](#), Sec. 18B.4) makes a report on family court programs by the Administrative Office of the Courts an annual requirement.

This section became effective July 1, 2014. (WGR)

Clerk of Court Report of Disqualifying Conditions for Pistol Purchase Permit to National Instant Criminal Background Check System

S.L. 2014-115, Sec. 23.5 ([HB 1133](#), Sec. 23.5) amends a requirement that when clerks of court receive notice of a matter that would disqualify a person from obtaining a pistol purchase permit, the clerk must transmit that information, within 48 hours of receiving it, to the National Instant Criminal Background Check System (NICS). The requirement was enacted in 2013 and became effective July 1, 2014. The Administrative Office of the Courts (AOC) reported feasibility issues with the reporting requirement as it was originally written. This section amends the requirement to require clerks to transmit only the information that it determines can practicably be transmitted to NICS. The effective date of the reporting requirement is also delayed until January 1, 2015. This section requires AOC to report to the Joint Legislative Oversight Committee on Justice and Public Safety by October 1, 2014, on its findings and recommendations regarding what information can practicably be transmitted to NICS by the clerks.

The part of this section that delays the effective date for the reporting requirement became effective July 1, 2014. The amendment to the reporting requirement becomes effective January 1, 2015. The remainder of the section became effective August 11, 2014. (WGR)

Chapter 7

Criminal Law and Procedure

Brenda J. Carter (BJC), Chris Saunders (CS),
Kelly Quick Tornow (KQT), Susan Sitze (SLS)

Enacted Legislation

Sex Offender/Expand Residential Restrictions

S.L. 2014-21 ([HB 777](#)) amends the residential restriction that prohibits a person required to register as a sex offender from residing within 1,000 feet of a site where a school or child care center is located. The act specifies that for purposes of the residential restriction, child care centers include permanent locations of organized clubs of Boys and Girls Clubs of America.

This act became effective June 24, 2014, and applies to all persons registered or required to register on or after that date. This act does not apply to a person who has established a residence prior to the effective date of this act in accordance with applicable law. (BJC)

Background Checks for Firefighters

S.L. 2014-27, Secs. 1 and 2 ([HB 698](#), Secs. 1 and 2). See **Labor and Employment**.

Regulation of Unmanned Aircraft Systems

S.L. 2014-100, Secs. 7.11 and 34.30 ([SB 744](#), Secs. 7.11 and 34.30) regulate the use of unmanned aircraft systems.

Vehicle Management. – Effective July 1, 2014, amends a provision of the 2013 budget which prohibited the operation or procurement of an "unmanned aircraft system" by any State or local governmental entity without the approval of the State Chief Information Officer until July 1, 2015, by extending that requirement until December 31, 2015.

General Prohibitions and Civil Cause of Action. –

- "Unmanned aircraft" is defined as an aircraft operated without the possibility of human intervention from within or on the aircraft and that does not meet the definition of model aircraft. A UAS is the unmanned aircraft and any associated elements that are used to communicate with or control the unmanned aircraft.
- Any person, entity, or State agency is prohibited from using a UAS to:
 - Conduct surveillance of (i) a person or a dwelling occupied by a person and that dwelling's curtilage without the person's consent or (ii) private real property without the consent of the owner, easement holder, or lessee of the property.
 - Photograph an individual, without the individual's consent, for the purpose of publishing or otherwise publicly disseminating the photograph. This prohibition does not apply to newsgathering, newsworthy events, or events or places to which the general public is invited.
- Exceptions are provided to the aforementioned prohibitions to allow law enforcement to use UAS in the following instances:
 - To counter a high risk of a terrorist attack.
 - To conduct surveillance in an area within the officer's plain view.
 - Pursuant to a search warrant.

- To prevent imminent danger to life or serious damage to property, to forestall the imminent escape of a suspect or the destruction of evidence, to conduct pursuit of an escapee or suspect, or to facilitate the search for a missing person.
- To photograph gatherings to which the general public is invited on public or private land.
- The use of infrared or other thermal imaging technology is restricted to use for specific purposes.
- Any person who is the subject of unwarranted surveillance or whose photograph was taken in violation of these sections has a civil cause of action against any person, entity or State agency that conducts surveillance or takes photographs. In lieu of actual damages, a person whose photograph is taken may elect to recover \$5,000 for each photograph or video that is published or otherwise disseminated, as well as reasonable costs and attorneys' fees and injunctive or other relief as determined by the court.
- Evidence obtained in violation of the prohibitions is not admissible in a criminal prosecution except when obtained under an objectively reasonable, good-faith belief that the actions were lawful.
- Neither State nor private property may be used to launch or recover a UAS without consent, and local governments are given authority to regulate the use of their property for UAS launch and recovery.

These sections became effective October 1, 2014, and apply to acts occurring on or after that date.

Criminal Offenses. –

- Creates a new statute to clarify that crimes committed by use of UAS in airspace in this State are governed by the laws of this State, and conduct by a UAS constitutes a crime by the owner of the UAS.
- Creates the following criminal offenses:
 - Class E felony for use or possession of a UAS that has a weapon attached.
 - A Class 1 misdemeanor for use of a UAS to fish or hunt.
 - A Class H felony for use of a UAS to interfere with, damage, or disrupt a manned aircraft.
 - A Class A1 misdemeanor to publish or disseminate recorded images taken using a UAS with infrared or other thermal imaging and revealing individuals, materials, or activities inside of a structure without consent of the property owner.
 - A Class 1 misdemeanor for using a UAS to interfere with the lawful taking of wildlife or harass wildlife in order to disrupt the lawful taking of wildlife.

These sections become effective December 1, 2014, and apply to offenses committed on or after that date.

Operation and Licensing of Unmanned Aircraft Systems. –

- Requires the Division of Aviation (Division) of the Department of Transportation to develop a knowledge and skills test for operating a UAS for commercial purposes.
- Requires any agent or agency of the State, or a political subdivision, to complete the test in order to operate a UAS for any purpose and prohibits any operation of a UAS by those persons until the knowledge and skills test has been implemented.
- Requires the Division to develop a licensing system for commercial operation of UAS and sets forth basic requirements for licensure.
- Requires the Division to ensure the licensing system complies with any Federal Aviation Administration (FAA) guidelines, when issued, and to implement the licensing system within 60 days of the FAA lifting the ban on commercial operation.

These sections became effective August 7, 2014. (SLS)

Criminal Law Changes

S.L. 2014-119, Secs. 1, 2, 3, 5, 6, and 9 through 12 ([HB 369](#), Secs. 1, 2, 3, 5, 6, and 9 through 12) make changes to various criminal laws.

Modify Expunctions. – This section amends the statute controlling expunction after 15 years to prohibit the expunction of felony breaking and entering offenses or an attempt to commit any offense for which expunction of the actual offense could not be granted. This section becomes effective December 1, 2014, and applies to petitions filed on or after that date, but petitions filed prior to that date are not abated by this act.

Conditional Discharge Authorized. – This section creates statutory authorization for the use of conditional discharge for certain offenses. This section becomes effective December 1, 2014.

Possession of Marijuana Paraphernalia/Class 3 Misdemeanor. – This section creates a separate offense for possession of marijuana drug paraphernalia, punishable as a Class 3 misdemeanor. This section becomes effective December 1, 2014, and applies to offenses committed on or after that date.

Penalties for Inmates' Possession of Cell Phones. – This section amends the criminal penalties related to inmates and cell phones. The penalties for giving an inmate of a State prison or local confinement facility a cell phone and possession of a cell phone by an inmate of a local confinement facility are increased from a Class 1 misdemeanor to a Class H felony. This section creates a Class H felony for possession of a cell phone by an inmate in a State prison. This section becomes effective December 1, 2014, and applies to offenses committed on or after that date.

Assault or Threat by an Inmate. – This section creates Class I felonies for assaulting a person, knowingly and willfully making a threat to inflict serious bodily injury upon or kill another person, or mailing any document containing a threat to inflict serious bodily injury or to kill any person when those actions are taken as retaliation against any legislative officer, executive officer, or court officer because of the exercise of that officer's duties. This section becomes effective December 1, 2014, and applies to offenses committed on or after that date.

Detention Officers Authorized to Carry Weapons on Campus. – This section authorizes detention officers employed by and authorized by the sheriff to carry firearms on educational property when acting in the discharge of their official duties. This section becomes effective December 1, 2014, and applies to offenses committed on or after that date.

Clarify Definition of Firearm in Certain Counties. – This section provides that air rifles, air pistols, and BB guns are not included in the definition of "dangerous firearms" in relation to the prohibition on providing dangerous firearms to young children in Anson, Caswell, Chowan, Cleveland, Cumberland, Harnett, Stanly, and Surry Counties. This section becomes effective December 1, 2014, and applies to offenses committed on or after that date.

Proper Implementation of Expunction Laws. – This section amends the statute authorizing expunction of certain felonies after 15 years by repealing the requirement that fingerprints not be removed from the database. This section became effective September 18, 2014 and applies to expunctions issued pursuant to this change before, on, or after that date.

Penalties for Second Offense of Carrying Concealed Firearm. – This section increases the penalty for a second or subsequent offense of carrying a concealed weapon that is a firearm from a Class I felony to a Class H felony. This section also clarifies that a concealed carry permit holder cannot be charged under this statute for simply not having their permit on their person. This section becomes effective December 1, 2014, and applies to offenses committed on or after that date.

For summaries of additional provisions of S.L. 2014-119 (H369), see **Courts, Justice, and Corrections** and **State Government**. (SLS)

North Carolina Farm Act of 2014

Add Agricultural Facilities to First Degree Trespass

S.L. 2014-103, Sec. 10 ([HB 366](#), Sec. 10) amends the statute for first degree trespass to provide that trespassing in an agricultural facility is a first degree trespass.

This section becomes effective December 1, 2014, and applies to offenses committed on or after that date. (CS)

Require Written Consent to Operate All Terrain Vehicles on Private Property

S.L. 2014-103, Sec. 11 ([HB 366](#), Sec. 11) requires a person, before operating a motorized all terrain vehicle on property not owned by the person, to obtain written consent from the owner of the property. A person given written consent is owed the duty of care that a trespasser would be owed.

This section becomes effective December 1, 2014, and applies to offenses committed on or after that date. (CS)

Technical and Other Corrections

Clarify Pseudoephedrine Possession Penalty

S.L. 2014-115, Sec. 41 ([HB 1133](#), Sec. 41) clarifies language enacted in the 2013 methamphetamine law to ensure that the appropriate criminal penalty is applied to possession of pseudoephedrine by a person with a prior conviction for the possession or manufacture of methamphetamine.

This section became effective October 1, 2014, and applies to offenses committed on or after that date. (SLS)

Repeal Local Firearm Disposition Law

S.L. 2014-115, Sec. 61 ([HB 1133](#), Sec. 61) repeals the portion of a 1965 law that states that the statute regulating confiscating and disposing of deadly weapons does not apply to five counties – Harnett, Pamlico, Perquimans, Scotland, and Warren. The pre-1965 statute continues to apply in those counties, thereby making the statute a uniform state law.

This section became effective August 11, 2014. (SLS)

Habitual Driving While Impaired Restoration Petition After 10 Years

S.L. 2014-115, Sec. 61.5 ([HB 1133](#), Sec. 61.5). See **Transportation**.

Regulatory Reform Act of 2014

Clarifying Changes to Statutes Pertaining to the Management of Venomous Snakes and Other Reptiles

S.L. 2014-120, Sec. 39 ([SB 734](#), Sec. 39) clarifies that the North Carolina Museum of Natural Sciences, the North Carolina Zoological Park, or a designated representative must euthanize seized venomous reptiles when a United States Food and Drug Administration-approved antivenin is not readily available and the species is not protected under the federal Endangered Species Act of 1973.

This section became effective September 18, 2014. (KQT)

Statewide Venus Flytrap Penalties

S.L. 2014-120, Sec. 52 ([SB 734](#), Sec. 52) creates a Class F felony for stealing a Venus flytrap plant. This section also makes statewide a current law providing that stealing certain wild plants is a Class 3 misdemeanor with a fine of between \$10 and \$50 in designated counties and increases the fines for the first offense and subsequent offenses to between \$75 and \$175.

This section becomes effective December 1, 2014 and applies to offenses committed on or after that date. (KQT)

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Chapter 8 Education

Denise Huntley Adams (DHA), Dee Atkinson (DA), Drupti Chauhan (DC),
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Enacted Legislation

Public Schools

Omnibus Tax Law Changes: Prepaid Meal Plans

S.L. 2014-3, Part IV ([HB 1050](#), Part IV). See **Finance**.

Clarify Read to Achieve/School Performance Grades

S.L. 2014-5 ([HB 230](#)), as amended by S.L. 2014-115, Sec. 49.5 ([HB 1133](#), Sec. 49.5), makes various changes to the statutes governing the Read to Achieve Program, Advanced Courses, and School Performance Grades, including the following:

Read to Achieve. –

- Directs the State Board of Education (SBE) to (i) provide several valid and reliable alternative assessments of reading comprehension to local school administrative units (LEAs), (ii) approve alternative assessments submitted by LEAs, and (iii) establish achievement level ranges for each approved alternative assessment.
- Clarifies that the student reading portfolio must be compiled during the first half of the school year and that a single piece of evidence may be used to show mastery of up to two standards.
- Provides that reading camps will be provided for at least 72 hours over a period of no less than 3 weeks.
- Requires the kindergarten entry assessment to yield both qualitative and quantitative data in the five essential domains of school readiness.
- Clarifies the good cause exemption from mandatory retention by specifying school years of English instruction for Limited English Proficient students, and a two year delay in educational performance or a two year history of intensive reading intervention for a student with an individualized education program.
- Provides flexibility as to when an alternative assessment may be administered and allows LEAs to develop their own student reading portfolio process, which must be approved by the SBE.
- Clarifies that parents or guardians make the final decision regarding a retained student's participation in a reading camp and that LEAs must provide at least one opportunity for students not participating in a reading camp to demonstrate proficiency prior to being retained.
- Clarifies that a principal can promote a student when that student demonstrates proficiency, even after the midyear promotion cutoff date.
- Provides that teachers and principals must offer information sessions for parents about a student's difficulty with reading development and possibility of retention in addition to any other opportunities for discussion.
- Allows LEAs to admit reading proficient students to reading camps. The LEA may charge an enrollment fee of up to \$825.

Advanced Courses. –

- Extends the reporting date by which the SBE must report to the Joint Legislative Education Oversight Committee on advanced courses in North Carolina from October 1, 2014, to November 15, 2014, and annually thereafter.

School Performance Scores. –

- Changes the school achievement score methodology to a composite approach to weigh each achievement element based on the number of students measured by each element.
- Clarifies that if the growth score depresses the achievement score for schools meeting expected growth, then the achievement score alone can be used to calculate performance.
- Changes the scale for calculating A to F school performance scores from a 10-point scale to a 15-point scale for the 2013-2014 school year.

The act also permits local boards of education to apply to the SBE for a waiver during the 2014-2015 school year to add five additional testing days for end-of-course and end-of-semester testing.

This act became effective June 10, 2014. (DHA)

Respect for Student Prayer/Religious Activity

S.L. 2014-13 ([SB 370](#)) creates new laws to address the rights of students and school personnel to engage in religious activity in schools.

Student Rights to Engage in Prayer and Religious Activity. –

The act provides that students may voluntarily do any of the following:

- Pray alone or with other students to the same extent as a student is allowed to vocally or silently reflect or speak on nonreligious matters.
- Express, speak to, and share religious viewpoints to the same extent as if they were nonreligious viewpoints.
- Possess or distribute religious literature, subject to reasonable time, place, and manner restrictions to the same extent as nonreligious literature.
- Organize prayer groups and religious gatherings before, during, and after school to the same extent as students are permitted to organize noncurricular student activities and be given the same access to school facilities.
- Express beliefs about religion in homework, artwork, and other assignments free from discrimination based on the religious content of the submission and judged by ordinary academic standards of substance and relevance.

A student may be prohibited from any of the above activities if the actions of the student would do any of the following:

- Infringe on the rights of the school to maintain order and discipline; prevent disruption of the educational process; and determine the educational curriculum and assignments.
- Harass other persons or coerce other students to participate in the activity or otherwise infringe on the rights of other persons.

Religious Activity for School Personnel. –

Local boards of education may not prohibit school personnel from participating in religious activities on school grounds that are initiated by students at reasonable times before or after the instructional day, as long as the activities are voluntary for all parties and do not conflict with the responsibilities or work assignments of the personnel. School employees supervising extracurricular activities, including coaches, may be present while a student or group of students voluntarily prays, and if they are present, must not be disrespectful and may adopt a respectful posture.

Administrative Remedies and Cause of Action for Complaints. –

Local boards of education may establish or make an existing formal grievance process available to allow students or their parents to allege that a right established under the law has been

violated. The formal grievance process must include the right of appeal to the local board of education. If the local board of education does not provide a formal grievance process, then a prescribed statutory process must be followed. A student who prevails in a court claim brought under this law is entitled to reasonable attorneys' fees and court costs. The Attorney General must intervene and provide legal defense for any actions that include claims challenging this law's constitutionality.

This act became effective June 19, 2014. (DHA)

Military Student Identifier

S.L. 2014-15 ([HB 1060](#)) directs the State Board of Education to develop an annual identification process for local school administrative units (LEAs) to identify military-connected students using the Uniform Education Reporting System (UERS). "Military-connected students" are students who have a parent, step-parent, sibling, or any other person who resides in the same household serving in the active or reserve components of the Armed Forces. Effective July 1, 2015, principals may use the UERS to assist in meeting the unique needs of military-connected students.

Except as otherwise provided, this act became effective June 19, 2014, with the annual identification process required beginning with the 2015-2016 academic year. LEAs may use the UERS to commence the annual identification of military-connected students beginning with the 2014-2015 academic year. (PLP)

North Carolina Economic Development Partnership Modifications: Educational Districts

S.L. 2014-18, Sec. 3.4 ([HB 1031](#), Sec. 3.4) aligns the eight educational districts with the geographically uniform zones known as Prosperity Zones created in another section of this act, and aligns representation of the current State Board of Education with the new districts.

This section becomes effective April 1, 2015. (KM)

Clarifying Changes/Special Education Scholarships

S.L. 2014-49 ([HB 712](#)) makes numerous changes to the Special Education Scholarships for Children with Disabilities (disability scholarships) and exempts certain schools from the child care licensure requirements.

Disability Scholarships. –

- *Definition Changes.* – The act adds, amends, and clarifies definitions that apply to disability scholarships.
- *Eligibility Changes.* – The act makes the following changes to disability scholarship eligibility:
 - Removes the requirement that the child with a disability have an individualized education program.
 - Removes the requirement that the student be a child with a disability who receives special education or related services on a daily basis.
 - Adds the requirement that the student be a child with a disability who is eligible to attend a public school in this State under the general admissions laws.
 - Clarifies, among the four alternative requirements for eligibility, the following:
 - The student was approved for a disability scholarship for the previous semester rather than having actually received the disability scholarship.
 - The student is identified as a child with a disability before the end of the initial year of enrollment in kindergarten or first grade. If this alternative is used to meet eligibility, then the award of the disability scholarship will be

conditional and documentation must be provided to the State Education Assistance Authority (SEAA) before the end of the year of initial enrollment. Otherwise, no reimbursement can be awarded and the student will not meet the requirement in the following year for having been approved for a disability scholarship in the previous year.

- *Individuals with Disabilities in Education Act (IDEA) Information for Parents.* – The SEAA must include information on its Web site notifying parents of federal regulations under IDEA that state that a child with a disability who has been parentally placed in a private school does not have an individual right to receive some or all of the special education and related services the child would have received if enrolled in a public school.
- *Costs and Reimbursements.* – The act makes the following changes regarding costs and reimbursements:
 - Clarifies that disability scholarships can only be awarded for reimbursement for (i) tuition; (ii) special education; (iii) related services; and (iv) educational technology.
 - Provides that documentation for anticipated costs for each of these items may be submitted to SEAA before the start of a school semester for preapproval.
 - Clarifies the documentation that must be provided for specific types of reimbursement.
- *Exemptions from Public Records.* – Effective July 29, 2013, the disability scholarships and personally identifiable information related to eligible students receiving the disability scholarships are not public records.
- *Compliance Monitoring by the State Board of Education.* – The State Board of Education must ensure that the local school administrative units do the following:
 - Conduct timely evaluations requested by the parent of a child suspected to be a child with a disability.
 - Provide reevaluations to children identified with disabilities receiving disability scholarships at the request of the parent to ensure compliance with the requirements of the disability scholarship program.

Exemption from Child Care Licensure Requirements. –

A nonpublic school that operates a child care facility for more than six and one half hours per day, but does not receive NC Pre-K or child care subsidy funding, is exempt from child care licensure requirements.

Except as otherwise provided, this act became effective July 1, 2014. The sections applying to the disability scholarships apply to grants awarded beginning with the 2014-2015 school year. (DC)

Ensuring Privacy of Student Records

S.L. 2014-50 ([SB 815](#)) requires the State Board of Education (SBE) to do all of the following:

- Create and make public a data inventory and data elements index for the student information management system (system) used for collection and reporting of student data to the SBE by local boards of education. This includes any personally identifiable student data required to be reported to the State or federal government.
- Develop rules to comply with relevant State and federal privacy laws and policies, including the federal Family Educational Rights and Privacy Act (FERPA).
- Prohibit transfer of personally identifiable student data unless otherwise allowed by law.
- Develop a data security plan for the system covering access, privacy compliance, audits, breach planning, data retention and disposition, and data security policies.

- Ensure ongoing compliance by the Department of Public Instruction in privacy laws, rules, and policies, including performance of compliance audits.
- Ensure contracts governing databases, assessments, or instructional supports that include student data are outsourced to private vendors have express provisions safeguarding privacy and security and include noncompliance penalties.
- Annually notify the Governor and General Assembly on new student data to be included and changes to existing data collection.

The system may not include the following items about the student or student's family: biometric information; political affiliation; religion; and voting history. Beginning with the 2014-2015 school year, and on an annual basis, local boards of education must provide parents with information on parental rights under federal and State law regarding student records and opt-out opportunities for directory information under FERPA and surveys covered by the federal Protection of Pupil Rights Amendment.

This act became effective July 1, 2014. (DC)

Replace Common Core State Standards with North Carolina's Higher Academic Standards

S.L. 2014-78 ([SB 812](#)) directs the State Board of Education (SBE) to continue to exercise its constitutional and statutory authority to adopt academic standards for the public schools, as well as conduct a comprehensive review of the English Language Arts and Mathematics academic standards, including surveying a representative sample of parents, teachers, and the public to determine if those content standards reflect the State's priorities. The SBE is prohibited from entering into agreements or contracts that would cede control of the Standard Course of Study and related assessments, but does not prohibit the use of national or international curricula, such as the Advanced Placement or International Baccalaureate programs.

The act also establishes an 11-member Academic Standards Review Commission (Commission). The Commission is directed to conduct a comprehensive review of all English Language Arts and Mathematics standards that were adopted by the SBE and, at any time prior to termination, recommend to the SBE (i) changes to the standards and (ii) reductions in high-stakes assessments aligned to the standards. The Commission is directed to consider the impact on educators, including professional development needs, when making recommendations. The Commission is directed to hold its first meeting by September 1, 2014, and to submit a final report of its findings and recommendations to the SBE, the Joint Legislative Education Oversight Committee, and the 2016 Session of the 2015 General Assembly. The Commission will terminate on December 31, 2015, or upon the filing of its final report, whichever occurs first.

The SBE is directed to continue to develop and update the North Carolina Standard Course of Study, including a review of standards in other states and national assessments aligned with those standards. The SBE must consult with the Commission prior to making any changes to the standards. The act repeals statutory references to Common Core and prohibits the SBE from purchasing or using any assessment instrument without enactment of legislation authorizing the purchase.

Local boards of education are directed to continue to provide for effective teaching of the current Standard Course of Study until the SBE issues an official notice of changes to the North Carolina Standard Course of Study.

This act became effective July 1, 2014. (DHA)

Education Lottery Funds

S.L. 2014-100, Sec. 5.2 ([SB 744](#), Sec. 5.2). See **State Government**.

Extend the Date for School Employees to Qualify for Certain Education-Based Salary Supplements

S.L. 2014-100, Sec. 8.3 ([SB 744](#), Sec. 8.3) provides that, beginning with the 2014-2015 school year, only the following school employees are eligible to be paid on the "M" salary schedule or receive a salary supplement for academic preparation at the six-year degree level or at the doctoral degree level:

- Certified school nurses and instructional support personnel in positions for which a master's degree is required for licensure.
- Teachers and instructional support personnel who were paid on that salary schedule or received that salary supplement prior to the 2014-2015 school year.
- Teachers and instructional support personnel who (i) complete a degree at the master's, six-year, or doctoral degree level for which they completed at least one course prior to August 1, 2013, and (ii) would have qualified for the salary supplement on June 30, 2013.

See also the **Studies** subheading in this chapter.
This section became effective July 1, 2014. (DHA)

State Board of Education Notification to the General Assembly of Federal Grant Applications

S.L. 2014-100, Sec. 8.9 ([SB 744](#), Sec. 8.9) requires the State Board of Education to provide written notification to the Fiscal Research Division and the General Assembly of its intent to apply for any federal grant prior to submitting the grant application. The notice must include details about the grant and a summary of anticipated policy implications of accepting the grant.

This section became effective July 1, 2014. (DC)

Property Insurance System for Charter Schools

S.L. 2014-100, Sec. 8.10 ([SB 744](#), Sec. 8.10) authorizes the State Board of Education to offer a system of property insurance to approved charter schools.

This section became effective July 1, 2014. (KM)

North Carolina Education Endowment Fund

S.L. 2014-100, Sec. 8.11 ([SB 744](#), Sec. 8.11) establishes the North Carolina Education Endowment Fund (Fund) as a special fund to be used solely for differentiated teacher compensation related directly to improving student academic outcomes in the public schools. Revenue for this Fund may be generated from the sale of "I Support Teachers" special registration plates and the designation of tax refunds. Appropriate language and space must be made available on the State income tax form for the irrevocable designation of returns to be made to the Fund. The General Assembly intends to appropriate the funds to local boards of education to implement differential pay plans for highly effective classroom teachers.

This section became effective July 1, 2014, and the option to contribute tax refunds for the purposes of this section applies for taxable years beginning on or after January 1, 2014. (PLP)

Clarify Military Service Credit for Newly Hired Educators

S.L. 2014-100, Sec. 8.12 ([SB 744](#), Sec. 8.12) clarifies that the State Board of Education's new rules for placing veterans on the salary pay scale based on their non-teaching work experience applies only to veterans who have not been previously employed by a public school located in North Carolina.

This section became effective July 1, 2014. (DHA)

Driver Education Funding

S.L. 2014-100, Sec. 8.15 ([SB 744](#), Sec. 8.15) makes the following changes to driver education funding:

- Repeals a statutory provision providing for payment of expenses for the driver education program administered by the Department of Public Instruction incurred by the State from the Highway Fund based on an annual appropriation, effective July 1, 2015.
- Requires local boards of education to fund driver education courses from available funds and authorizes local boards to charge participating students a fee of up to \$65 to offset costs.
- Indicates the intent of the General Assembly that, beginning with the 2015-2016 school year, the driver education program no longer be paid out of the Highway Fund, but instead be paid from funds available to local boards of education, including fees for instruction for noncredit driver education courses.

Except as otherwise provided, this section became effective July 1, 2014. (KM)

Competitive Grants to Improve After-School Services

S.L. 2014-100, Sec. 8.19 ([SB 744](#), Sec. 8.19) directs the State Board of Education to use \$5 million of the funds appropriated for the At-Risk Student Services Alternative School Allotment for the 2014-2015 fiscal year for the After-School Quality Improvement Grant Program (Program) to be administered by the Department of Public Instruction (DPI), and states the intent of the General Assembly to continue appropriating the same amount of money each year of the 2015-2017 fiscal biennium for the Program. The purpose of the Program is to pilot after-school learning programs for at-risk students that raise standards for student academic outcomes. Local school administrative units (LEAs) and nonprofits working with LEAs may participate in the Program and are eligible to receive 2-year grants of up to \$500,000 a year based on the number of students served, with an option for a third year of funding. A minimum of 70% of students served by the Program must qualify for free or reduced-price meals. Grants will be matched on the basis of \$3.00 in grant funds for every \$1.00 in non-grant funds.

Grant recipients must report to DPI after the first year of funding on the progress of the grant, and again after the second year of funding on key performance data. DPI must provide interim reports on the grant program to the Joint Legislative Education Oversight Committee on September 15, 2015 and September 15, 2016, with a final report on the Program on September 15, 2017.

This section became effective July 1, 2014. (DHA)

Schematic Designs/Emergency Access to Schools

S.L. 2014-100, Sec. 8.20 ([SB 744](#), Sec. 8.20) repeals a requirement that a local school administrative unit (LEA) provide schematic designs of school facilities to local law enforcement agencies if the LEA had such diagrams. This section instead requires all LEAs to provide local law enforcement agencies with schematic diagrams and emergency access to key storage devices

such as KNOX boxes for all school buildings. The Department of Public Instruction (DPI), along with the Department of Public Safety (DPS), must develop standards and guidelines for the preparation and content of the schematic diagrams and LEAs may use these standards in the preparation of their schematic designs.

LEAs must also provide schematic diagrams and emergency response information for the School Risk Management Plan and the School Emergency Response Plan to the Division of Emergency Management in DPS (Division). The Division must ensure that the diagrams and emergency response information are securely stored and distributed as required to first responders, emergency personnel, and school personnel and are approved by DPI.

Schematic diagrams and emergency response information are not considered public records and are not subject to inspection and examination. LEAs have until June 1, 2015, to provide the schematic diagrams.

This section became effective July 1, 2014. (DC)

National Board for Professional Teaching Standards Supplement for Instructional Coaches in Title I Schools

S.L. 2014-100, Sec. 8.21 ([SB 744](#), Sec. 8.21) authorizes the payment of the salary supplement for National Board for Professional Teaching Standards (NBPTS) certification to an individual holding a NBPTS certification who is (i) a State-paid employee in a North Carolina public school, (ii) paid on the teacher salary schedule, and (iii) an instructional coach in a Title I school identified under the federal Elementary and Secondary Education Act of 1965.

This section became effective July 1, 2014. (KM)

Supply of Emergency Epinephrine Auto-Injectors on School Property

S.L. 2014-100, Sec. 8.23 ([SB 744](#), Sec. 8.23) requires all public schools to maintain a supply of at least two epinephrine auto-injectors for use by trained school personnel to provide emergency medical aid to persons suffering from an anaphylactic reaction.

Principals are directed to (i) designate one or more school personnel to receive annual training on appropriate storage and emergency use of epinephrine auto-injectors and (ii) collaborate with school personnel to develop an emergency action plan for the use of epinephrine auto-injectors in an emergency. A school nurse or other trained designated school personnel is directed to obtain a non-specific prescription for epinephrine auto-injectors. This section also provides protection from civil liability to any party for any act authorized by this section or for any omission relating to this act, except in cases of gross negligence, wanton conduct, or intentional wrongdoing. The Department of Public Instruction is responsible for ensuring that charter and regional schools comply with this provision.

The North Carolina Board of Pharmacy, in consultation with the State Board of Education, is directed to adopt rules addressing the authorization for school personnel to obtain a prescription for epinephrine for emergency health situations in public schools. The rules must be adopted within 60 days of August 7, 2014.

Except as otherwise provided, this section became effective November 1, 2014. (DHA)

Opportunity Scholarship Grant Clarifications

S.L. 2014-100, Sec. 8.25 ([SB 744](#), Sec. 8.25) makes numerous changes to the Opportunity Scholarship Grant Program (Program) that include the following:

- The State Education Assistance Authority (SEAA) must begin awarding the scholarship grants by March 15, rather than by March 1 of each year.

- Effective July 1, 2013, scholarship grant applications and personally identifiable information related to eligible students receiving the scholarship grants are not public records.
- Instead of a random sample of 6%, the SEAA must select and verify information on 6% of the applications annually, including those with apparent errors on the face of the application.
- Nonpublic schools that admit students receiving scholarship grants cannot discriminate with respect to race, color, and national origin.
- Nonpublic schools that admit students receiving scholarship grants must provide criminal background checks conducted for the staff member with the highest decision-making authority to the SEAA.
- The requirements that the SEAA report annually to the Department of Public Instruction on the name and number of students who receive scholarship grants for the current school year and were enrolled the prior semester in a local school administrative unit (LEA) by the previously attended LEA, and the additional requirement that the State Board of Education determine the amount of the reduction for each LEA, are repealed.
- The SEAA annual report to the Joint Legislative Education Oversight Committee on the Program is moved from March 1 to April 1.

The following changes apply only to the award of scholarship grants for the 2015 spring semester:

- The SEAA must make applications available no later than October 1, 2014, with notification of eligibility to parents as soon as practicable.
- In order to be eligible to receive a scholarship grant for the 2015 spring semester, a student must (i) reside in a household with an income level not in excess of the amount required for the student to qualify for the federal free or reduced-price lunch program and (ii) be a full-time student who has not yet received a high school diploma and is attending a public school during the 2014 fall semester.
- The SEAA must give priority in awarding scholarship grants for the 2015 spring semester to eligible students who applied for but did not receive an award for the 2014-2015 school year.
- The SEAA may develop a process for awarding scholarship grants using a random lottery system.
- Scholarship grants awarded for the 2015 spring semester may not exceed \$2,100, and no scholarship grant can exceed the required tuition and fees for the nonpublic school the eligible student will attend.
- The SEAA must remit scholarship funds at least once during the 2015 spring semester for endorsement by one of the eligible student's parents or guardians.

For scholarship grant applications received for the 2014-2015 school year or the 2015 spring semester, the SEAA must select and verify no less than 3% of applications, including those with apparent errors on the face of the application. Of the funds appropriated for the scholarship grants for the 2014-2015 fiscal year, any unspent funds in the 2014-2015 fiscal year for this purpose will revert to the General Fund on June 30, 2015.

Except as otherwise provided, this section became effective August 7, 2014. (DC)

Injury Prevention and Return-to-Work Programs

S.L. 2014-100, Sec. 8.26 ([SB 744](#), Sec. 8.26) requires the State Board of Education (SBE) to adopt models for loss prevention and return-to-work programs designed to reduce the number of injuries resulting in workers' compensation claims and to ensure injured employees return to work in accordance with SBE policy. The SBE must develop policies and procedures to ensure that local boards of education implement and comply with loss prevention and return-to-work programs based on those models.

This section became effective July 1, 2014. (KM)

Department of Public Instruction Response Time

S.L. 2014-100, Sec. 8.28 ([SB 744](#), Sec. 8.28) directs staff at the Department of Public Instruction to respond to requests for information from local schools, charter schools, and regional schools within three business days of receiving the request, whenever practicable. Requests should be fully answered within 14 business days following the initial response, unless there are extraordinary circumstances.

This section became effective July 1, 2014. (PLP)

Extend Reporting for School Performance Scores and Grades

S.L. 2014-100, Sec. 8.30 ([SB 744](#), Sec. 8.30) extends the deadline for the State Board of Education to issue the first annual report cards for school performance scores and grades from August 1, 2014, to no earlier than January 15, 2015.

This section became effective July 1, 2014. (DHA)

Annual Distribution of School Bullying/Cyber-Bullying Policies

S.L. 2014-100, Sec. 8.32 ([SB 744](#), Sec. 8.32) requires a principal to provide the local school administrative unit's policy prohibiting bullying and harassing behavior, including cyber-bullying, to staff, students, and parents at the beginning of the school year.

Charter schools and regional schools are encouraged to adopt policies against bullying or harassing behavior, including cyber-bullying, that are consistent with the School Violence Prevention Act. If a charter school or regional school adopts such a policy, it should distribute the policy at the beginning of the school year to staff, students, and parents.

This section became effective July 1, 2014, and applies beginning with the 2014-2015 school year. (DC)

Clarify School Counselors Work Duties

S.L. 2014-100, Sec. 8.33 ([SB 744](#), Sec. 8.33) clarifies that school counselors, in the 20% of work time they are not required to provide direct services to students, may assist other staff in the coordination of standardized testing. The section removes a requirement that, during that time, a counselor must spend adequate time on school counseling program support activities and program management operations.

The section also repeals a requirement that local boards of education develop transition plans to implement school counselor work duties within existing resources by reassignment of duties previously held by school counselors, using guidelines developed by the State Board of Education.

This section became effective July 1, 2014. (KM)

Funds for Charter School Closure

S.L. 2014-100, Sec. 8.34 ([SB 744](#), Sec. 8.34) directs charter schools to maintain at least \$50,000, in the form of several different options, for payment of expenses in the event of dissolution. Allowable options include an escrow account, a letter of credit, a bond, or a deed of trust. Charter schools may not receive State funding unless they have documentation of one of these options.

This section became effective August 7, 2014, and applies to any charter school submitting an application for an initial or renewal charter on or after that date. (PLP)

Virtual Charter School Pilot Program

S.L. 2014-100, Sec. 8.35 ([SB 744](#), Sec. 8.35) directs the State Board of Education (SBE) to establish a pilot program to authorize the operation of two virtual charter schools serving students in kindergarten through twelfth grade. The SBE is directed to establish an application process for student enrollment in the selected virtual charter schools beginning with the 2015-2016 school year. The pilot program will run for four school years, ending with the 2018-2019 school year.

The virtual charter schools participating in the pilot program are subject to most of the statutes and rules applicable to traditional charter schools, with certain exceptions and additional requirements, including:

- The maximum student enrollment in a participating school is limited to 1,500 in its first year of operation and may increase by 20% a year for each school, up to a maximum of 2,592 in the fourth year of the pilot.
- The maximum overall ratio of teachers to students in grades kindergarten through eighth grade is 1:50, and for ninth through twelfth grade is 1:150.
- Enrolled students who fail to participate may be withdrawn pursuant to notification requirements and protocols adopted by the virtual charter school.
- The participating schools must maintain an administrative office in North Carolina, as well as at least one testing center or meeting place in each of the eight education districts where participating students reside.
- If the school contracts with a third-party for the provision of administrative staff, such staff fulfilling the equivalent positions of superintendent, principal, or business officer must be North Carolina residents.
- All teaching staff must carry the appropriate State certification to instruct courses, and at least 90% of the teaching staff must reside in the State.
- Participating schools must have a withdrawal rate below 25%.
- Participating schools must ensure that each student is assigned a learning coach.

Virtual charter schools participating in the pilot program that are successful in meeting these requirements are eligible to be approved by the SBE without additional application requirements for a charter. Virtual charter schools participating in the pilot program that do not meet these requirements are subject to certain consequences, including the termination of the pilot. The program receives funding in the same way as other charter schools in the State, but does not qualify for State allocations for low-wealth counties supplemental funding and small county supplemental funding. Local funding is limited to no more than \$790 per pupil.

The SBE is required to report to the Joint Legislative Education Oversight Committee by November 15, 2016, on the initial implementation of the pilot program, and again by November 15, 2018, on findings from three years of operation of the pilot program.

This section became effective July 1, 2014. (DHA)

Clarify Regional School Cooperative Innovative High School Applications

S.L. 2014-100, Sec. 8.36 ([SB 744](#), Sec. 8.36) provides that regional schools applying to become cooperative innovative high schools (i) are not capped at 100 students per grade level and (ii) do not have to be located on the campus of the partner institution of higher education, regardless of whether a formal resolution waiving the campus location is adopted.

The section designates the Northeast Regional School of Biotechnology and Agriscience as a cooperative innovative high school. In order to maintain this designation beyond the 2014-

2015 school year, the board of directors of the Northeast Regional School of Biotechnology and Agriscience must apply for approval as a cooperative innovative high school program.

This section became effective July 1, 2014. (DC)

Lease Purchase or Installment Purchase Contracts to Purchase Athletic Lighting

S.L. 2014-100, Sec. 8.38 ([SB 744](#), Sec. 8.38) authorizes local boards of education to purchase or finance the purchase of athletic lighting by lease purchase contracts and installment contracts.

This section became effective July 1, 2014. (KM)

Education of Children in Private Psychiatric Residential Treatment Facilities

S.L. 2014-100, Sec. 8.39 ([SB 744](#), Sec. 8.39) provides for educational services for children placed in private psychiatric residential treatment facilities (PRTFs) by (i) allowing the sharing of information among agencies for educational purposes, (ii) requiring PRTFs to gain approval from the Department of Public Instruction (DPI) as a Nonpublic Exceptional Children's Program as a part of the facility licensure process, and (iii) establishing a process through which PRTFs may obtain State funding to provide educational services. "Educational services" are defined to include appropriate education-related assessment and instruction, including special education and related services to a child with a disability.

This section also directs the Department of Health and Human Services and DPI to submit an initial report by January 1, 2015, and annually thereafter, on the delivery of educational services in PRTFs to the Joint Legislative Education Oversight Committee and the Joint Legislative Committee on Health and Human Services.

This section became effective July 1, 2014. (PLP)

Differentiated Pay for Highly Effective Teachers

S.L. 2014-100, Sec. 8.41 ([SB 744](#), Sec. 8.41) states the intent of the General Assembly to provide local boards of education additional State funds for local programs to provide differentiated pay for highly effective classroom teachers through funds appropriated from the North Carolina Education Endowment Fund.

Local boards of education must submit proposals to the Joint Legislative Education Oversight Committee and the General Assembly by January 15, 2015. Proposals may include performance-based salary increases for teachers rated highly effective on the North Carolina Teacher Evaluation instrument or differentiated bonuses for classroom teachers, including (i) hard-to-staff subject areas, (ii) hard-to-staff schools, (iii) assignment of additional responsibilities, or (iv) assignment as an instructional coach.

This section became effective July 1, 2014. (DHA)

Transfer of Summer Food Service Program to Department of Public Instruction

S.L. 2014-100, Sec. 12E.9 ([SB 744](#), Sec. 12E.9). See **Health and Human Services**.

Charter School Modifications

S.L. 2014-101 ([SB 793](#)) makes various changes to the laws governing charter schools including the following:

- A teacher employed by the board of directors of a charter school to teach in the charter school may serve as a nonvoting member of that board of directors.
- The State Board of Education (SBE) must make final decisions on the approval or denial of charter applications by August 15 of a calendar year.
- Renewal charters must be for a term of 10 years unless the charter school (i) has not provided financially sound audits for the prior 3 years, (ii) yields student academic outcomes for the past 3 years that are not comparable to the academic outcomes of students in the local school administrative unit (LEA) in which the charter school is located, or (iii) is not in compliance with State or federal law, the school's own bylaws, or the provisions set forth in its charter granted by the SBE.
- Until September 1, 2015, a charter school in operation for less than three years may expand to offer one grade level higher or lower than it currently offers if (i) the student academic outcomes for the year prior to expansion are comparable to the academic outcomes of the LEA in which the charter is located, (ii) the charter has financially sound audits for the year prior to the expansion, and (iii) the charter school is in compliance with State law, federal law, the school's own bylaws, or the provisions of the charter granted by the SBE.
- A charter school may limit admission on the basis of sex if the school's mission is single-sex education.
- Priority enrollment for children of the members of the board of directors of the charter school extends beyond the initial year of operation.
- A charter school and the board of directors are subject to the Public Records Act and the Open Meetings Law. The personnel records of charter school employees directly employed by the board of directors of the charter school are subject to the public records laws in the same manner as employees of traditional public schools. Charter schools are required to use the same schedule for the retention and disposition of records that the Department of Cultural Resources establishes for LEAs.
- LEAs must provide any additional records requested by a charter school to audit and verify the calculation and transfer of the per pupil share of the local current expense fund within the 30 days allocated for transfer of local funds.
- For actions filed on or after August 6, 2014, payments from a judgment for a lawsuit between an LEA and a charter school regarding the per pupil share of the local current expense fund must be paid in full within one year from the entry of the judgment.
- By January 15, 2015, the SBE must adopt a process and rules for a competitive bid process for the assumption of a charter school that has inadequate progress and could have its charter terminated or not renewed by the SBE.
- By December 15, 2014, the SBE must adopt a process and rules for fast-track replications of high quality charter schools currently operating in the State.
- Until July 1, 2015, the Division of Motor Vehicles of the Department of Transportation, may issue permanent plates to a vehicle owned by a charter school and used only for student transportation and official activities.

This act became effective August 6, 2014, and applies beginning with the 2014-2015 school year. (PLP)

Dropout Prevention/Recovery Pilot Charter School

S.L. 2014-104 ([HB 884](#)) repeals the Dropout Recovery Pilot Program enacted by the General Assembly in 2011 and creates a two-year Dropout Prevention and Recovery Pilot Program (Pilot Program) to reengage students and increase graduation rates in North Carolina.

The Pilot Program requires the State Board of Education (SBE) to select one charter school whose enrollment includes only high school students who have (i) dropped out of high school or (ii) transferred from their high school to the charter school. Charter schools must apply no later than August 31, 2014, to participate in the Pilot Program, and the SBE must select the charter school by September 30, 2014.

The selected charter school must develop and implement an alternative accountability model that meets the guidelines adopted by the SBE for alternative learning programs. Funding adjustments for the selected charter school will be made on the basis of the average daily membership in the fifth month of the school year.

The SBE must report to the Joint Legislative Education Oversight Committee (JLEOC) by March 15, 2016, on the outcomes of the Pilot Program. The JLEOC must report to the 2016 Regular Session of the 2015 General Assembly on necessary legislation to transition the Pilot Program into alternative charter schools serving high school students who have dropped out of high school.

The act also requires the SBE and the Charter Schools Advisory Board to jointly report by December 15, 2014, to the General Assembly on the utilization of contracts for personnel services by local boards of education and charter school boards of directors, including both the purposes and the extent of such contracts prevalent in each local school administrative district and charter schools statewide.

This act became effective August 6, 2014. The Pilot Program will begin with the 2014-2015 school year and conclude at the end of the 2015-2016 school year. (KM)

Omnibus Election Clarifications

S.L. 2014-111 ([SB 403](#)). See **State Government**.

Education and Workforce Innovation Program

S.L. 2014-115, Sec. 48 ([HB 1133](#), Sec. 48) clarifies that the North Carolina Education and Workforce Innovation Commission may award grants for new or existing projects.

This section became effective August 11, 2014. (DHA)

Public Records Exemptions

S.L. 2014-115, Sec. 49.2 ([HB 1133](#), Sec. 49.2) states that any test developed, adopted, or provided by the State Board of Education (SBE) is not a public record until the SBE designates that the test is released. The SBE may develop rules to allow inspections of tests prior to release, but must require individuals inspecting the tests to meet the same standards for confidentiality required for employees of local boards of education in test administration. The term "test" includes both the test and related test materials.

This section became effective August 11, 2014. (DC)

Uniform State Board of Education Report Dates

S.L. 2014-115, Sec. 49.7 and Part III ([HB 1133](#), Sec. 49.7 and Part III) change the reporting date from the first of the month to the fifteenth of the month for the following reports:

- Educator preparation program report card (October 1 to November 15).
 - Comprehensive plan for reading achievement (October 15).
 - Accountability measures for K-3 literacy (October 15).
 - School technology plans (February 15).
 - Career and Technical Education participation (September 15).
 - Advanced courses in North Carolina (October 15).
 - Educational effectiveness of charter schools and their effect on the public schools (January 15).
 - Limited English proficiency head count (December 15).
 - North Carolina Virtual Public Schools (December 15).
 - Impact of awarding college and career endorsements for high school diplomas (September 15).
 - Progress made on developing strategies to increase student engagement in Career and Technical Education (October 15).
 - Public school procurement of information technology (October 15).
 - Use of supplemental funding in low-wealth counties (May 15).
 - Small school system supplemental funding (May 15).
- This section and Part became effective August 11, 2014. (DA)

Payroll Deduction for Payments to Certain Employees' Associations

S.L. 2014-115, Sec. 62 ([HB 1133](#), Sec. 62) repeals the elimination of the dues check off option for public school employees and amends the statute on payroll deductions for payments to employees' associations with a certain number of members to require that the membership count of those who qualify be verified annually by the State Auditor.

This section became effective August 11, 2014. (DHA)

Pilot Program to Raise the High School Dropout Age from 16 to 18

S.L. 2014-115, Sec. 64 ([HB 1133](#), Sec. 64) revises the 2013 Pilot Program to Raise the High School Dropout Age from 16 to 18 (Pilot Program) in Catawba County. This section clarifies that a local school administrative unit (LEA) participating in the Pilot Program has the authority to require the principal to notify the district attorney if the principal or principal's designee determines that a student's parent, guardian, or custodian, or a student who is 18 years of age has not made a good-faith effort to comply with the compulsory attendance requirements of the Pilot Program. The principal must notify the director of social services of the county where the student resides if the student is less than 18 years of age. If the principal or the principal's designee determines that a parent, guardian, or custodian of a student less than 18 years of age has made a good-faith effort to comply with the compulsory attendance law, then the principal may file a complaint with the juvenile court counselor that the student is habitually absent from school without a valid excuse.

The local boards of education of the participating LEAs of the Pilot Program must adopt rules to provide for exemptions from compulsory attendance for students 18 years of age. Any parent, guardian, or other person having charge or control of a student enrolled in a school in a participating LEA or a student 18 years of age enrolled in a school in a participating LEA who violates the compulsory attendance provisions of the Pilot Program without an approved exemption is guilty of a Class 1 misdemeanor.

The section further provides that if an affidavit is made by the student, parent, or any other person that the student is unable to comply with the compulsory attendance requirements of the Pilot Program because the student must support the student or student's family, the school

social worker must look into the matter and bring it to the attention of an appropriate court, depending on the age of the student. If the court determines that the student or the parents are making efforts to comply with the compulsory attendance requirements of the Pilot Program but cannot comply because of valid reasons, the court must find and state what help is needed for the student or family to enable compliance.

This section also changes the due date for a report to the Joint Legislative Education Oversight Committee and General Assembly from January 1, 2016, to January 15, 2016, and requires the report to include information on the implementation of enforcement mechanisms for violations of the compulsory attendance requirements of the Pilot Program, including the criminal penalties.

This section became effective August 11, 2014. (DC)

Alcoholic Beverage Control Permits/Schools and Colleges

S.L. 2014-120, Sec. 14 ([SB 734](#), Sec. 14). See **Alcoholic Beverage Control**.

Higher Education

Omnibus Tax Law Changes: Prepaid Meal Plans

S.L. 2014-3, Part IV ([HB 1050](#), Part IV). See **Finance**.

Student Organizations/Rights and Recognition

S.L. 2014-28 ([SB 719](#)) provides that a religious or political organization at a North Carolina community college or a constituent institution of The University of North Carolina may do the following in conformity with the organization's established written doctrines regarding the organization's faith or mission, to the extent allowed by State and federal law:

- Determine that only persons professing the faith or mission of the organization and acting in that manner are qualified to serve as leaders of the organization.
- Order the internal affairs of the organization.
- Resolve the organization's disputes.

A North Carolina community college or a constituent institution of The University of North Carolina that grants recognition to a student organization may not deny recognition to that organization or deny it access to programs, funding, facilities, or other privileges associated with official recognition because the organization exercised its rights to determine its leaders, order its internal affairs, or resolve its disputes as provided above.

This act became effective June 25, 2014. (DC)

Credit for Military Training

S.L. 2014-67 ([SB 761](#)). See **Occupational Boards and Licensing**.

Escheat Savings Bond Trust Fund/Scholarships

S.L. 2014-93 ([HB 27](#)). See **State Government**.

Tuition Assistance to Veterans who Participate in the Yellow Ribbon Program and Their Spouses and Dependent Relatives

S.L. 2014-100, Sec. 11.12 ([SB 744](#), Sec. 11.12) authorizes, beginning with the 2015-2016 academic year, the Board of Governors (BOG) of The University of North Carolina (UNC), the State Board of Community Colleges (SBCC), any of the UNC constituent institutions, or any of the community colleges (institutions of higher education) to annually enter into agreements with the United States Secretary of Veterans Affairs to participate in the federal Yellow Ribbon Program (Program). The agreement must provide a grant of 90% of tuition and fees not otherwise covered to eligible veterans, spouses, or dependent relatives enrolled as undergraduates or in community colleges who meet requirements established by the federal government. Constituent institutions are not prohibited from using private funds to participate in the Program for graduate programs. The General Assembly also encourages private institutions to participate in the Program.

Two reserve funds for the purpose of forward funding tuition assistance through the Program for undergraduate and community college tuition assistance are established, to be used beginning with the 2015-2016 fiscal year.

The BOG and SBCC must each report to the Joint Legislative Education Oversight Committee by January 1, 2015, regarding planned participation for the 2015-2016 school year. The report must include information on number and identity of participating institutions of higher education, selection methodology, maximum number of participating students and maximum award per student, and those institutions of higher education not participating and reasons for non-participation.

This section became effective July 1, 2014. (KM)

Adult High School Equivalency Diploma

S.L. 2014-115, Sec. 28 ([HB 1133](#), Sec. 28) replaces statutory references to the General Education Development Degree (GED) with the more generic term, "adult high school equivalency diploma."

This section became effective August 11, 2014. (PLP)

Alcoholic Beverage Control Permits/Schools and Colleges

S.L. 2014-120, Sec. 14 ([SB 734](#), Sec. 14). See **Alcoholic Beverage Control**.

Community Colleges

Revenues/Expenditures/Fees Collected and Assessed by the Manufacturing Solutions Center and the Textile Technology Center

S.L. 2014-100, Sec. 10.3 ([SB 744](#), Sec. 10.3) directs the State Board of Community Colleges to report to the Joint Legislative Education Oversight Committee, the Fiscal Research Division, and the Office of State Budget and Management, a summary of the revenues and expenditures for the Manufacturing Solutions Center at Catawba Valley Community College and for the Textile Technology Center at Gaston College during the 2012-2013 and 2013-2014 fiscal years by January 15, 2015.

This section became effective July 1, 2014. (DC)

Disposal of Real Property by Community Colleges

S.L. 2014-115, Sec. 51.5 ([HB 1133](#), Sec. 51.5) clarifies that the board of trustees of a community college may demolish real property owned or held by the college when it determines that such property is unnecessary or undesirable for the purposes of the college, subject to prior approval of the State Board of Community Colleges.

This section became effective August 11, 2014. (KM)

Community College Brewing Course Waiver

S.L. 2014-120, Sec. 17 ([SB 734](#), Sec. 17). See **Alcoholic Beverage Control**.

Universities

Report on Institutional Trust Funds

S.L. 2014-100, Sec. 11.4 ([SB 744](#), Sec. 11.4) directs each of the constituent institutions of The University of North Carolina to submit reports or other information concerning its trust fund accounts as may be required by the Director of the Budget.

This section became effective July 1, 2014. (DHA)

Report on Academic Summer Bridge

S.L. 2014-100, Sec. 11.5 ([SB 744](#), Sec. 11.5) directs the Board of Governors of The University of North Carolina to report to the Office of State Budget and Management and the Joint Legislative Education Oversight Committee on the impact of Academic Summer Bridge programs on student outcomes by January 1, 2015.

This section became effective July 1, 2014. (DC)

Operation of 4-H Camps and Use of Various Sites of Defunct 4-H Camps and Transfer of 4-H Camp Sertoma/Moore Springs to the State Parks System

S.L. 2014-100, Sec. 11.7 ([SB 744](#), Sec. 11.7) requires North Carolina State University (NCSU) to continue operation of the Eastern 4-H Center in Columbia, North Carolina, Millstone 4-H Camp near Ellerbe, North Carolina, and Betsy-Jeff Penn 4-H Educational Center near Reidsville, North Carolina, as 4-H camps with equivalent levels of services as offered on June 30, 2013.

NCSU must consult with the county commissioners of the counties in which the defunct Anita-Alta 4-H Camp in Lenoir, North Carolina, and Swannanoa 4-H Camp in Swannanoa, North Carolina were located regarding reopening those sites as camps or other available options. Within 90 days of the consultation, NCSU must report in writing to the Joint Legislative Education Oversight Committee and the General Assembly on the feasibility of reopening the site and other options.

NCSU must take practicable measures to operate the 4-H camps in a manner that will generate a positive fund balance in the institutional trust funds for the camps.

The net proceeds of disposition of, use, or activity on real property allocated to the 4-H Camping Program (Program) must be used solely for that Program, either for operation, acquisition of property, or endowment funding. Notwithstanding this requirement, such net proceeds used in another manner as of July 1, 2014, may continue to be used in that manner. The net proceeds may not be used to pay prior debt or financial obligations owed to State

agencies. The realization of net proceeds is not intended by the General Assembly to reduce appropriations to the Program, and the Director of the Budget is directed to not decrease recommended continuation budget requirements as a result of those proceeds.

The Department of Administration is directed to reallocate the State-owned real property that is part of Camp Sertoma/Moore Springs to the Department of Environment and Natural Resources, to be added to the State Parks System.

This section became effective July 1, 2014. (KM)

The University of North Carolina Faculty Tuition Waiver

S.L. 2014-100, Sec. 11.9 ([SB 744](#), Sec. 11.9) increases from two to three the maximum number of courses per year that The University of North Carolina full-time faculty of the rank of full-time instructor or above and any full-time staff may enroll in, free of charge for tuition and fees, at The University of North Carolina.

This section became effective July 1, 2014, and applies to the 2014-2015 fall academic semester and each subsequent academic semester. (DHA)

State Education Assistance Authority to Assume Responsibility for Teaching Fellows Program Scholarship Loans

S.L. 2014-100, Sec. 11.10 ([SB 744](#), Sec. 11.10) directs the Office of State Budget and Management to transfer to the State Education Assistance Authority (SEAA) the cash balance remaining in the Teaching Fellows Trust Fund as of February 16, 2015, with the transfer of funds completed by February 16, 2015. The North Carolina Teaching Fellows Commission (Commission) must make scholarship loan awards for the 2015 spring academic semester prior to this transfer.

Beginning March 1, 2015, the SEAA must administer all outstanding scholarship loans previously awarded by the former Commission and subject to repayment under the former Teaching Fellows Program (Program) with the notes payable to the Commission deemed payable to the SEAA as the successor in interest by the same terms stated in the notes. All funds received by the SEAA for the Program, including all funds received as repayment of scholarship loans, must be deposited into the Forgivable Education Loans for Service Fund.

The Commission must provide the SEAA all of the records on the outstanding scholarship loans previously awarded but not cancelled by service or otherwise satisfied in full, as well as aggregate historical data on the numbers of loans made that are no longer active.

The Public School Forum is authorized to use up to \$400,000 during the 2014-2015 fiscal year from the Teaching Fellows Trust Fund balance for costs associated with administration of the Program, with funds withdrawn from the Teaching Fellows Trust Fund balance before February 16, 2015. The SEAA can use up to \$75,000 of the fund balance for the Forgivable Education Loans for Service Fund for the administration of the Program for the 2014-2015 fiscal year.

The section also changes the repeal date of the statutes governing the Commission from July 1, 2015, to March 1, 2015.

This section became effective July 1, 2014. (DC)

The University of North Carolina Reversions

S.L. 2014-100, Sec. 11.17 ([SB 744](#), Sec. 11.17) restructures the statute governing reversions associated with The University of North Carolina, and clarifies that The University of North Carolina may carry forward a General Fund current operations appropriations credit

balance up to 2.5% remaining at the end of each fiscal year in each budget code associated with:

- Each special responsibility constituent institution.
- The Area Health Education Centers of the University of North Carolina at Chapel Hill.
- General Administration (as limited by certain budget codes).

These carry forward funds may be used for one-time expenditures provided they do not impose additional financial obligations on the State and are not used to support positions.

This section became effective July 1, 2014, and applies to the 2014-2015 fiscal year and each subsequent fiscal year. (DHA)

Report on the Funding of State Medical Schools

S.L. 2014-100, Sec. 11.20 ([SB 744](#), Sec. 11.20) directs The University of North Carolina to report to the Joint Legislative Education Oversight Committee and the Joint Legislative Oversight Committee on Health and Human Services on the funding of medical schools by October 1, 2014.

This section became effective July 1, 2014. (DC)

Training for Superior and District Court Judges

S.L. 2014-100, Sec. 18B.5 ([SB 744](#), Sec. 18B.5). See **Courts, Justice, and Corrections**.

Use of Certain Funds Carried Forward by The University of North Carolina for Capital Projects

S.L. 2014-100, Sec. 36.5 ([SB 744](#), Sec. 36.5) defines "non-General Fund money" for purposes of certain university capital improvement projects to include certain carry forward funds.

This section became effective July 1, 2014. (DHA)

Repeal University of North Carolina Chancellors' Authority to Approve Certain Maintenance Projects

S.L. 2014-100, Sec. 36.6 ([SB 744](#), Sec. 36.6) repeals the authority of chancellors of constituent institutions to approve the expenditure of available operating funds in an amount not to exceed \$1 million per project for certain maintenance and repair projects.

This section became effective July 1, 2014. (DHA)

Expand The University of North Carolina Leasing Authority

S.L. 2014-100, Sec. 36.7 ([SB 744](#), Sec. 36.7) extends from 65 to 99 years, the period for which disposition of real property by an easement, lease, or rental agreement in any building on the Centennial Campus, the Horace Williams Campus, on a Millennial Campus, or the Kannapolis Research Campus may be made by the Board of Governors of The University of North Carolina (BOG) without obtaining the approval of the Governor and the Council of State.

The section also repeals sunsets on provisions authorizing and expanding the authority of the BOG in acquisition and disposition of real property enacted in 2012 and 2013 that were set to expire June 30, 2015.

This section became effective July 1, 2014. (KM)

Confidentiality of Research Data of State Institutions of Higher Education

S.L. 2014-115, Sec. 52 ([HB 1133](#), Sec. 52) provides that unpublished research data of State institutions of higher education are not public records under the State public records law. This section became effective August 11, 2014. (PLP)

Studies

Referrals to Existing Commissions/Committees

Joint Legislative Education Oversight Committee Study of Salary Supplements/Differentiated Pay

S.L. 2014-100, Sec. 8.3 ([SB 744](#), Sec. 8.3) directs the Joint Legislative Education Oversight Committee to:

- Study the payment of salary supplements for teachers and instructional support personnel who complete a degree at the master's, six-year, or doctoral degree level.
- Study the use of State funds to provide for differentiated pay for classroom teachers based on a teacher's demonstrated effectiveness and additional responsibilities in advanced roles.
- Report the results of the study and any recommended legislative changes to the General Assembly prior to the convening of the 2015 General Assembly.

This section became effective July 1, 2014. (DHA)

Joint Legislative Education Oversight Committee Study of North Carolina Virtual Public Schools Revenue

S.L. 2014-100, Sec. 8.18 ([SB 744](#), Sec. 8.18) directs the Joint Legislative Education Oversight Committee (JLEOC) to study potential generation of revenue by the North Carolina Virtual Public Schools (NCVPS) by selling virtual unused seats to out-of-state students, and training coursework and educational materials to teachers and educational agencies. JLEOC must consider the potential barriers and benefits to allowing NCVPS to become a private, for-profit entity, and is directed to report to the 2015 General Assembly.

This section became effective July 1, 2014. (PLP)

Joint Legislative Education Oversight Committee Study of Diagnostic Reading Assessments for Read to Achieve

S.L. 2014-100, Sec. 8.22 ([SB 744](#), Sec. 8.22) directs the Joint Legislative Education Oversight Committee (JLEOC) to study the formative and diagnostic assessments used by the Department of Public Instruction in local school administrative units to see if there are additional options that could be used for these purposes, including gathering data to be used in teacher evaluation. JLEOC must consider the time it takes to administer, analyze, and provide useful information to teachers and families when studying other early reading assessments, and report its recommendations to the 2015 General Assembly.

This section became effective July 1, 2014. (PLP)

Joint Legislative Education Oversight Committee Study on Vocational Training for Individuals with Intellectual Disabilities

S.L. 2014-100, Sec. 10.4 ([SB 744](#), Sec. 10.4) directs the Joint Legislative Education Oversight Committee (JLEOC) to study the following issues related to vocational training for individuals with intellectual disabilities (IID):

- Model programs for training and developing vocational expertise and job readiness for IID for systemwide implementation at community colleges (CC) and constituent institutions of The University of North Carolina (UNC).
- Enhancing employment outcomes for IID.
- Barriers to employment for IID.
- Establishment and expansion of partnerships between CC, UNC, in the Division of Vocational Rehabilitative Services of the Department of Health and Human Services, and community-based organizations offering job training and job placement opportunities for IID.
- Policies for ensuring that IID are prepared for higher education opportunities and for transition planning and job training upon completion of elementary and secondary school education.

The JLEOC must report the results of the study to the General Assembly prior to the convening of the 2015 General Assembly.

This section became effective July 1, 2014. (KM)

Study University Tuition

S.L. 2014-100, Sec. 11.15 ([SB 744](#), Sec. 11.15) directs the Joint Legislative Education Oversight Committee (JLEOC) to study (i) tuition and mandatory fees at the constituent institutions of The University of North Carolina, (ii) changes in tuition and fees compared to economic inflation, (iii) available funding to offset the cost of tuition and fees, (iv) tuition costs controls in other states, and (v) benefits of student enrollment in community colleges to complete initial credit requirements before enrolling in a constituent institution to complete an undergraduate degree. The JLEOC must report the results of this study to the 2015 General Assembly.

This section became effective July 1, 2014. (PLP)

Elizabeth City State University Study

S.L. 2014-100, Sec. 11.24 ([SB 744](#), Sec. 11.24) directs the Joint Legislative Education Oversight Committee to examine plans of the Board of Governors of The University of North Carolina or of Elizabeth City State University (ECSU) to restore ECSU to a more financially sustainable condition and report the findings of this study to the 2015 General Assembly.

This section became effective July 1, 2014. (PLP)

Referrals to Departments, Agencies, Etc.

Energy Modernization Act

S.L. 2014-4, Sec. 24 ([SB 786](#), Sec. 24). See **Environment and Natural Resources and Energy**.

School Transportation Fleet Manual Review

S.L. 2014-100, Sec. 8.13 ([SB 744](#), Sec. 8.13) directs the Department of Public Instruction (DPI) to study school bus transportation maintenance issues by convening a committee of school bus transportation maintenance experts, of which half of the members must be employees of local boards of education and directly involved in the daily maintenance of school buses. The study must specifically review the provisions of the State's School Transportation Fleet Manual.

DPI must report on the results of the study, along with any recommendations for statutory changes, to the Joint Legislative Education Oversight Committee by December 15, 2014.

This section became effective July 1, 2014. (DC)

Community Colleges and The University of North Carolina Study Bilateral Agreements Regarding Transfer Process

S.L. 2014-100, Sec. 10.7 ([SB 744](#), Sec. 10.7) directs the Board of Governors of The University of North Carolina and the State Board of Community Colleges to jointly study existing bilateral agreements and partnerships that aid in college credit transfers. The findings of the study must be reported to the Joint Legislative Education Oversight Committee and the General Assembly by February 1, 2015.

This section became effective July 1, 2014. (PLP)

Study Financial Aid Payment Schedule to Incentivize 30 Completed Hours Per Year and Implement Revised Payment Schedule

S.L. 2014-100, Sec. 11.8 ([SB 744](#), Sec. 11.8) directs the State Education Assistance Authority (SEAA), in consultation with The University of North Carolina, the North Carolina Community College System, and the North Carolina Independent Colleges and Universities, to study ways to structure its financial aid payment schedules to encourage students to complete an average of 30 credit hours per academic year. The SEAA must submit an interim report by March 1, 2015, and a final report by October 1, 2015, to the Joint Legislative Education Oversight Committee on financial aid payment schedules to effect this purpose. After submitting the final report, the SEAA must structure financial aid payments to encourage students to complete an average of 30 credits per year.

This section became effective July 1, 2014, and the financial aid payment structure must be in place for the 2016-2017 academic year and all subsequent academic years. (PLP)

Study on Establishment of New Optometry Schools

S.L. 2014-100, Sec. 11.21 ([SB 744](#), Sec. 11.21) requires the Board of Governors (BOG) of The University of North Carolina to evaluate and report on the feasibility of establishing a school of optometry at one or more of the following constituent institutions:

- The University of North Carolina at Chapel Hill.
- The University of North Carolina at Pembroke.
- East Carolina University.
- Elizabeth City State University.
- Fayetteville State University.
- North Carolina Agricultural and Technical State University.
- North Carolina Central University.

➤ Winston-Salem State University.

The report must include breakdowns of expenditures necessary for establishing and operating a school of optometry at the constituent institution, and of funds available to assist the institution with those expenses. The report must also include a projected number of applicants for the school.

The report must be made by December 1, 2014, to the Joint Legislative Education Oversight Committee, the Joint Legislative Oversight Committee on Health and Human Services, the Fiscal Research Division, and the General Assembly.

North Carolina Independent Colleges and Universities, Inc., (NCICU) is encouraged to also report on the feasibility of establishing a school of optometry at a NCICU-affiliated school. The report must contain the same information required in the BOG report and be submitted to the same entities by December 1, 2014.

This section became effective July 1, 2014. (KM)

Chapter 9

Environment and Natural Resources and Energy

Heather Fennell (HF), Jeff Hudson (JH), Peter Ledford (PL), Mariah Matheson (MM),
Jennifer McGinnis (JLM), Jennifer Mundt (JM), Chris Saunders (CS)

Enacted Legislation

Air Quality

Open Burning

S.L. 2014-120, Sec. 24 ([SB 734](#), Sec. 24) amends rules that pertain to open burning without an air quality permit to provide that, in addition to the open burning of leaves, tree branches, and yard trimmings, a permit is not required for the burning of logs and stumps when certain conditions are met. This section also amends the statutes to prohibit local air pollution control program authorities, the Department of Environment and Natural Resources, and the Environmental Management Commission from regulating the emissions from combustion heaters, appliances, or fireplaces in private dwellings, except as authorized by federal law. In addition, this section prohibits a city from banning or otherwise limiting outdoor burning within one mile of the city, unless the city either provides trash and yard waste collection services or access to solid waste drop-off sites.

This section became effective September 18, 2014. (JM)

Eliminate Outdated Air Quality Reporting Requirements

S.L. 2014-120, Sec. 38 ([SB 734](#), Sec. 38) repeals air quality reporting requirements pertaining to:

- The cost of the Title V Program.
- Reductions in nitrogen oxide (NO_x) and sulfur dioxide (SO₂) beyond those required by the Clean Smokestacks Act (Act).
- Issues related to monitoring emissions of mercury from coal-fired generating units.
- Issues related to the development and implementation of standards and plans to control emissions of carbon dioxide (CO₂) from coal-fired generating units and other stationary sources of air pollution to reduce emissions of CO₂.

In addition, this section also repeals: the requirement that the State use resources, means, negotiation, participation in interstate compacts, petitions, and litigation to induce other states and entities to achieve reductions in emissions of NO_x and SO₂ comparable to those required by the Act; and the requirement for air pollution permit holders to submit to the Department of Environment and Natural Resources a written description of their current and projected plans to reduce the emission of air contaminants under such permits by source reduction or recycling.

This section became effective September 18, 2014. (MM)

Coastal Issues

Amend Shallow Draft Navigation Channel and Lake Dredging Funding

S.L. 2014-100, Sec. 14.18 ([SB 744](#), Sec. 14.18) makes several changes to the flow of funds from the excise tax on motor fuel to the Wildlife Resources Fund and the Shallow Draft Navigation Channel Dredging and Lake Maintenance Fund ("the Funds"), both for the 2014 calendar year and for the 2014-2015 fiscal year and all future fiscal years. Specifically, this section does the following:

- For the 2014-2015 fiscal year and all subsequent fiscal years, directs that the distributions to the Funds must be made on a quarterly basis instead of annually, and must be distributed to the Funds within 45 days of the end of each quarter. This change is effective for quarters beginning on or after January 1, 2014.
- For calendar year 2014, directs that distributions to the Funds for the first quarter be made no later than September 15, 2014, and that the distribution for the last quarter of 2014 be allocated to the Highway Trust Fund. These directives have the effect of holding the Highway Trust Fund harmless during the transition from annual to quarterly distributions to the Funds.
- No later than November 15, 2014, the Secretary of Revenue (Secretary) is directed to credit an additional \$1,677,134 to the Shallow Draft Navigation Channel Dredging and Lake Maintenance Fund. The Secretary is permitted to draw these funds from the receipts of all taxes levied on gasoline, diesel fuel, and fuel blends.

Except as otherwise provided, this section became effective August 7, 2014. (JFC)

Aquatic Weed Control

S.L. 2014-100, Sec. 14.19 ([SB 744](#), Sec. 14.19) does the following:

- Makes clarifying and conforming changes to the statutes pertaining to the Shallow Draft Navigation Channel Dredging and Lake Maintenance Fund (Fund).
- Allocates up to \$500,000 of revenue in the Fund to be used for the State's share of the costs associated with certain aquatic weed control projects in each fiscal year.
- Requires that cost-share projects funded by revenue from the Fund for a lake located within a component of the State Parks System (SPS) must be provided by the Division of Parks and Recreation (DPR) of the Department of Environment and Natural Resources. DPR may use funds allocated to SPS for capital projects for the cost-share.

This section became effective July 1, 2014. (MM)

Contested Cases for Coastal Area Management Act Permits

S.L. 2014-120, Sec. 23 ([SB 734](#), Sec. 23) amends the contested case process for Coastal Area Management Act (CAMA) development permit decisions to provide that the filing of a contested case by a permit applicant suspends the permit and prevents any action that would be unlawful in the absence of the permit, while the filing of a contested case by a person who is not the permit applicant would not automatically suspend the permit.

This section became effective September 18, 2014. (JH)

Coastal Stormwater Grandfather

S.L. 2014-120, Sec. 25 ([SB 734](#), Sec. 25) exempts from coastal stormwater requirements development activity on certain properties that are contiguous to properties already exempt from the coastal stormwater requirements.

This section became effective September 18, 2014. (JH)

Inlet Hazard Areas

S.L. 2014-120, Sec. 35 ([SB 734](#), Sec. 35) prohibits the Coastal Resources Commission (CRC) from establishing any new inlet hazard areas and directs the CRC to repeal any existing inlet hazard areas in any location where:

- The location formerly contained an inlet, but the inlet has been closed for at least 15 years.
- The location no longer contains the inlet due to shoreline migration.
- The location includes an inlet providing access to a State Port via a channel maintained by the United States Army Corps of Engineers.

This provision does not otherwise prevent the CRC from studying current or potential inlet hazard areas, designating new inlet hazard areas, or modifying existing inlet hazard areas.

This section became effective September 18, 2014. (JH)

Energy

Energy Modernization Act

S.L. 2014-4 ([SB 786](#)), as amended by S.L. 2014-115, Sec. 67 ([HB 1133](#), Sec. 67), makes a number of changes to the laws governing oil and gas exploration, development, and production activities using horizontal drilling and hydraulic fracturing treatments (oil and gas activities), including the following key provisions:

- Extends the rule development deadline applicable to the Mining and Energy Commission (MEC) for the adoption of rules for a modern regulatory program for the management of oil and gas activities (rules) to January 1, 2015 from October 1, 2014.
- Modifies application of or exempts the rules from a number of provisions of the Administrative Procedure Act (APA).
- Establishes a rebuttable presumption concerning the sufficiency of adopted rules.
- Authorizes the Department of Environment and Natural Resources (DENR) and MEC to issue permits for oil and gas activities after the 61st calendar day following the date that all rules have become effective (and repeals a previously enacted provision that prohibited the issuance of permits for such activities until certain criteria were met).
- Effective July 31, 2015, terminates the MEC, creates the Oil and Gas Commission, and reconstitutes the Mining Commission.
- Clarifies requirements applicable to confidential information received in connection with permitted oil and gas activities. The provision requires public disclosure of all information pertaining to oil and gas activities, including the chemicals used in the hydraulic fracturing process, except upon a determination by MEC that disclosure of such information would divulge methods or processes entitled to protection as confidential information. In addition, the provision explicitly provides that:
 - MEC and DENR are required to retain confidential information received, must provide such information to the Division of Emergency Management of the

- Department of Public Safety, and immediately disclose such information to first responders and medical personnel in the event of an emergency.
- The State Geologist, or the State Geologist's designee, must review: (i) confidential information that concerns hydraulic fracturing fluid to ensure compliance with all State and federal laws, rules, and regulations concerning prohibited chemicals or constituents, or exceedances of standards for chemicals or constituents, and (ii) in consultation with the State Health Director, confidential information that concerns hydraulic fracturing fluid; and advise local health departments of additional parameters that should be included in testing for private drinking water wells in their jurisdictions in compliance with the requirements of the Private Well Water Education Act enacted in 2012.
 - Unlawful disclosure of information in violation of these provisions would constitute a Class 1 misdemeanor.
 - Any person who requests information and any person who submits information, who is dissatisfied with a decision of MEC to withhold or release information, is given a right of appeal to the Business Court.
- Amends provisions concerning an oil and gas operator's presumptive liability for contamination of water supplies and requirements for pre-drilling and post-drilling tests of water supplies.
 - Establishes a new bond that an operator must provide, running to the State and sufficient to cover any potential environmental damage caused by the drilling process in an amount no less than \$1 million (this bond is in addition to a separate bond that runs to the surface owner for reclamation costs, and in addition to other requirements that an operator establish sufficient financial assurance for its activities).
 - Establishes joint and several liability for cleanup costs, damages, or civil penalties arising in connection with oil and gas activities.
 - Invalidates local ordinances that prohibit oil and gas activities.
 - Repeals several statutes, including provisions that require: (i) operation of wells with efficient gas-oil ratios; (ii) State involvement in a property owner's request for a survey; and (iii) each well to be drilled in the center of a drilling unit.
 - Reduces the fee due upon application to drill additional wells on a pad.
 - Adds a requirement that oil and gas operators provide notice to subsurface owners of oil and gas resources at least 30 days prior to initiation of exploration, development, and production activities.
 - Requires that all natural gas compressor stations associated with an oil and gas drilling operation be located inside a baffled building.
 - Prohibits the injection of wastes produced in connection with oil and gas exploration, development, and production, and use of horizontal drilling and hydraulic fracturing treatments to subsurface or groundwaters of the State by means of wells.
 - Provides that DENR must conduct an environmental compliance review of each applicant for a new permit for oil and gas activities in order to determine the extent to which the applicant, or affiliated entity, has substantially complied with the requirements applicable to any activity in which any of these entities previously engaged, and has substantially complied with federal, North Carolina, and other states' laws, regulations, and rules for the protection of the environment. DENR may deny, modify or revoke a permit, or require issuance of a new permit, based on the results of the compliance review.
 - Enacts a provision governing liability for trespass in association with activities conducted for the purpose of seismic or geophysical data collection.
 - Exempts persons engaging in the construction, repair, or abandonment of an oil and gas well from the water well contractor certification requirements.

- Effective July 1, 2015, repeals North Carolina's previous severance tax and levies a new severance tax on the removal of energy minerals from the soil and water of the State.
 - The severance tax will be applied to oil and condensates, and gas. For gas, the tax rate is applied to the "delivered to market" value of the mineral sold. The "delivered to market value" of gas is the actual gross price paid minus the costs incurred by the producer to get the gas from the mouth of the well to the first purchaser. For condensates and oil, the tax rate is applied to the total actual gross price paid by the first purchaser of the condensate or oil.
 - The tax rate for gas is 0.9% for 2015 through 2018. Starting in 2019, the rate for gas will vary based on the delivered to market value of the gas subject to a rate cap. The rate cap is 2.9% for years 2019 through 2020, 5% for years 2021 through 2022, and 9% thereafter. The rate for oil and condensates is 2% for years 2015 through 2018, 3.5% for years 2019 through 2020, and 5% thereafter. A preferential lower rate is allowed for marginal gas. "Marginal gas" is the gas produced from a well that is capable of producing no more than 100 MCF (one thousand cubic feet) of gas.
 - The tax is the liability of the producer of the gas. The "producer" is the entity that extracts the energy mineral from the soil or the water of the State. Returns and taxes are due on either a monthly or quarterly basis, depending on the tax liability of the producer. A bond or letter of credit will be required for producers that fail to file a return or make a payment of tax due. Permits for oil and gas exploration using horizontal drilling or hydraulic fracturing would be suspended for any producer that fails to file a return or make a payment for severance taxes.
 - Local governments are prohibited from imposing any additional taxes on the severance of energy minerals in the State. Energy minerals are subject to the local property tax. However, the value of real property attributable to the presence of energy minerals is exempt from taxation where a permit to drill on the property has not been issued.
- Directs a number of entities to study several issues, including:
 - Taxation of energy minerals.
 - Impact of the energy industry on property tax revenues of local governments.
 - The desirability and feasibility of siting, constructing, and operating a liquefied natural gas (LNG) export terminal in North Carolina.
 - Matters concerning energy-related traffic. **See Transportation.**
 - The feasibility and desirability of developing a program to prepare students with a general education foundation and technical competencies for employment opportunities in the oil and natural gas drilling, gathering, and field operations industry.
 - The development of midstream infrastructure (including pipelines, gathering systems, compressor stations, pumping systems, on-site and near-site storage tanks, and natural gas liquids processing systems) in North Carolina to facilitate the exploration, development, and production of the State's oil and gas resources.
 - MEC's rules, once adopted, concerning drilling units, spacing requirements, and setbacks, and all rules that DENR determines will affect the regulation of compulsory pooling in the State. Examination of the issue of amending current dormant mineral statutes regarding extinguishment and other consumer protection issues related to split estates is also required.
 - A comprehensive long-range State energy policy to achieve maximum effective management and use of present and future sources of energy.
 - Fuel options to be considered for the award of a school bus contract.

- Repeals a provision that requires the Energy Policy Council to use an attorney assigned by the Attorney General's office.
 - Adopts the gas gallon equivalent (GGE) equivalent for compressed natural gas and the (diesel gas equivalent) DGE equivalent for liquid natural gas for the purpose of motor fuel taxation. The GGE equivalent is 5.66 pounds of compressed natural gas. The DGE equivalent of liquefied natural gas is 6.06 pounds of liquefied natural gas.
- Except as otherwise provided, this act became effective June 4, 2014. (JLM/HF)

Agriculture Gas Expansion Fund

S.L. 2014-100, Sec. 15.13 ([SB 744](#), Sec. 15.13). See **Agriculture and Wildlife**.

Research Triangle Institute Energy Research

S.L. 2014-100, Sec. 15.18 ([SB 744](#), Sec. 15.18) directs the Research Triangle Institute to share with the State Energy Office any research supported wholly or partially through funds appropriated by the Appropriations Act of 2014 that pertains to energy or energy efficiency. This section became effective July 1, 2014. (JM)

Local Government Leases for Renewable Energy Facilities

S.L. 2014-120, Sec. 34 ([SB 734](#), Sec. 34) increases the term for a lease of property owned by a city for the siting and operation of a renewable energy facility to up to 25 years. This section also removes the application of this provision to certain cities, thereby applying it statewide.

This section became effective September 18, 2014. (JM)

Energy Audit Requirements

S.L. 2014-120, Sec. 55 ([SB 734](#), Sec. 55) changes, from annual to biennial, the required updates to and reports on the management plans developed by State agencies and institutions of higher learning to manage energy, water, and utility use.

This section became effective September 18, 2014. (JM)

Environmental Health

Interstate Chemicals Clearinghouse

S.L. 2014-100, Sec. 14.27 ([SB 744](#), Sec. 14.27) authorizes the Department of Environment and Natural Resources to join the Interstate Chemicals Clearinghouse for the purpose of access to key data necessary to enhance safety in the use of toxic substances.

This section became effective July 1, 2014. (JM)

Fisheries

Commercial Fishing Licenses

S.L. 2014-100, Sec. 14.9 ([SB 744](#), Sec. 14.9) establishes the North Carolina Commercial Fishing Resource Fund in order to support the At-Sea Observer Program required by commercial

fishing industry incidental take permits issued to the State under the federal Endangered Species and Marine Mammal Protection Acts. In particular, this section:

- Effective August 7, 2014, and applied to fees collected for the 2015-2016 license year and all succeeding years, increases fees for six categories of commercial fishing licenses (Standard Commercial Fishing Licenses, Retired Standard Commercial Fishing Licenses, Shellfish Licenses, Fish Dealer Licenses, Land or Sell Licenses, and Recreational Commercial Gear Licenses).
- Creates the new North Carolina Commercial Fishing Resource Fund (Fund), to receive a portion (one-half, in most cases) of the revenue generated by those six categories of commercial fishing licenses. The funds are to be used to fully fund the At-Sea Observer Program. Any remaining balance of the Fund may be used to support projects to develop and support sustainable commercial fishing in the State, as determined by the Marine Fisheries Commission and a Funding Committee consisting of representatives of six commercial fishing organizations.

Except as otherwise provided, this section became effective July 1, 2014. (JFC)

Advanced Sale of Licenses

S.L. 2014-100, Sec. 14.10 ([SB 744](#), Sec. 14.10) clarifies and amends the statutes pertaining to the advance sale of commercial fishing licenses. Any license revenue carried forward by the Division of Marine Fisheries of the Department of Environment and Natural Resources from one fiscal year to the next that remains unencumbered and unexpended at the end of the fiscal year in which the license or endorsement is valid must revert to the General Fund.

This section became effective July 1, 2014. (MM)

Division of Marine Fisheries Joint Enforcement Agreements

S.L. 2014-100, Sec. 14.11 ([SB 744](#), Sec. 14.11) authorizes the Director of the Division of Marine Fisheries (DMF) of the Department of Environment and Natural Resources, to negotiate an agreement with the National Marine Fisheries Service (NMFS) allowing DMF inspectors to assume law enforcement powers over matters within the jurisdiction of the NMFS.

This section became effective July 1, 2014. (JFC)

Permit Electronic Transmission of Rules by the Marine Fisheries Commission

S.L. 2014-100, Sec. 14.13 ([SB 744](#), Sec. 14.13) authorizes the Marine Fisheries Commission (MFC) to transmit copies of the rules concerning the activities authorized by a license issued by the MFC in written or electronic form to a licensee. Likewise, the Director of the Division of Marine Fisheries of the Department of Environment and Natural Resources may elect to use electronic means rather than mail to notify licensees of a new rule, a change to a rule, or an updated codification of the rules of the MFC, if electronic means would be more timely and cost-effective. A written copy of any notification produced must be provided to a licensee upon request.

This section became effective July 1, 2014. (MM)

Redirect Interest Earnings on Certain Funds to the General Fund

S.L. 2014-100, Sec. 14.21 ([SB 744](#), Sec. 14.21) amends the governing statutes for the following environmental and natural resources accounts and funds to direct that interest and other income received on the cash balances of those accounts and funds be paid into the State's General Fund:

- The Conservation Fund for marine and estuarine resources.
- The Clean Water Management Trust Fund.
- The Dry-Cleaning Solvent Cleanup Fund.
- The Parks and Recreation Trust Fund.
- The Bernard Allen Memorial Emergency Drinking Water Fund.
- The Water Pollution Control System Account.
- The Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund.
- The Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund.
- The Inactive Hazardous Sites Cleanup Fund.
- The Brownfields Property Reuse Act Implementation Account.

This section became effective July 1, 2014. (JFC)

Amend Transplanting of Oysters and Clams Statute

S.L. 2014-120, Sec. 26 ([SB 734](#), Sec. 26) authorizes the transplanting of seed clams and seed oysters of a certain size from permitted aquaculture operations in certain polluted shellfish waters to private beds if done so in accordance with an Aquaculture Seed Transplant Permit issued by the Secretary of Environment and Natural Resources.

This section became effective September 18, 2014. (JH)

Fee Rollback for Oyster Permits Under Private Docks

S.L. 2014-120, Sec. 33 ([SB 734](#), Sec. 33) makes a conforming change to the repeal of the fee for Under Dock Oyster Culture Permits enacted by the Appropriations Act of 2014, which repealed the Under Dock Oyster Culture fee that was imposed in the Current Operations and Capital Improvements Appropriations Act of 2013.

This section became effective July 1, 2014. (JH/JC)

Miscellaneous

Building Reutilization for Economic Development Act

S.L. 2014-90, Parts II, III, and V ([HB 201](#), Parts II, III, and V) amend certain environmental statutes as follows:

Stormwater Program Impervious Surface Calculations for Redevelopment. – Part II implements stormwater runoff rules and programs by creating definitions for "development" and "redevelopment" and by specifying that stormwater runoff rules and programs may not require private property owners to install new or increased stormwater controls for preexisting development or redevelopment activities that do not remove or decrease existing stormwater controls. This Part also makes conforming changes by deleting definitions for development and redevelopment in the 2006 Stormwater Law.

SEPA Exemptions for Reoccupation of an Existing Building or Facility. – Part III amends the North Carolina Environmental Policy Act of 1971 (SEPA), which requires State

agencies to prepare an environmental document under certain circumstances. This Part exempts projects from the requirement to prepare an environmental document if:

- The project redevelops or reoccupies an existing building or facility.
- Any additions to the existing building or facility do not increase the total footprint to more than 150% of the footprint of the existing building or facility.
- Any new construction does not increase the total footprint to more than 150% of the floor area of the existing building or facility.

Municipal ordinances adopted pursuant to authority granted by SEPA must exempt these projects.

Part V of the act directs the Environmental Management Commission, Coastal Management Commission, and the Department of Environment and Natural Resources to amend their rules to conform with the act.

These Parts became effective July 30, 2014. (PL).

Efficiencies Reporting by Natural and Environmental Resources Agencies

S.L. 2014-100, Sec. 14.2A ([SB 744](#), Sec. 14.2A). See **State Government**.

Oregon Inlet Acquisition

S.L. 2014-100, Sec. 14.7 ([SB 744](#), Sec. 14.7). See **State Government**.

Wildlife Licensing Changes

S.L. 2014-100, Sec. 14.25 ([SB 744](#), Sec. 14.25). See **Agriculture and Wildlife**.

Confidentiality of Environmental Investigations for Agricultural Operations

S.L. 2014-103, Sec. 1 ([HB 366](#), Sec. 1) provides that complaints to the Department of Environment and Natural Resources (DENR) concerning agricultural operations, and records accumulated in conjunction with such investigations, are confidential and may only be released by court order. Such complaints and records become public records, however, upon a finding of a violation. Additionally, this section provides that DENR may decline to accept or further investigate a complaint about an agricultural operation if an initial assessment of the complaint leads to a finding that the complaint is frivolous or in bad faith. This section also directs DENR to adopt rules to develop a formal system for receiving, investigating, and responding to complaints about agricultural operations.

This section became effective August 6, 2014. (CS)

Scope of Local Authority for Ordinances

S.L. 2014-120, Sec. 32 ([SB 734](#), Sec. 32). See **Local Government**.

Clarifying Changes to Statutes Pertaining to the Management of Venomous Snakes and Other Reptiles

S.L. 2014-120, Sec. 39 ([SB 734](#), Sec. 39). See **Criminal Law and Procedure**.

Changes to Residential Property Disclosure Act

S.L. 2014-120, Sec. 49 ([SB 734](#), Sec. 49). See **Property, Trusts, and Estates**.

Hardison Amendment Clarification

S.L. 2014-120, Sec. 57 ([SB 734](#), Sec. 57). See **State Government**.

Parks and Public Spaces

State Nature and Historic Preserve Additions and Deletions

S.L. 2014-62 ([HB 1139](#)) dedicates and accepts certain properties as part of the State Nature and Historic Preserve (Preserve), and removes certain lands from the Preserve. Added to the Preserve were Grandfather Mountain State Park and Yellow Mountain State Natural Area. In addition, several small parcels of land were excepted or deleted from units within the Preserve, including: Crowders Mountain State Park, South Mountains State Park, Jockey's Ridge State Park, Lake James State Park, Chimney Rock State Park, Gorges State Park, Lower Haw State Natural Area, Lumber River State Park, and Mitchells Millpond State Natural Area. The exceptions or deletions to these parks and natural areas were made to improve the management of the parks, allow for existing road relocations, or allow for utility easements.

This act became effective July 7, 2014. (JM)

Natural Heritage Program Online Access Fees

S.L. 2014-100, Sec. 14.13A ([SB 744](#), Sec. 14.13A) authorizes the Department of Environment and Natural Resources to establish fees for several services and activities of the Natural Heritage Program (Program), and to deposit the fee receipts in the Clean Water Management Trust Fund (CWMTF). Specifically, fees may be collected for the following:

- Online access to Program data, as well as the costs associated with response to data inquiries that require customized environmental review services.
- Other Program activities already eligible for support from CWMTF, including the inventory of natural areas conducted under the Program, conservation and protection planning, and informational programs for owners of natural areas.

This section became effective July 1, 2014. (JFC)

State Parks and Trails Signage

S.L. 2014-100, Sec. 34.15 ([SB 744](#), Sec. 34.15). See **Transportation**.

Speed Limit Waiver in State Parks and Forests

S.L. 2014-120, Sec. 31 ([SB 734](#), Sec. 31). See **Transportation**.

Solid/Hazardous Waste

Solid Waste Disposal Tax Uses

S.L. 2014-100, Sec. 14.24 ([SB 744](#), Sec. 14.24) increases, from 13% to 19%, the cap on the percentage of revenues from the solid waste disposal tax allocated to the Department of Environment and Natural Resources for assessment and remediation of pre-1983 landfills that may be used for administrative expenses. This section also broadens the types of administrative expenses that may be funded to include any expense related to hazardous and solid waste management.

This section became effective July 1, 2014, and applies to funds credited to the Inactive Hazardous Sites Cleanup Fund on or after that date. (JFC)

Eliminate Waste Management Fee Cap

S.L. 2014-100, Sec. 14.24A ([SB 744](#), Sec. 14.24A) removes statutory language imposing a non-binding fee cap of 30% on the portion of total budgeted funds for the State's hazardous waste management program that may be provided from fees charged to generators and transporters of hazardous waste and to hazardous waste storage, treatment, and disposal facilities.

This section became effective July 1, 2014. (JFC)

Establish Hazardous Materials Facility Fee/New HAZMAT Response Team

S.L. 2014-100, Sec. 16B.3 ([SB 744](#), Sec. 16B.3). See **State Government**.

Exempt Construction and Demolition Landfills from the Minimum Financial Responsibility Requirements Applicable to Other Solid Waste Management Facilities

S.L. 2014-120, Sec. 27 ([SB 734](#), Sec. 27) reduces the amount of financial assurance that owners or operators of construction and demolition debris landfills are required to establish from a minimum of \$2 million to a minimum of \$1 million for potential assessment and corrective action at the facility.

This section became effective September 18, 2014. (JLM)

Coal Ash Management Act of 2014

S.L. 2014-122 ([SB 729](#)) establishes a comprehensive regulatory framework for the management of coal combustion residuals (CCR) and coal combustion products (CCP), as well as proper closure and remediation of CCR surface impoundments (impoundments). CCR, also known as "coal ash," means residuals, including fly ash, bottom ash, boiler slag, mill rejects, and flue gas desulfurization residue produced by a coal-fired generating unit destined for disposal. CCP means fly ash, bottom ash, boiler slag, or flue gas desulfurization materials that are beneficially used, including use for structural fill. In particular, the act:

- Prohibits the Utilities Commission from allowing an electric public utility to recover from the retail electric customers of the State costs related to unlawful discharges to waters of the State from impoundments, unless the discharge is determined to be

due to an event of force majeure. The section applies to discharges occurring on or after January 1, 2014.

- Establishes a moratorium on orders of the Utilities Commission to grant an increase in base rates of an electric public utility for costs related to impoundments prior to January 15, 2015, in order to allow the State to study the disposition of impoundments including any final rules adopted by the United States Environmental Protection Agency on management of CCR.
- Creates the Coal Ash Management Commission (CAMC), administratively located in the Division of Emergency Management of the Department of Public Safety, to review and approve prioritization classifications and closure plans for impoundments, and otherwise study and make recommendations on laws governing management of CCR.
- Requires expedited review by the Department of Environment and Natural Resources (DENR) of any permit necessary to conduct activities required by the act.
- Prohibits local government regulation of management of CCR or CCP.
- Prohibits construction of new or expansion of existing impoundments effective October 1, 2014.
- Prohibits the disposal of CCR into impoundments at coal-fired generating units that are no longer producing CCR effective October 1, 2014.
- Prohibits disposal of stormwater to impoundments at an electric generating facility where the coal-fired generating units are no longer producing CCR effective December 31, 2018; prohibits disposal of stormwater to impoundments at facilities actively producing CCR effective December 31, 2019.
- Requires all electric generating facilities to convert to generation of dry fly ash on or before December 31, 2018, and convert to dry bottom ash on or before December 31, 2019, or retire.
- Requires the assessment of groundwater and implementation of corrective action for the restoration of groundwater quality at impoundments.
- Requires an impoundment owner to: (i) survey drinking water supply wells within one-half mile from the established compliance boundary of an impoundment; and (ii) provide an alternate water source if drinking water supplies are found to be contaminated with constituents associated with the presence of an impoundment.
- Requires the identification, assessment, and correction of unpermitted discharges from impoundments.
- Requires DENR to prioritize all impoundments for the purpose of closure and remediation based on these sites' risks to public health, safety, and welfare, the environment, and natural resources. As soon as practicable, but no later than December 31, 2015, DENR is required to issue a proposed classification for each impoundment as low-risk, intermediate-risk, or high-risk, which is then subject to final approval by the CAMC.
- Requires owners of impoundments to submit a proposed plan for closure of all impoundments to DENR, subject to the following requirements:
 - High-risk impoundments must be closed as soon as practicable, but no later than December 31, 2019. A proposed closure plan for such impoundments must be submitted no later than December 31, 2016. At a minimum, these impoundments must be dewatered to the maximum extent practicable, and the owner of an impoundment must either: (i) convert the impoundment to an industrial landfill that complies with the requirements of the applicable statutes and rules for such landfills; or (ii) remove all CCR from the impoundment, return the former impoundment to a nonerosive and stable condition, and transfer the CCR for disposal in certain landfills or use the CCP in a structural fill or other beneficial use.

- Intermediate-risk impoundments must be closed as soon as practicable, but no later than December 31, 2024. A proposed closure plan for such impoundments must be submitted no later than December 31, 2017. At a minimum, these impoundments must be dewatered to the maximum extent practicable, and the owner must close such an impoundment in any manner allowed for high-risk impoundments.
- Low-risk impoundments must be closed as soon as practicable, but no later than December 31, 2029. A proposed closure plan for such impoundments must be submitted no later than December 31, 2018. At a minimum, these impoundments must be dewatered to the maximum extent practicable. The owner could close such an impoundment in any manner allowed for high- and intermediate-risk impoundments. These impoundments could also close through compliance with the closure and post-closure requirements applicable to sanitary landfills (with the exception of installation and operation of a leachate collection system), if DENR finds that a plan for closure in this manner includes design measures to prevent post-closure exceedances of groundwater quality standards beyond the compliance boundary that are attributable to constituents associated with the presence of the impoundment.
- Requires closure and remediation of impoundments at the following locations as soon as practicable, but no later than August 1, 2019:
 - Dan River Steam Station, owned and operated by Duke Energy Progress, and located in Rockingham County.
 - Riverbend Steam Station, owned and operated by Duke Energy Carolinas, and located in Gaston County.
 - Asheville Steam Electric Generating Plant, owned and operated by Duke Energy Progress, and located in Buncombe County.
 - Sutton Plant, owned and operated by Duke Energy Progress, and located in New Hanover County.
- Requires DENR to establish a schedule and process for closure and remediation of all impoundments based upon DENR's risk assessment of these sites, baseline requirements set by the General Assembly, evaluation of proposed closure plans submitted by impoundment owners, and input from the public and other stakeholders.
- Requires that closure plans submitted by an impoundment owner receive preliminary approval by DENR, and final approval by the CAMC, prior to implementation.
- Establishes minimum statutory requirements for structural fill projects using CCP, which apply to projects contracted for on or after the effective date of the act. In addition, the act requires DENR to inventory and inspect certain structural fill projects.
- Places a moratorium on certain projects using CCP as structural fill until August 1, 2015, and directs DENR and the Environmental Management Commission (EMC) to study the adequacy of current law governing use of CCP as structural fill and for beneficial use.
- Places a moratorium on the expansion and construction of CCR landfills until August 1, 2015, and directs DENR to assess the risks to public health, safety, and welfare, the environment, and natural resources of impoundments located beneath these landfills to determine the advisability of continued operation of these landfills.
- Strengthens the reporting and notification requirements applicable to discharges of wastewater to waters of the State.
- Requires certain emergency calls to be recorded.
- Requires development of emergency action plans for high- and intermediate-hazard dams and amends other dam safety law requirements applicable to impoundments.

- Transfers solid waste rule-making authority from the Commission for Public Health to the EMC.
- Clarifies how compliance boundaries are established and what types of corrective action have to be taken to address exceedances of groundwater quality standards at or beyond compliance boundaries. Directs the EMC to review its compliance boundary and corrective action rules for clarity and internal consistency and report the results of its review, including any recommendations, to the Environmental Review Commission (ERC) no later than December 1, 2014.
- Directs various entities to study a number of issues and establishes various reporting requirements to the General Assembly, including:
 - The CAMC to study whether and under what circumstances no further action or natural attenuation is appropriate for impoundments classified as low-risk, and report its findings and recommendations to the ERC on or before October 1, 2015.
 - DENR to study all deadlines established by the act, and report its findings and recommendations to the ERC on or before December 1, 2014.
 - The Department of Transportation (DOT) to evaluate additional opportunities for the use of CCR in the construction and maintenance of roads and bridges within the State, and report its findings and recommendations to the ERC and the Joint Legislative Transportation Oversight Committee no later than December 1, 2014.
- Requires the State Construction Office and DOT to develop technical specifications for use of CCP.
- Provides resources for implementation of the act, including creation of a new regulatory fee to be used to pay the costs of the CAMC and the costs of DENR in providing oversight for CCR. The fee is set at 0.03% of the jurisdictional revenues of public utilities with an impoundment. The fee sunsets April 1, 2030.

Except as otherwise provided, this act became effective September 20, 2014.

(JLM/JH/HF)

Water Quality/Quantity/Groundwater

Allow Use of Department of Transportation Best Management Practices

S.L. 2014-1 ([SB 294](#)) allows permittees, delegated programs, and regulated entities to use the Department of Transportation Stormwater Best Management Practices Toolbox to fulfill the Phase II post-construction stormwater permit requirements for linear transportation projects.

This act became effective January 1, 2012. (JM)

Stormwater Management Fee Uses

S.L. 2014-14 ([HB 573](#)). See **Local Government**.

Groundwater Contamination/Modify Response

S.L. 2014-17 ([SB 574](#)). See **Civil Law and Procedure**.

Source Water Protection Planning

S.L. 2014-41 ([HB 894](#)), as amended by S.L. 2014-115, Sec. 55.5 ([HB 1133](#), Sec. 55.5), requires every supplier of water operating a public water system that treats and furnishes water

from surface supplies to create and implement a source water protection plan. In addition, the act directs the Commission for Public Health (CPH) to adopt rules to create: a standard format such plans; schedules for creating, implementing, and updating the plans; and reporting requirements so that the Department of Environment and Natural Resources may monitor the plans. The CPH is directed to report to the Environmental Review Commission on its progress implementing the act by April 1, 2015, and within six months of adopting final rules implementing the act.

This act became effective June 30, 2014. (PL)

Clarify Statute of Repose

S.L. 2014-44 ([SB 58](#)). See **Civil Law and Procedure**.

Mitigation Buffer Rule/Wastewater Treatment

S.L. 2014-95 ([SB 883](#)) disapproves the Mitigation Program Requirements for Protection and Maintenance of Riparian Buffers Rule adopted by the Environmental Management Commission (EMC) on May 9, 2013, and directs the EMC to adopt a new Mitigation Program Requirements for Protection and Maintenance of Riparian Buffers Rule that is substantively identical to the recommended rule text contained in the April 10, 2014, Consolidated Buffer Mitigation Rule Stakeholder Report. The act also amends how the disposal area is calculated for certain wastewater disposal systems that utilize non-native soils or materials.

This act became effective August 1, 2014. (JH)

Increased Fee for Private Well-Water Testing

S.L. 2014-100, Sec. 12E.3 ([SB 744](#), Sec. 12E.3) authorizes the Secretary of Health and Human Services to increase the fee for analyzing private well-water samples that are sent to the State Laboratory of Public Health by local health departments up to \$74. This section also amends the fee to be imposed not only for the analysis of samples from newly constructed wells, but also for samples from existing wells.

The Division of Public Health of the Department of Health and Human Services, in consultation with local health departments and the Department of Environment and Natural Resources, is directed to study options for reducing or waiving the private well-water sampling fee for households with incomes at or below 300% of the current federal poverty level and report its findings and recommendations to the Joint Legislative Committee on Health and Human Services, the Environmental Review Commission, and the Fiscal Research Division of the General Assembly by December 1, 2014.

This section became effective August 7, 2014, and applies to private well-water samples analyzed on or after that date. (JM)

Technical Corrections: Clean Water Management Trust Fund

S.L. 2014-100, Sec. 14.8 ([SB 744](#), Sec. 14.8) amends the statutes governing the Clean Water Management Trust Fund (CWMTF) to clarify the purpose of the Fund, makes conforming changes to reflect previously enacted modifications to the Fund, and adds the Secretary of Cultural Resources as a member of the CWMTF Advisory Council.

This section became effective July 1, 2014. (JLM)

Water Infrastructure Grant Priority

S.L. 2014-100, Sec. 14.16 ([SB 744](#), Sec. 14.16) directs the Division of Water Infrastructure (DWI) of the Department of Environment and Natural Resources, and the State Water Infrastructure Authority to give priority to loan and grant applications received from any local government meeting all of the following criteria:

- The local government is located in a development tier one area.
- The application seeks funding for a project that is required to be completed due to an United States Environmental Protection Agency administrative order.
- The application is deemed complete by the DWI and meets the minimum requirements for the program from which it is seeking funding.

This section became effective July 1, 2014. (MM)

Water Infrastructure

S.L. 2014-100, Sec. 14.17 ([SB 744](#), Sec. 14.17) directs the Division of Water Infrastructure of the Department of Environment and Natural Resources to establish a new certification requirement for applications from local governments for a loan or grant from the Clean Water State Revolving Fund, the Wastewater Reserve, the Drinking Water State Reserve Fund, or the Drinking Water Reserve. The applicant must certify that no transfer of funds from water or wastewater utility operations (other than transfers related to reimbursement for the regular and ongoing operations of the utility) have been made to the local government's general fund.

This section became effective July 1, 2014. (JFC)

Reclaimed Water as a Source Water

S.L. 2014-113 ([SB 163](#)) allows local water supply systems to combine reclaimed water with source water to be distributed as drinking water under conditions that ensure that the drinking water is safe and that all State and federal water quality laws are complied with.

This act became effective August 6, 2014. (JH)

On-Site Wastewater Approval Clarification

S.L. 2014-120, Sec. 28 ([SB 734](#), Sec. 28) amends the statute governing the approval of on-site subsurface wastewater systems to (i) clarify that neither the Commission for Public Health nor the Department of Environment and Natural Resources may condition, delay, or deny the approval of a system based on the particle or bulk density of expanded polystyrene material, (ii) provide that approvals that include such conditions be reissued with those conditions deleted, and (iii) provide that until permits are reissued, conditions related to particle or bulk density of expanded polystyrene material have no force or effect.

This section became effective September 18, 2014. (JM)

Expedited Interbasin Transfer Process for Certain Reservoirs

S.L. 2014-120, Sec. 37 ([SB 734](#), Sec. 37) expands the expedited process for interbasin transfers in coastal counties to include withdrawals or transfers of water stored in any multipurpose reservoir constructed by the United States Army Corps of Engineers (Corps) and partially located in a state adjacent to North Carolina, provided the Corps approved the withdrawal or transfer on or before January 1, 2014.

This section became effective September 18, 2014. (JH)

Reform On-Site Wastewater Regulation

S.L. 2014-120, Sec. 40 ([SB 734](#), Sec. 40) amends on-site wastewater regulation as follows:

- Defines the term "ground absorption system" to mean a system of tanks, treatment units, nitrification fields, and appurtenances for wastewater collection, treatment, and subsurface disposal as a wastewater system.
- Provides that systems located on multiple adjoining lots or tracts under common ownership or control must be considered a single system for permitting purposes.
- Directs local health departments to advise the owner or developer of any rule changes for wastewater system construction and requires a local health department to issue a revised authorization for wastewater system construction incorporating rule changes upon the written request of the owner or developer.

This section became effective September 18, 2014. (JM)

Standardize Local Well Programs

S.L. 2014-120, Sec. 43 ([SB 734](#), Sec. 43). See **Health and Human Services**.

Clarify Gravel Under Stormwater Laws

S.L. 2014-120, Sec. 45 ([SB 734](#), Sec. 45) provides that, for purposes of stormwater management, gravel will be considered part of built-upon area to the extent that the gravel does not allow water to infiltrate through the surface to the subsoil.

This section became effective September 18, 2014, and applies to projects for which permit applications are received on or after that date. (JH)

United States Postal Service Cluster Box Units/No Stormwater Permit Modification Required

S.L. 2014-120, Sec. 46 ([SB 734](#), Sec. 46) provides that when cluster mailboxes are added to single-family and duplex developments permitted by a local government to replace individual curbside mailboxes, the addition of that mailbox must be considered incidental and is not subject to a stormwater permit modification or required in the calculation of built-upon area for stormwater permitting purposes.

This section became effective September 18, 2014, and expires on December 31, 2015, or when regulations on cluster mailbox design and placement by the United States Postal Service become effective and are adopted by local governments, whichever is earlier. (JM)

Modification of Approved Wastewater Systems

S.L. 2014-120, Sec. 47 ([SB 734](#), Sec. 47) directs the Commission for Public Health to amend rules pertaining to the modification of accepted wastewater systems to provide that a survey or audit is not required for installed modified accepted systems in order to confirm the satisfactory performance of such systems.

This section became effective September 18, 2014. (JM)

Clarify Effective Date of Definition of Discharge of Waste

S.L. 2014-120, Sec. 51 ([SB 734](#), Sec. 51) clarifies that a provision amending the definition of the term "discharge" does not include an emission that is a release into the outdoor atmosphere of air contaminants, applies to any contested case filed or pending as of July 16, 2012.

This section became effective July 16, 2012. (JH)

Expand Daily Flow Design Exemption for Low-Flow Fixtures

S.L. 2014-120, Sec. 53 ([SB 734](#), Sec. 53) amends a law enacted in 2013 to provide for reduced flow alternatives to the Daily Flow Rate for Design for wastewater systems as required by the North Carolina Administrative Code such that, in addition to exempting establishments, dwellings would be exempt from the Daily Flow Rate for Design and any design flow standard under certain conditions. This section also directs the Commission for Public Health and the Department of Health and Human Services to establish flow rate limits by rule based on scientific evidence specific to soil types found in the State. In addition, this section provides that neither the State nor any local health department will be held liable for any damages caused by a system approved or permitted in accordance with this section.

This section became effective September 18, 2014. (JM)

Amend Isolated Wetlands Regulation

S.L. 2014-120, Sec. 54 ([SB 734](#), Sec. 54) increases the amount of isolated wetlands that could be impacted without a permit from 1/3 of an acre to 1 acre east of Interstate 95 and from 0.1 acre to 1/3 of an acre west of Interstate 95. This section also decreases the amount of mitigation that would be required for impacts to isolated wetlands, defines the term "isolated wetlands", and directs the Department of Environment and Natural Resources to conduct several studies related to isolated wetlands.

This section became effective September 18, 2014. (JH)

Studies

Referrals to Departments, Agencies, Etc.

Study Commercial Shellfish Leasing

S.L. 2014-100, Sec. 14.12 ([SB 744](#), Sec. 14.12) directs the Coastal Studies Institute (Institute) of The University of North Carolina to study the State's shellfish lease and franchise program, including the following:

- The regulatory, statutory, and other obstacles faced by the private mariculture industry in establishing or expanding shellfish cultivation operations.
- A summary of shellfish leasing and franchising programs in other states and a comparison of the private mariculture industry in North Carolina compared to other states.
- Recommendations for best practices to achieve greater opportunities for North Carolina's mariculture industry and greater program efficiencies and outcomes.

The Institute must report its findings and recommendations to the Environmental Review Commission, the Fiscal Research Division, and the General Assembly no later than March 1, 2015.

This section became effective July 1, 2014. (MM)

Senator Jean Preston Marine Shellfish Sanctuary

S.L. 2014-120, Sec. 44 ([SB 734](#), Sec. 44) directs the Division of Marine Fisheries in the Department of Environment and Natural Resources (DENR) to designate an area of appropriate acreage within the Pamlico Sound as a recommendation to the Environmental Review Commission (ERC) for the establishment of the "Senator Jean Preston Marine Shellfish Sanctuary" and to create a plan for managing the sanctuary. No later than December 1, 2014, and quarterly thereafter, DENR will report to the ERC on the implementation of the plan.

This section became effective September 18, 2014. (JH)

Reports on Minimum Design Criteria

S.L. 2014-120, Sec. 50 ([SB 734](#), Sec. 50) amends and extends the dates on which the Department of Environment and Natural Resources (DENR) must submit its recommendations regarding development of Minimum Design Criteria for stormwater programs to the Environmental Review Commission. This section directs DENR to submit interim progress reports no later than September 1, 2014, and December 1, 2014, and extends the submittal of the final report to no later than February 1, 2015.

This section became effective September 18, 2014. (JM)

Study Use of Contaminated Property

S.L. 2014-120, Sec. 56 ([SB 734](#), Sec. 56) directs the Department of Environment and Natural Resources (DENR) to study ways to improve the timeliness of actions necessary to address contaminated properties such that the property is safe for productive use, threats to the environment and public health are minimized to acceptable levels, and the risk of taxpayer funded remediation is reduced. DENR must report the results of the study to the Environmental Review Commission no later than November 1, 2014.

This section became effective September 18, 2014. (JLM)

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Chapter 10

Finance

Cindy Avrette (CA), Trina Griffin (TG), Heather Fennell (HF), Greg Roney (GR)

Enacted Legislation

Income Tax Changes

Omnibus Tax Law Changes: Deduction for State Net Loss

S.L. 2014-3, Part I ([HB 1050](#), Part I) simplifies the calculation and eases the administration of the corporate loss deduction as follows:

- Replaces the net economic loss calculation with a State net loss calculation that is more comparable to the federal net operating loss calculation.
- Removes the requirement that a net economic loss carried forward to taxable years beginning on or after January 1, 2015, be first offset by nontaxable income.
- Instructs the Secretary of Revenue to apply the standards under sections 381 and 382 of the Code when determining to what extent a loss survives a merger or an acquisition.

This Part becomes effective for taxable years beginning on or after January 1, 2015. (CA)

Omnibus Tax Law Changes: Other Income Tax Changes

S.L. 2014-3, Part II ([HB 1050](#), Part II) makes the following technical and clarifying changes to the income tax laws:

- Effective for taxable years beginning on or after January 1, 2013, amends the section 179 expense deduction for State income tax purposes to reflect the intent of legislative action taken in 2013:
 - To correct the dollar amount of the section 179 expense investment limit.
 - To make the necessary changes to ensure that qualifying taxpayers may receive the benefit of the North Carolina 85% add-back deductions.
- Effective for taxable years beginning on or after January 1, 2013, clarifies that a person who is not eligible for a federal standard deduction is not eligible for a State standard deduction. North Carolina follows the federal law concerning an individual's eligibility for a standard deduction. The tax reform legislation inadvertently failed to follow this practice.
- Clarifies the application of the \$20,000 deduction for mortgage interest expenses paid and property taxes paid on real estate. S.L. 2013-316 limited the federally allowed itemized deductions for mortgage interest expenses paid and property taxes paid on real estate at \$20,000. The intent of the legislation was for the \$20,000 cap to apply to the cumulative deduction for a married couple, regardless of how the couple files a return.
- Updates references in the statutes pertaining to income tax on estates and trusts. Estates and trusts generally receive the same modifications to taxable income and tax rates as single individuals.

Except as otherwise provided, this Part became effective for taxable years beginning on or after January 1, 2014. (CA)

Tax Refund for North Carolina Endowment Fund

S.L. 2014-100, Sec. 8.11 ([SB 744](#), Sec. 8.11). See **Education**.

Clarify "Net General Fund Tax Collected" for Purposes of the Corporate Income Tax Rate Reduction Trigger

S.L. 2014-100, Sec. 37.1 ([SB 744](#), Sec. 37.1) clarifies what the term "net General Fund tax collected for a fiscal year" means for purposes of the corporate income tax rate trigger in statute. In 2013, the General Assembly reduced the corporate income tax rate from 6.9% to 6% for the 2014 taxable year and to 5% for the 2015 taxable year. In addition to these rate reductions, the law provides for a potential 1% rate reduction for taxable year 2016 if net General Fund tax collections for fiscal year 2014 to 2015 meet the statutory target amount of \$20.2 billion and a potential 1% rate reduction for taxable year 2017 if net General Fund tax collections for fiscal year 2015 to 2016 meet the statutory target amount of \$20.975 billion.

To see whether or not the targeted collection amount has been met, prior law used the amount reported by the State Controller in the State's Comprehensive Annual Financial Report. This report contains several different reports and none of the reports necessarily reflect the collections used by the General Assembly and the Appropriations Committees when the Fiscal Research Division prepares the budget availability statement for a fiscal year. The number most commonly used by the legislature when it begins budget discussions is the amount reported by the Department of Revenue. This section clarifies that net General Fund tax collected for a fiscal year means the amount of net revenue reported by the Department of Revenue's June Statement of Collection as "Total General Fund Revenue" for the 12-month period that ended the previous June 30, modified as follows:

- Less any large one-time, nonrecurring revenue.
- Adjusted by any changes in net collections resulting from suspension or termination of transfers out of the General Fund.

This section became effective August 7, 2014. (CA)

Sales Tax Changes

Omnibus Tax Law Changes: Agricultural Exemption Certificate

S.L. 2014-3, Part III ([HB 1050](#), Part III) gives guidance to the farming community and the Department of Revenue as to the administration of the income threshold a person must meet to qualify for a sales tax agricultural exemption certificate. In S.L. 2013-316, the General Assembly imposed an income threshold a person must meet in order to qualify for a sales tax agricultural exemption certificate. Effective July 1, 2014, a person does not qualify for an agricultural exemption certificate unless the person has an annual gross income for the preceding taxable year of at least \$10,000 from farming operations.¹ This Part allows a three-year income averaging to address issues of income volatility in farming operations and a conditional exemption certificate for new farmers.

This Part became effective July 1, 2014. (CA)

¹ For federal income tax purposes, gross income from farming includes sales of agricultural products, cooperative distributions, agricultural program payments, and crop insurance and federal disaster payments.

Omnibus Tax Law Changes: Prepaid Meal Plans

S.L. 2014-3, Part IV ([HB 1050](#), Part IV) addresses sales tax issues related to the repeal of the sales tax exemption for meals served to students in dining rooms of regularly operated educational institutions:

- Defines a "prepaid meal plan" as a plan offered by an institution of higher education that entitles a person to food or prepared food, that is billed or paid for in advance, and that provides for predetermined units or unlimited access to food or prepared food but does not include a dollar value that declines with use.
- Imposes a sales tax at the general rate upon the sales price of or gross receipts derived from a prepaid meal plan.
- Sources the local sales tax revenue to the county where the school is located.
- Addresses how to tax a transaction where one amount is paid for a taxable item (prepaid meal plan) and a nontaxable item (declining card balance; tuition; and board).
- Clarifies that the sales tax exemption for meals sold in elementary and secondary schools applies to any school regulated by statute.
- Provides schools with an option for reporting and remitting sales tax revenue derived from a prepaid meal plan.

This Part became effective May 29, 2014 and applies to gross receipts derived from a prepaid meal plan sold or billed on or after July 1, 2014. (CA)

Omnibus Tax Law Changes: Admissions

S.L. 2014-3, Part V ([HB 1050](#), Part V) addresses sales tax issues associated with the expansion of the sales tax base to include gross receipts derived from admissions to a live event, a movie, and other attractions for which an admission is charged as follows:

- Clarifies that for purposes of the imposition of sales tax, the term "gross receipts" has the same meaning as the term "sales price."
- Sources the local sales tax revenue derived from admission charges to the location where admission to the entertainment activity may be gained. When the location where admission may be gained is not known at the time of the transaction, the statutory general sourcing principles apply.
- Defines an "admission charge" as the gross receipts derived for the right to attend an entertainment activity.
- Provides that a retailer is the operator of the venue where the entertainment activity occurs.
- Defines a facilitator as a person who accepts payment of an admission charge to an entertainment activity and is not the operator of the venue where the entertainment activity occurs.
- Clarifies that the following transactions are not subject to tax:
 - Amounts paid to participate in sporting events.
 - Charges to attend an instructional or educational seminar, workshop, or conference.
 - Political contributions.
 - Charges for lifetime seat rights, provided the charge is separately stated.
 - Amounts paid solely for transportation.
- Clarifies the following exemptions from tax, effective January 1, 2015:
 - An event sponsored by an elementary or secondary school.
 - An event sponsored by a nonprofit if certain conditions are met.
- Repeals the following exemptions, effective January 1, 2015:
 - An agricultural fair.

- Up to two activities a year sponsored by a nonprofit.
- A State attraction.

Except as otherwise provided, this Part became effective May 29, 2014, and applies to gross receipts derived from an admissions charge sold at retail on or after that date. (CA)

Omnibus Tax Law Changes: Service Contracts

S.L. 2014-3, Part VI ([HB 1050](#), Part VI) addresses sales tax issues associated with the expansion of the sales tax base to include the sales price of a service contract as follows:

- Changes the definition of a "service contract" to alleviate confusion about who must provide the work under the service contract for the contract to be taxable.
- Clarifies in the sales tax imposition statute that the tax applies to the sales price of or the gross receipts derived from a service contract.
- Clarifies that local sales tax revenues from a service contract are sourced in accordance with statutory general sourcing principles.
- Defines a retailer as the obligor when the obligor sells the service contract to the purchaser at retail.
- Adds an exemption for items subject to tax under the statutes pertaining to certain machinery and equipment, the 1% excise tax on mill machinery and other similar transactions.
- Clarifies that the tax does not apply to a service contract for items sold at retail that become part of real property unless the service contract is sold at the same time as the item of tangible personal property covered in the contract.
- Requires a retailer to report the sales price of or gross receipts derived from a service contract on an accrual basis, so that the receipts are recognized when the transaction occurs rather than when payment is received.
- Creates a process to allow a purchaser of a service contract a refund of the sales tax paid.
- Clarifies that the gross receipts derived from a service contract for a motor vehicle are not subject to the highway use tax.

This Part became effective October 1, 2014, and applies to gross receipts derived from a service contract sold at retail on or after that date. (CA)

Omnibus Tax Law Changes: Retailer Contractors

S.L. 2014-3, Part VII ([HB 1050](#), Part VII) addresses the applicability of the sales tax laws to retailer-contractors, such as major home improvement stores, when they are engaged in a performance contract rather than a retail sale. Specifically, a retailer-contractor would be considered the consumer of the items or materials they furnish and install or apply to real property to the extent the item becomes part of the real property. As the consumer of those items, the retailer-contractor would be responsible for payment of the tax rather than the customer.

This Part becomes effective January 1, 2015, and applies to sales on or after that date and contracts entered into on or after that date. (TG)

Omnibus Tax Law Changes: Other Sales Tax Changes

S.L. 2014-3, Part VIII ([HB 1050](#), Part VIII) makes the following changes to the sales tax laws:

- Effective June 1, 2014, moves the substance of the law imposing the State sales tax on accommodations to a new statutory section for stylistic purposes and provides

that a private residence or cottage rented for fewer than 15 days that is listed with a real estate broker or agent is subject to sales tax and occupancy tax.

- Effective July 1, 2014, disallows a sales tax refund to nonprofit and governmental entities for sales tax paid on video programming and piped natural gas.
- Repeals an obsolete provision that exempts sales tax for sales from vending machines of one cent per sale.
- Provides that the sales tax exemption applicable to 50% of the sales price of items sold through a vending machine does not apply to newspapers.

Except as otherwise provided, this Part became effective October 1, 2014, and applies to sales made on or after that date. (CA/TG)

Soil and Water/Regional Jails Refunds

S.L. 2014-20 ([HB 558](#)) authorizes a sales tax refund for soil and water conservation districts and regional jails.

This act becomes effective July 1, 2015, and applies to sales made on or after that date. (GR)

Cape Hatteras/Gas Cities/Infrastructure Land

S.L. 2014-39, Sec. 1 ([SB 790](#), Sec. 1) phases in the sales tax on sales of piped natural gas by the eight gas cities and on sales of electricity by the Cape Hatteras Electrical Membership Corporation (EMC). S.L. 2013-316, the Tax Simplification and Reduction Act, provided for the uniform taxation of all utilities. The Act repealed the franchise tax on electricity and increased the sales tax on electricity to the combined general rate of 7%. It also repealed the excise tax on piped natural gas and replaced it with a sales tax at the combined general rate of 7%. These sales tax changes became effective July 1, 2014.

Currently, Cape Hatteras EMC is not liable for franchise tax or sales tax on its sale of electricity. Other EMCs are subject to franchise tax and sales tax on their sale of electricity. Currently, the eight gas cities are not subject to the excise tax on their sale of piped natural gas. The eight gas cities are Bessemer City, Greenville, Kings Mountain, Lexington, Monroe, Rocky Mount, Shelby, and Wilson. Sales of piped natural gas by other providers are subject to the excise tax. S.L. 2013-316 did not retain these exemptions. This section phases in the sales tax rate on these sales of electricity and piped natural gas over two years: effective July 1, 2014, the sales tax rate would be 3.5%; and effective July 1, 2015, the sales tax rate would be the 7%, which is the same as the rate paid by other consumers of these products.

This section became effective July 1, 2014. (CA)

University of North Carolina Hospitals Setoff Debt Collection

S.L. 2014-100, Sec. 12I.4 ([SB 744](#), Sec. 12I.4). See **Health and Human Services**.

Modular/Manufactured and Modular Home Sales Tax

S.L. 2014-100, Sec. 37.3 ([SB 744](#), Sec. 37.3) exempts 50% of the sales price of a manufactured or modular home from sales tax.

This section became effective September 1, 2014, and applies to sales made on or after that date. (CA)

Excise Tax Changes

Omnibus Tax Law Changes: Excise Tax Changes

S.L. 2014-3, Part IX ([HB 1050](#), Part IX) makes the following changes to the excise tax statutes:

- Allows a wholesaler or importer of malt beverages and wine to provide security to the Secretary of Revenue (Secretary) in the form of a letter of credit as an alternative to a bond.
- Allows a wholesale dealer or retail dealer of tobacco products to provide the Department of Revenue (DOR) a manufacturer's tax affidavit in lieu of a notarized tax affidavit as supporting documentation for a tax refund.
- Allows DOR to furnish a data clearinghouse the information required to be released in accordance with the State's agreement under the December 2012 Term Sheet Settlement, as finalized by the State in the NPM Adjustment Settlement Agreement, concerning annual tobacco product sales by a nonparticipating manufacturer.
- Allows DOR to share information with a person who provides a surety bond or irrevocable letter of credit on behalf of a taxpayer if the information is necessary for the DOR to collect on the bond or letter of credit in the event the taxpayer does not comply with the tax laws.
- Allows the Secretary to delegate the authority to hold hearings.
- Clarifies that the tax on motor carriers applies to both intrastate motor carriers and interstate motor carriers.
- Updates the reference to the International Fuel Tax Agreement from June 1, 2010, to July 1, 2013.
- Clarifies that local sales tax is due on motor fuel for which a refund of the per gallon excise tax is allowed.
- Effective October 1, 2014, taxes B100 biodiesel fuel. B100 is not subject to federal excise tax, and as such is not subject to the State excise tax. B99.9 is subject to the State excise tax since it is a blended product. B100 is most commonly used as a motor fuel.
- Allows the Secretary to waive or reduce civil penalties imposed under the motor fuel tax statutes under DOR's penalty waiver policy used for other tax schedules.
- Effective October 1, 2014, clarifies that a shipping document required by the vessel transporting motor fuel is intended to provide permanent information.

Except as otherwise provided, this Part became effective May 29, 2014. (CA)

Omnibus Tax Law Changes: Tax Law Compliance Changes

S.L. 2014-3, Part X ([HB 1050](#), Part X) requires a person who wants to receive and hold an Alcoholic Beverage Control permit to be current in filing all applicable tax returns to the State and in payment of all taxes, interest, and penalties that are collectible. This requirement does not apply to special occasion permits, limited special occasion permits, special one-time permits, or salesman permits.

This section becomes effective May 1, 2015. (GR)

Omnibus Tax Law Changes: Tax Vapor Products and Prohibit Use of Vapor Products in Jail

S.L. 2014-3, Part XV ([HB 1050](#), Part XV), as amended by Sec. 23 of S.L. 2014-115 ([HB 1133](#), Sec. 23), imposes an excise tax of 5¢ per milliliter on vapor products, and prohibits the use

of vapor products in State correctional facilities. This Part also authorizes local confinement facilities to provide vapor products and FDA-approved tobacco cessation products to inmates.

The taxation of vapor products becomes effective June 1, 2015. The prohibition on the use of vapor products and use of tobacco cessation products in State correctional facilities becomes effective December 1, 2014, and applies to offenses committed on or after that date. The other provisions of this Part, as amended by S.L. 2014-115 become effective December 1, 2014. (HF)

Energy Modernization Act

S.L. 2014-4, Part VI ([SB 786](#), Part VI). See **Environment and Natural Resources and Energy**.

Cape Hatteras/Gas Cities/Infrastructure Land

S.L. 2014-39, Sec. 3 ([SB 790](#), Sec. 3) delays the change in the Highway Use tax base to include dealer administrative fees. In S.L. 2013-360, the Current Operations and Capital Improvements Appropriations Act of 2013, the highway use tax base was expanded to include any dealer administrative fees, effective January 1, 2014. Almost immediately, in S.L. 2013-363, the implementation of this change was delayed until July 1, 2014. This section delays the change to October 1, 2014.

This section became effective June 30, 2014. (CA)

Solid Waste Disposal Tax Uses

S.L. 2014-100, Sec. 14.24 ([SB 744](#), Sec. 14.24). See **Environment and Natural Resources and Energy**.

Motor Fuel Excise Tax

S.L. 2014-100, Sec. 34.6 ([SB 744](#), Sec. 34.6) repeals the quarterly refund for the motor fuel excise tax paid for taxicabs.

This section becomes effective for taxable years beginning on or after January 1, 2015. (CA)

Property Tax

Omnibus Tax Law Changes: Property Tax Changes

S.L. 2014-3, Part XI ([HB 1050](#), Part XI) provides for the central assessment of mobile telecommunications property. Under current law, the property is locally assessed by each county. The central assessment will apply to all of the tangible personal property of a mobile telecommunications company and includes the cellular towers owned by such companies as well as the cellular towers owned by "tower aggregators." Real property owned or leased by a mobile telecommunications company or tower aggregator will continue to be assessed locally in each county.

This Part becomes effective for taxable years beginning on or after July 1, 2015. (TG)

Cape Hatteras/Gas Cities/Infrastructure Land

S.L. 2014-39, Sec. 2 ([SB 790](#), Sec. 2) modifies the property tax deferral program for site infrastructure land. S.L. 2013-130 created a property tax deferral program for sites with potential to be developed for office or industrial applications in order to encourage horizontal improvement so as to make the sites more readily adapted to those uses in a shorter timeframe. In order to qualify, the site must be zoned for office and/or industrial use, must consist of at least 100 acres, may not have a building permit for a primary building or structure issued for it, and must be currently enrolled in or have been enrolled within the previous six months in the Present-Use Value (PUV) program. This section removes the qualification that the property be enrolled in the PUV program.

This section becomes effective for taxable years beginning on or after July 1, 2015. (CA)

Local Taxes

Omnibus Tax Law Changes: Privilege License Tax Changes

S.L. 2014-3, Part XII ([HB 1050](#), Part XII) maintains the local privilege tax authority for one more year with two modifications: (i) a city may not increase the tax on any business during that year, and (ii) a city may not tax a business physically located outside the city's limits. Beginning July 1, 2015, both the city and county authority to levy a privilege license tax is repealed. This includes their authority to levy a privilege tax on low-level radioactive and hazardous waste facilities.

Except as otherwise provided, this Part becomes effective for taxable years beginning on or after July 1, 2015. (TG)

Miscellaneous

Omnibus Tax Law Changes: Fees for Taxpayer Locator Services

S.L. 2014-3, Sec. 10.1(d) ([HB 1050](#), Sec. 10.1(d)), as amended by S.L. 2014-100, Sec. 26.1 ([SB 744](#), Sec. 26.1), authorizes the Department of Revenue (DOR) to spend \$500,000 annually on taxpayer locator services. Section 26.1 of S.L. 2014-100 reduced this amount to \$350,000. The collection assistance fee provides funds to pay for the costs of collecting overdue tax debts which have included personnel at DOR that collect taxes, locator services, and infrastructure projects at DOR. When attempting to collect overdue taxes, DOR uses locator services through contracts with private data services to identify current addresses for taxpayers.

This section became effective May 29, 2014. (GR)

Omnibus Tax Law Changes: License Plate Agent Compensation

S.L. 2014-3, Part XIII ([HB 1050](#), Part XIII) sets the License Plate Agent (LPA) transaction rate for the collection of property tax under the Tax and Tag Together program at the transitional rate of \$1.06, clarifies that the increased rate applies to all transactions where an LPA collects property tax as of July 1, 2014, and allows the retroactive portion of the fee increase to be paid out over a three month time period.

The provisions related to the fee for registration renewals became effective March 1, 2014. The remainder of this Part became effective July 1, 2014, and applies to collections of property tax on or after that date. (HF)

911 Board/Back-Up Public Safety Answering Points

S.L. 2014-66 ([SB 797](#)). See **State Government**.

Modify County Hold Harmless for Repealed Local Taxes

S.L. 2014-100, Sec. 37.2 ([SB 744](#), Sec. 37.2). In 2008, the State assumed the counties' share of the nonfederal share of Medicaid costs. To provide the financial resources to assume these costs, S.L. 2007-323 phased out the third one-half cent local sales tax and made a corresponding increase in the State sales tax rate. In addition, the legislation provided for a State hold harmless so that every county would benefit from these changes by at least \$500,000 annually. This section phases out the provision that each county will benefit by \$500,000 annually over a four-year period as follows:

- Effective July 1, 2014, the amount is reduced to \$325,000.
- Effective July 1, 2015, the amount is reduced to \$250,000.
- Effective July 1, 2016, the amount is reduced to \$125,000.

Effective July 1, 2017, each county will be held harmless from the exchange of a portion of the local sales and use taxes for the State's agreement to assume responsibility for the administrative costs of Medicaid, but there will not be any supplemental amount provided. Based on projections, 24 counties will continue to receive a hold harmless payment beginning in fiscal year 2017 to 2018.

This section became effective July 1, 2014. (CA)

Studies

Referrals to Existing Commissions/Committees

Special License Plate Development Process

S.L. 2014-96, Sec. 7 ([HB 101](#), Sec. 7) directs the Revenue Laws Study Committee to study the following and report its findings to the 2015 Regular Session of the 2015 General Assembly upon its convening:

- Examine the new process created for special registration plates to see if any modifications are needed.
- Examine the costs incurred by the Division of Motor Vehicles (DMV) to administer special registration plates.
- Study requirements and eligibility for permanent registration plates.
- Examine the costs incurred by DMV to administer permanent registration plates.

This section became effective August 1, 2014. (TG)

Department of Transportation/Division of Motor Vehicles Changes #2

S.L. 2014-108, Sec. 9 ([HB 272](#), Sec. 9) directs the Revenue Laws Study Committee to study the registration requirements, fees, and penalties applicable to for-hire passenger vehicles,

including for-hire passenger vehicles directed by digital dispatching services and report its findings to the 2015 Regular Session of the 2015 General Assembly upon its convening.

This section became effective August 6, 2014. (CA)

Chapter 11

Health and Human Services

Susan Barham (SB), Jennifer Hillman (JLH), Amy Jo Johnson (AJJ),
Theresa Matula (TM), Barbara Riley (BR), Jan P. Paul (JPP), Patsy L. Pierce (PLP)

Enacted Legislation

Source Water Protection Planning

S.L. 2014-41 ([HB 894](#)). See **Environment and Natural Resources and Energy**.

Hope 4 Haley and Friends

S.L. 2014-53 ([HB 1220](#)) creates a registry of patients, caregivers, and neurologists participating in pilot programs for the use of hemp extract for intractable epileptic seizures disorders. Participation in the registry would exempt neurologists, caregivers, and patients from State criminal liability for the possession, use, and administration of hemp extract for the limited purpose of treating those suffering from intractable epilepsy.

The section of the act that provides the exemption under the Controlled Substances Act for possession of hemp extract for use in treating intractable epilepsy becomes effective upon the adoption of rules by the Department of Health and Human Services implementing this act. The remainder of the act became effective July 3, 2014. (BR)

Zoning/Health Care Structure

S.L. 2014-94 ([HB 625](#)). See **Local Government**.

Supply of Emergency Epinephrine Auto-Injectors on School Property

S.L. 2014-100, Sec. 8.23 ([SB 744](#), Sec. 8.23). See **Education**.

Education of Children in Private Psychiatric Residential Treatment Facilities

S.L. 2014-100, Sec. 8.39 ([SB 744](#), Sec. 8.39). See **Education**.

Report on the Funding of State Medical Schools

S.L. 2014-100, Sec. 11.20 ([SB 744](#), Sec. 11.20). See **Education**.

Funds for Statewide Health Information Exchange

S.L. 2014-100, Sec. 12A.2 ([SB 744](#), Sec. 12A.2) directs the Department of Health and Human Services (DHHS) to allocate to the North Carolina Health Information Exchange (NC HIE) from funds appropriated to the Division of Central Management and Support in DHHS, for the health information exchange for the 2014-2015 fiscal year, an amount sufficient to represent the

State's share for the maximum amount of approved federal matching funds for allowable Medicaid administrative costs related to the Health Information Exchange Network (HIE Network). The General Assembly's intention is to maximize receipt of federal funds for administration and support of the HIE Network and to reduce the operating costs of the HIE Network by an amount sufficient to allow for the elimination or reduction of the participation fee the NC HIE currently imposes on hospitals required to connect to the HIE Network.

By March 15, 2015, the NC HIE must report to the Joint Legislative Oversight Committee on Health and Human Services, the Joint Legislative Oversight Committee on Information Technology, and the Fiscal Research Division on its use of State appropriations allocated to the NC HIE pursuant to this section and federal matching funds received by the NC HIE for costs related to the HIE Network.

This section became effective July 1, 2014. (BR)

Development of Plan to Implement Single Information Technology System for Medicaid Claim Adjudication by Local Management Entities/Managed Care Organizations

S.L. 2014-100, Sec. 12A.4 ([SB 744](#), Sec. 12A.4) directs the Department of Health and Human Services to develop and submit to the Enterprise Project Management Office, and thereafter, by December 1, 2014, to the Joint Legislative Oversight Committees on Health and Human Services and Information Technology and to the Fiscal Research Division, a report on a plan to implement a single, stand-alone information technology system to be used for Medicaid claim adjudication by all local management entities, including those approved to operate the 1915(b)/(c) Medicaid Waiver.

This section became effective July 1, 2014. (JPP)

Supplemental Short-Term Assistance for Group Homes

S.L. 2014-100, Sec. 12A.7 ([SB 744](#), Sec. 12A.7) continues short-term State funding for group home residents who lost their eligibility for Medicaid personal care services on or after January 1, 2013, and have continuously resided in a group home since December 31, 2012. This short-term funding was established in 2013 but ended on June 30, 2014. This section authorizes the funding to continue through June 30, 2015.

This section also requires the Department of Health and Human Services to submit to the Joint Legislative Oversight Committee on Health Human Services and the Fiscal Research Division of the General Assembly by April 1, 2015, a plan for a long-term solution for individuals in group homes who wish to continue residing in this setting and need only supervision, medication management, or both.

The section became effective July 1, 2014. (JLH)

Child Care Subsidy Rates/Revise Co-Payments and Eligibility Criteria

S.L. 2014-100, Sec. 12B.1 ([SB 744](#), Sec. 12B.1) changes a family's financial eligibility to receive child care subsidy from 75% of the State medium income (SMI) to 200% of the federal poverty level for children birth-to-5 years, and to 133% of the federal poverty level for children age 6-to-12 years. For any child with special needs, the eligibility is 200% of the federal poverty level. Children currently receiving child care subsidy at the 75% SMI may continue at that amount until the next redetermination date. All family co-payments are 10% of their gross income. The Division of Child Development and Early Education of the Department of Health and

Human Services, is directed to redefine "income unit" by January 1, 2015, to include stepparents and nonparent relative caretakers.

This section became effective July 1, 2014, and the new child care subsidy eligibility and family co-payment amount became effective October 1, 2014. (PLP)

Early Childhood Education and Development/Implement Fund-Raising/Codify Maintenance of Effort Requirement

S.L. 2014-100, Sec. 12B.2 ([SB 744](#), Sec. 12B.2) directs the North Carolina Partnership for Children to assist local partnerships to increase private fundraising capacity to support early childhood activities. Local partnerships are directed to spend at least \$52 million for the Temporary Assistance to Needy Families maintenance of effort requirement and the Child Care Development Fund and Block Grant match requirement.

This section became effective July 1, 2014. (PLP)

Clarify Work First Family Assistance Income Levels

S.L. 2014-100, Sec. 12C.2 ([SB 744](#), Sec. 12C.2). See **Children and Families**.

Eastern Band of Cherokee Indians/Assumption by Tribe of Various Human Services

S.L. 2014-100, Sec. 12C.3 ([SB 744](#), Sec. 12C.3) authorizes the Eastern Band of Cherokee Indians to assume responsibility for certain social services, healthcare benefit programs, ancillary services, including Medicaid administrative and service related functions, and related reimbursements. This section provides for the Cherokee to begin assuming responsibility for the Supplemental Nutrition Assistance Program (SNAP) on October 1, 2014, and to assume responsibility for the remaining programs, except for special assistance, childcare, and adult care homes, no later than October 1, 2015.

This section became effective July 1, 2014. (JLH)

Eligibility for State-County Special Assistance Program

S.L. 2014-100, Sec. 12D.1 ([SB 744](#), Sec. 12D.1) amends the eligibility criteria for State-County Special Assistance (SA) to provide that assistance is granted to any person who meets all of the criteria outlined in the law. Specific changes to the eligibility criteria are provided below.

- *Age and Disability*. – Clarifies that an individual receiving SA must be either 65 years of age or older, or between the ages of 18 and 65 and is permanently and totally disabled or is legally blind.
- *Residency*. – Removes the statute allowing an individual to qualify if he or she is coming to North Carolina to join a close relative who has resided in the State for at least 180 consecutive days immediately prior to application. Specifies that an individual discharged from a State facility who was a patient in the facility as a result of an interstate mental health compact is eligible if the State is required to continue treating the person within the State.

The changes above become effective November 1, 2014, and do not affect the eligibility of SA applicants approved to receive SA benefits prior to that date.

- *Income Eligibility*. – Changes eligibility criteria to require an individual to have both (i) income at or below 100% of the federal poverty guidelines and (ii) insufficient income or other resources to provide a reasonable subsistence. Further specifies the following:

- No later than October 31, 2014, the Division of Medical Assistance of the Department of Health and Human Services, is required to submit a Medicaid State Plan Amendment (SPA) to the Centers for Medicare and Medicaid Services (CMS) to allow Medicaid recipients to retain their eligibility for Medicaid if they were approved to receive SA benefits prior to the effective date of the changes to the income eligibility criteria.
- Provides that changes to the income eligibility criteria do not affect the eligibility of applicants approved to receive SA benefits prior to the effective date of the change.
- Provides that changes to the income eligibility criteria become effective 30 days following CMS approval of the SPA. If the SPA is not approved by CMS, the changes to income eligibility do not become effective.

Except as otherwise provided, this section became effective August 7, 2014. (TM)

State-County Share of Costs for Special Assistance Program

S.L. 2014-100, Sec. 12D.2 ([SB 744](#), Sec. 12D.2) amends the law pertaining to State-County Special Assistance (SA) costs to remove the requirement that the Department of Health and Human Services maintain the State's appropriation to the State-County SA program at 100% of the State certified budget enacted for the 2012-2013 fiscal year, and to remove the requirement that each county department of social services maintain its allocation at 100% of the county funds budgeted for the 2011-2012 fiscal year.

This section became effective July 1, 2014. (TM)

Status Reports Filed by Corporations or Disinterested Public Agents Serving as Guardians for Incompetent Wards

S.L. 2014-100, Sec. 12D.4 ([SB 744](#), Sec. 12D.4) prescribes the contents of status reports required to be filed by a corporation or disinterested public agent serving as guardian of the person for an incompetent person, sets forth the requirements relating to the filing and availability of status reports, and provides the process for modification of the guardianship appointment order or for consideration of any matters contained in the status report.

This section became effective October 1, 2014. (JPP)

Development of Strategic State Plan for Alzheimer's Disease

S.L. 2014-100, Sec. 12D.5 ([SB 744](#), Sec. 12D.5) adds to the duties of the Division of Aging (Division) of the Department of Health and Human Services, a requirement that the Division develop a strategic State plan for Alzheimer's disease.

This section became effective July 1, 2014. (TM)

Increased Fee for Private Well-Water Testing

S.L. 2014-100, Sec. 12E.3 ([SB 744](#), Sec. 12E.3). See **Environment and Natural Resources and Energy**.

Operational Efficiencies for Office of the Chief Medical Examiner

S.L. 2014-100, Sec. 12E.6 ([SB 744](#), Sec. 12E.6) amends the law governing the appointment of county medical examiners by removing the requirement that the medical society of the county submit a list of physicians licensed to practice medicine in this State to the Chief Medical Examiner (CME). In addition, the CME must give preference to physicians licensed to practice medicine in this State, but the CME may appoint licensed physician assistants, nurse practitioners, nurses, coroners, or emergency medical technician paramedics as county medical examiners.

The section also requires that the Department of Health and Human Services (DHHS) establish a system of oversight of the Office of the Chief Medical Examiner for quality assurance and operational efficiencies with respect to postmortem medicolegal examinations. In addition, DHHS must develop and implement uniform protocols for examinations according to best practices.

This section further directs the Division of Public Health of the Department of Health and Human Services, to study specific issues pertaining to medical examiners and report to the Joint Legislative Oversight Committee on Health and Human Services on or before November 1, 2014.

This section became effective July 1, 2014. (SB)

Transfer of Summer Food Service Program to Department of Public Instruction

S.L. 2014-100, Sec. 12E.9 ([SB 744](#), Sec. 12E.9) transfers the North Carolina Summer Food Service Program from the Division of Public Health of the Department of Health and Human Services to the Department of Public Instruction.

This section became effective October 1, 2014. (SB)

Health Care Cost Reduction and Transparency Act Revisions

S.L. 2014-100, Sec. 12G.2 ([SB 744](#), Sec. 12G.2) amends statutes regarding price disclosure for the most frequently reported diagnostic related groups (DRGs), current procedural technologies (CPTs), and healthcare common procedure coding systems (HCPCSs).

"Health insurer" is redefined to mean an entity that writes a health benefit plan and is an insurance company, a service corporation, a health maintenance organization, or a third-party administrator of one or more group health plans under the federal Employee Retirement Income Security Act (ERISA).

Hospitals must provide, for each of the five largest health insurers providing payment to the hospital, the range and average payment amount for each DRG.

The Medical Care Commission (Commission) must adopt rules establishing quality measures identical to those of the Joint Commission on Accreditation of Healthcare Organizations on the primary uncomplicated cesarean section rate, early elective delivery rate, *C. difficile* infection rate, multidrug resistant organisms, surgical site infection rates for colon surgery, post op sepsis rate, thrombolytic therapy for acute ischemic stroke patients, stroke education, venous thrombolism, and venous thrombolism discharge instructions.

Responsibility for determining the admissions, procedures, and imaging procedures for which pricing information is required by statute is shifted from the Commission to the Department of Health and Human Services (DHHS). Rules review requirements do not apply to the rules adopted by the Commission to establish the method by which DHHS must determine the most frequently reported DRGs, procedures, and imaging procedures, ensure proper implementation of the section, and determine the 20 most commonly reported imaging and

ambulatory surgical procedures. Rules adopted under this section become effective on the last day of the month following the month in which the Commission approves the rule.

This section became effective July 1, 2014. (BR)

Moratorium on Home Care Agency Licenses for In-Home Aide Services

S.L. 2014-100, Sec. 12G.4 ([SB 744](#), Sec. 12G.4) reinstates a moratorium that ended June 30, 2014, prohibiting in the Division of Health Services of the Department of Health and Human Services Regulation, from issuing licenses to home care agencies that intend to provide in-home aide services. Limited exceptions are described and the moratorium is extended until June 30, 2016.

This section became effective August 7, 2014. (JLH)

Moratorium on Special Care Unit Licenses

S.L. 2014-100, Sec. 12G.5 ([SB 744](#), Sec. 12G.5) changes the date on which the moratorium on special care unit licenses ends from July 1, 2016, to June 30, 2016, and allows the Division of Health Services Regulation of the Department of Health and Human Services to issue a license to a facility that, as of July 31, 2013, was in possession of a certificate of need that included authorization to operate special care unit beds.

This section became effective July 1, 2014. (TM)

Medicaid Reform

S.L. 2014-100, Sec. 12H.1 ([SB 744](#), Sec. 12H.1) directs the Department of Health and Human Services (DHHS) to continue to work on Medicaid reform recommendations that will provide greater budget predictability. This section prohibits DHHS from committing the State to any reform plan until authorized by the General Assembly.

This section became effective July 1, 2014. (JLH)

Reinstate Medicaid Annual Report

S.L. 2014-100, Sec. 12H.2 ([SB 744](#), Sec. 12H.2) directs the Department of Health and Human Services to reinstate the online publication of the Medicaid Annual Report.

This section became effective July 1, 2014. (JLH)

Traumatic Brain Injury Waiver

S.L. 2014-100, Sec. 12H.6 ([SB 744](#), Sec. 12H.6) directs the Division of Medical Assistance and Division of Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services (DHHS), in conjunction with the North Carolina Brain Injury Advisory Council to draft a 1915(c) waiver to add a new service package for Medicaid eligibles with traumatic brain injury (TBI). DHHS must not submit the waiver for approval by the Centers for Medicare and Medicaid Services until authorized by the General Assembly.

DHHS must report on the draft waiver, other findings, and any additional options to provide Medicaid services to individuals with TBI no later than February 1, 2015, to the House Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Health and Human Services.

This section became effective July 1, 2014. (SB)

Supplemental Payments to Eligible Medical Professional Providers

S.L. 2014-100, Sec. 12H.13 ([SB 744](#), Sec. 12H.13) limits the number of eligible medical professional providers receiving supplemental payments to a fixed number and further provides that supplemental payments must not be made for services provided in Wake County. This section also requires the University of North Carolina at Chapel Hill and East Carolina University to submit an annual report containing information about the providers for whom supplemental payments are received.

This section became effective July 1, 2014. (JLH)

Publish Medicaid Payments to Providers

S.L. 2014-100, Sec. 12H.15 ([SB 744](#), Sec. 12H.15) requires the Division of Medical Assistance (Division) of the Department of Health and Human Services, to publish on its Web site comprehensive information on Medicaid payments made to providers for payments made in fiscal year 2013-2014 and subsequent years. The information must be updated annually within three months of the closing of the State fiscal year and include specified details. Additionally, the Division is required to begin talks with the University of North Carolina at Chapel Hill School of Public Health or other appropriate parties to perform analytics or to generate an interactive Web site to access this reported information.

This section became effective July 1, 2014. (AJJ)

Additional Notice on State Plan Amendments

S.L. 2014-100, Sec. 12H.21 ([SB 744](#), Sec. 12H.21) directs that State Plan amendments required by legislative changes must be submitted 90 days prior to the effective date of the change as provided in the legislation. This section requires Web posting of all public notices as well as proposed State Plan amendments until the State Plan amendment is approved, denied, or withdrawn.

This section became effective September 1, 2014, and applies to State Plan amendments with effective dates on or after December 1, 2014. (JLH)

Comprehensive Program Integrity Contract

S.L. 2014-100, Sec. 12H.22 ([SB 744](#), Sec. 12H.22) requires the Department of Health and Human Services (DHHS) to issue a request for proposals (RFP) for one entity to conduct various Medicaid program integrity functions. This section further requires DHHS to report the results of the RFP to the Joint Legislative Oversight Committee on Health and Human Services and prohibits DHHS from entering into a contract until authorized by an act of the General Assembly.

This section became effective July 1, 2014. (JLH)

Modify Medicaid Appeals

S.L. 2014-100, Sec. 12H.27 ([SB 744](#), Sec. 12H.27) returns the burden of proof to the petitioner in Medicaid provider appeals at the Office of Administrative Hearings (OAH) and clarifies that Medicaid recipients always bear the burden of proof in appeals at OAH. This section also requires OAH to dismiss cases when a Medicaid recipient or enrollee requests mediation and fails to attend mediation without good cause.

The provision shifting the burden of proof to the petitioner became effective August 7, 2014, and applies to contested cases filed at OAH on or after that date. The remainder of this section became effective October 1, 2014, and applies to appeals of notice of adverse determination mailed on or after that date and appeals of notices of resolution mailed on or after that date. (JLH)

Request for Proposals for Imaging Utilization Management Services Contract

S.L. 2014-100, Sec. 12H.30 ([SB 744](#), Sec. 12H.30) directs the Division of Medical Assistance (Division) of the Department of Health and Human Services, to issue a Request for Proposal (RFP) for a contract for imaging utilization management services. The section directs the Division to consider specific information when developing the RFP and to submit a written report to the General Assembly no later than March 15, 2014.

This section became effective July 1, 2014. (SB)

Medicaid County of Origin

S.L. 2014-100, Sec. 12H.35 ([SB 744](#), Sec. 12H.35) directs the Department of Health and Human Services (DHHS) to take measures to address issues arising when Medicaid recipients move residence from one county to another county and from one local management entity that has been approved to operate as a managed care organization (LME/MCO) to another. DHHS must report to the House Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Health and Human Services on the progress of the measures by February 1, 2015.

This section became effective July 1, 2014. (BR)

Control of Data Disclosed to the North Carolina Health Information Exchange by Required Participants

S.L. 2014-100, Sec. 12I.1 ([SB 744](#), Sec. 12I.1) requires hospitals that connect to the North Carolina Health Information Exchange (NC HIE) Network to provide data and information to the professional staff of the General Assembly at the request of the Director of the Fiscal Research, Bill Drafting, Research, or Program Evaluation Divisions. Prior to providing such data or information, the NC HIE must redact any personal identifying information in a manner consistent with the standards specified for de-identification of health information under the Health Insurance Portability and Accountability Act (HIPAA) privacy rule.

Any data disclosed or product derived from data disclosed to the NC HIE Network is and will remain the sole property of the State. The NC HIE must not allow proprietary information it receives to be used for commercial purposes.

The Department of Health and Human Services is directed to develop a transition plan for transferring the responsibilities of the NC HIE to another entity in the event the NC HIE is unable or unwilling to continue overseeing and administering the NC HIE Network. The plan must be developed in consultation with the Office of Information Technology Services and the NC HIE and submitted to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division no later than February 1, 2015.

This section became effective July 1, 2014. (BR)

Reinstatement of Hospital Setoff Debt Collection Against Tax Refunds and Lottery Prizes

S.L. 2014-100, Sec. 12I.4 ([SB 744](#), Sec. 12I.4) reauthorizes schools of medicine, clinical programs, facilities, or practices affiliated with one of the constituent institutions of The University of North Carolina that provide medical care to the general public and The University of North Carolina Health Care System to use the setoff debt collection act. For these persons and entities, debt that may be set off is limited to the sum owed to one of these entities by law or by contract following an adjudication of a claim resulting from an individual's receipt of hospital or medical services at a time when the individual was covered by commercial insurance, Medicaid, Health Choice Medicare, Medicare Advantage, a Medicare supplement plan, or any other government insurance. The registration required of these reauthorized agencies is not affected by the repeal of the authority, and the priority of the agency must be determined under the initial statutory authority to utilize the debt setoff collection remedy.

This section became effective August 7, 2014, and applies to tax refunds determined by the Department of Revenue on or after that date and to lottery prizes determined by the Lottery Commission on or after that date. (BR)

Adult and Juvenile Inmate Medical Costs

S.L. 2014-100, Sec. 16C.6 ([SB 744](#), Sec. 16C.6). See **Courts, Justice, and Corrections**.

Implement General Statutes Commission Recommendations

S.L. 2014-107, Part VI ([SB 773](#), Part VI). See **Courts, Justice, and Corrections**.

Technical and Other Corrections

Exemption from Controlled Substances Reporting

S.L. 2014-115, Sec. 41.5 ([HB 1133](#), Sec. 41.5) provides an exemption from reporting to the North Carolina Controlled Substances Reporting System. Non-narcotic, non-anorectic Schedule V controlled substances will not need to be reported if the controlled substance is provided directly to the ultimate user for the purpose of assessing a therapeutic response.

This section became effective August 11, 2014. (AJJ)

Drug Screening/Work First

S.L. 2014-115, Sec. 66 ([HB 1133](#), Sec. 66) delays the effective date of the drug screening requirement for applicants and recipients of Work First Program benefits, originally enacted in 2013, from August 1, 2014, to March 1, 2015, and requires additional detailed reports on implementation through December 1, 2015. This section further requires the Department of Health and Human Services to notify each county department of social services and the General Assembly of the date of the full implementation of the drug screening and testing requirements outlined in S.L. 2013-417.

This section became effective August 11, 2014. (AJJ)

Regulatory Reform Act of 2014

Good Samaritan Law

S.L. 2014-120, Sec. 18 ([SB 734](#), Sec. 18). See **Civil Law and Procedure**.

Limited Food Services at Lodging Facilities

S.L. 2014-120, Sec. 21 ([SB 734](#), Sec. 21) amends the definition of "limited food service establishment" to include lodging facilities that serve only reheated, pre-cooked food. This section adds these lodging facilities to the list of establishments required to obtain a limited food service permit. Lastly, this section directs the Commission for Public Health to adopt rules to conform to the provisions in this section.

This section became effective September 18, 2014. (SB)

Amend Hotel Carbon Monoxide Alarm Requirement

S.L. 2014-120, Sec. 22 ([SB 734](#), Sec. 22). See **Insurance**.

Standardize Local Well Programs

S.L. 2014-120, Sec. 43 ([SB 734](#), Sec. 43) directs private drinking water well permitting, inspection, and testing programs administered by county health departments to use the standard forms created by the Department of Environment and Natural Resources (DENR) unless the local program submits a petition for rule-making to the Environmental Management Commission (EMC), and the EMC finds by rule that the area has unique conditions constituting a threat to public health that would be mitigated by the use of a different form. This section also requires local health department registries of private drinking water wells to be searchable by the address or addresses served by the well.

This section further provides that neither DENR nor any local well program may require that well contractor identification plates include well construction permit numbers, and authorizes a local well program to install a plate with the well construction permit number or any other relevant information on a well at its own expense. The EMC must adopt a rule consistent with these requirements.

Lastly, this section provides that if the well location marked on the map submitted with an application to a local well program is also marked with a stake or similar marker on the property, the local well program may not require the contractor to be on-site during the on-site predrill inspection provided the contractor is available to answer questions by telephone.

This section became effective September 18, 2014. (SB)

Studies

New/Independent Studies/Commissions

Establishment of Traumatic Brain Injury Subcommittee of the Joint Legislative Oversight Committee on Health and Human Services

S.L. 2014-100, Sec. 12I.2 ([SB 744](#), Sec. 12I.2) directs the cochairs of the Joint Legislative Oversight Committee on Health and Human Services (Committee) to establish a Traumatic Brain Injury (TBI) Subcommittee to examine issues related to the availability and accessibility of services for individuals with TBI. The Subcommittee must submit a final report to the Committee on or before December 15, 2014, at which time the Subcommittee will terminate.

This section became effective July 1, 2014. (SB)

Referrals to Existing Commissions/Committees

Study on Establishment of New Optometry Schools

S.L. 2014-100, Sec. 11.21 ([SB 744](#), Sec. 11.21). See **Education**.

Program Evaluation Study of the Chief Medical Examiner

S.L. 2014-100, Sec. 12E.5 ([SB 744](#), Sec. 12E.5) directs the Joint Legislative Program Evaluation Oversight Committee to consider including a study in the 2014-2015 Work Plan for the Program Evaluation Division of the General Assembly on ways to improve the State's medical examiner system.

This section became effective July 1, 2014 (SB)

Personal Care Services Management

S.L. 2014-100, Sec. 12H.10 ([SB 744](#), Sec. 12H.10) addresses three elements of Medicaid Personal Care Services (PCS) as follows:

Rate Reduction Implementation. – The Division of Medical Assistance (Division) of the Department of Health and Human Services (DHHS), is directed to implement the rate reduction specified in the 2013 legislation safeguarding qualified individuals under Medicaid retroactively to October 1, 2013, by recouping all payments in excess of the rate approved in the State plan amendment required in the 2013 legislation. Then, DHHS must recoup the 3% reduction required by the Appropriations Act of 2013.

Financial Plan to Contain PCS Growth. – By March 1, 2015, the Division is required to propose a financial plan for fiscal year 2015-2016 that will contain the growth of PCS to the certified PCS budget level for fiscal year 2014-2015.

Contractor to Study Reforming and Redesigning PCS. – The Joint Legislative Oversight Committee on Health and Human Services (Committee) is directed to engage a contractor to study reforming and redesigning PCS while honoring the State's obligations under the Americans with Disabilities Act (ADA) and the *Olmstead* decision.

DHHS must grant the contractor full access to data and make payments to the contractor hired by the Committee. The contractor is required to report study results and recommendations to the Committee no later than December 1, 2015.

This section became effective July 1, 2014. (TM)

Program Evaluation Division Study Concerning Alcohol and Substance Abuse Education and Prevention Initiative to Be Funded by Local Alcoholic Beverage Control Boards

S.L. 2014-100, Sec. 12I.3 ([SB 744](#), Sec. 12I.3) directs the Joint Legislative Program Evaluation Oversight Committee (Committee) to consider including in the 2014-2015 Work Plan for the Program Evaluation Division (PED) of the General Assembly, a study of the benefits and disadvantages to the State of ending the payments from local Alcoholic Beverage Control boards to the Department of Health and Human Services for alcoholism or substance abuse research, treatment or education and redirecting these payments to the North Carolina Alcoholic Beverage Control Commission for an alcohol and substance abuse education and prevention initiative beginning on July 1, 2015.

If the Committee adds this study to the Work Plan, PED must submit its findings and recommendations to the Committee and the Fiscal Research Division no later than February 1, 2015.

This act became effective July 1, 2014. (SK)

Referrals to Departments, Agencies, Etc.

Study Child Care Subsidy for 11 and 12 Year Olds

S.L. 2014-100, Sec. 12B.3 ([SB 744](#), Sec. 12B.3) directs the Division of Child Development and Early Education (Division) of the Department of Health and Human Services, to study child care subsidy for 11- and 12-year old children, including available options and resources for before and after school care. The Division must report its findings and recommendations to the Joint Legislative Committee on Health and Human Services and the Fiscal Research Division no later than November 30, 2014.

This section became effective July 1, 2014. (PLP)

Child Protective Services Improvement Initiative

S.L. 2014-100, Sec. 12C.1 ([SB 744](#), Sec. 12C.1) creates an improvement initiative to provide for a comprehensive evaluation of functions and funding of child protective services. The initiative includes:

Funds for Child Protective Services. – A portion of the funds must be used to replace federal funds that were lost by counties in the 2013-2014 fiscal year to pay for child protective services' workers. The remainder of funds must be used to reduce caseloads to an average of 10 families per worker.

Funds for In-Home Services. – To maintain the safety of the child while the parent or caretaker learns more effective parenting practices. In-home services coordinate interventions that focus on improving child safety and protection, family preservation, and the prevention of abuse and neglect.

Funds for Oversight of Child Welfare Services. – To enhance oversight by funding nine positions within the Division of Social Services (Division) of the Department of Health and Human Services, to monitor, train, and provide technical assistance to county departments of social services.

Pilot Program. – To improve coordination and information across agencies providing services to children receiving services through Child Welfare. The Division must coordinate with the Government Data Analytics Center in developing the pilot program and make a progress

report to the General Assembly by March 1, 2015, and a final report on its findings and recommendations to the Joint Legislative Oversight Committee on Health and Human Services by March 1, 2016.

Statewide Evaluation of the State's Child Protective Services System. – The Division must contract for an independent evaluation of the system and the evaluation must include developing recommendations on specific criteria set out in this provision.

Study Conflicts of Interest/Public Guardianship and Child Protective Services. – The Division must consider specific remedies, as defined in this provision, for potential conflicts of interest in child welfare cases related to public guardianship and submit a final report to the General Assembly no later than February 1, 2015.

This section became effective July 1, 2014. (SB)

Examination of Ways to Improve the Public Guardianship System

S.L. 2014-100, Sec. 12D.3 ([SB 744](#), Sec. 12D.3) requires the Department of Health and Human Services (DHHS) to do the following:

- Collaborate with the Administrative Office of the Courts to develop a plan regarding DHHS's evaluation of complaints pertaining to wards under the care of publicly funded guardians that includes current and new specified requirements.
- Continue utilizing existing safeguards regarding guardians as paid service providers and to consult with specified individuals and groups to develop a plan to transition a ward to an alternative guardianship arrangement when an individual guardian of the person becomes unwilling or unable to serve.
- Study whether utilization of care coordination services would provide needed oversight to safeguard against conflicts of interest when guardians serve as paid providers.
- Submit a final report of its findings and recommendations as to the above issues to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division by October 1, 2014.

This section became effective July 1, 2014. (JPP)

Report on Strategies for Improving Mental Health, Developmental Disabilities, and Substance Abuse Services

S.L. 2014-100, Sec. 12F.3 ([SB 744](#), Sec. 12F.3) directs the Department of Health and Human Services (DHHS) to submit a report to the Joint Legislative Oversight Committee on Health and Human Services (Committee) and the Fiscal Research Division by November 1, 2014, that includes the following components:

- A strategy for improving communication and coordination among the DHHS divisions that administer behavioral health service funds or programs.
- A plan developed in collaboration with local management entities that have been approved to operate as managed care organizations (LME/MCOs) to increase access to and availability of community-based outpatient behavioral health crisis and emergency services.
- A plan to ensure that comprehensive outpatient treatment and crisis prevention and intervention services are available to individuals in every LME/MCO catchment area.
- Findings and recommendations for increasing the inventory of inpatient psychiatric and substance abuse services within the State.
- A plan for offering incentives to hospitals and other entities for the provision of inpatient behavioral health services.

- Recommendations on the use of existing Cherry Hospital buildings after patients and operations are relocated to the replacement facility.
- A method by which the Division of Health Service Regulation can start tracking and reporting on the inventory of inpatient behavioral health beds for children and adolescents.
- A status update on the implementation of each component of the 2008 Mental Health Commission Workforce Development Plan.

By March 1, 2015, DHHS must also submit to the Committee and the General Assembly a report that includes all of the following:

- A comprehensive strategy, developed with relevant stakeholders, to address the dearth of licensed child and adolescent inpatient psychiatric beds in facilities throughout the state.
- Recommendations for meaningful outcome measures to be implemented by State-operated alcohol and drug abuse treatment centers.

This section became effective July 1, 2014. (JPP)

Report and Plan Regarding Budget Shortfalls within the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services

S.L. 2014-100, Sec. 12F.4 ([SB 744](#), Sec. 12F.4) requires the Department of Health and Human Services to report, no later than December 1, 2014, to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division on budget shortfalls as a result of liabilities from (1) the provision of community services and (2) the State-operated health care facilities under the Department's jurisdiction. The report must include specific items listed in the provision pertaining to budget shortfalls.

This section became effective July 1, 2014. (SB)

Study Concerning Expansion of Health Care Cost Reduction and Transparency Act to Additional Health Care Providers

S.L. 2014-100, Sec. 12G.3 ([SB 744](#), Sec. 12G.3) directs the Department of Health and Human Services (DHHS) to study extending the North Carolina Health Care Cost Reduction and Transparency Act of 2013 to additional health care providers. DHHS must submit a written report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division of the General Assembly summarizing its recommendations by December 1, 2014.

This section became effective July 1, 2014. (BR)

Study Additional 1915(c) Waiver

S.L. 2014-100, Sec. 12H.5 ([SB 744](#), Sec. 12H.5) directs the Division of Medical Assistance of the Department of Health and Human Services, to design and draft a Section 1915(c) Medicaid Waiver that meets listed requirements. The draft waiver, other findings, and any other options or recommendations must be reported to the General Assembly by March 1, 2015.

This section became effective July 1, 2014. (JPP)

Ambulance Transports to Crisis Centers

S.L. 2014-100, Sec. 12H.32 ([SB 744](#), Sec. 12H.32) directs the Division of Medical Assistance (Division) of the Department of Health and Human Services (DHHS), to study the practice of reimbursing for ambulance transports that divert individuals in mental health crisis from hospital emergency departments to alternative appropriate locations for care. The Division must study specific items and issues listed in the provision, and report to the General Assembly by March 1, 2015.

This section became effective July 1, 2014. (JPP)

Report on Program of All-Inclusive Care for the Elderly (PACE)

S.L. 2014-100, Sec. 12H.34 ([SB 744](#), Sec. 12H.34) requires two reports from the Division of Medical Assistance (Division) of the Department of Health and Human Services, on the Program of All-Inclusive Care for the Elderly (PACE).

- By October 1, 2014, the Division must report the following information to the Joint Legislative Oversight Committee on Health and Human Services (Committee):
 - The number of individuals served in each of the PACE service areas.
 - A description of the program enrollment criteria and enrollment process.
 - Detailed figures showing how funding for the program has been spent during the past two fiscal years.
 - The member per month cost of serving individuals through the PACE program compared to the cost of serving individuals in a nursing home.
 - An estimate of how many PACE participants would enter a nursing home if they were not enrolled with the PACE program.
- By January 1, 2015, the Division must report the following information to the Committee:
 - An update on all of the information provided in the report outlined above.
 - A comparison of North Carolina's PACE program to PACE programs in other states.
 - Recommendations to make the program sustainable.

This section became effective July 1, 2014. (TM)

Study Future Use of Broughton Hospital

S.L. 2014-100, Sec. 15.20 ([SB 744](#), Sec. 15.20). See **State Government**.

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Chapter 12

Insurance

Tim Hovis (TH), Amy Jo Johnson (AJJ), Peter Ledford (PL)

Enacted Legislation

No Set Fee/Noncovered Vision Services

S.L. 2014-43 ([SB 477](#)) prohibits fee limitations in agreements between an optometrist and an insurer, or between an optometrist and an entity that writes vision insurance, for the provision of vision services on a preferred or in-network basis, unless the service or materials in question are covered under the contract.

This act became effective October 1, 2014, and applies to contracts entered into, amended, or renewed on or after that date. (AJJ)

Captive Insurance Amendments

S.L. 2014-65 ([HB 267](#)) makes various changes to the laws governing captive insurance companies operating in the State.

- *Special Purpose Captive Insurance Companies.* – The act allows special purpose captive insurance companies to operate in the State. Special purpose captive insurance companies are captive insurance companies that do not meet the definition of any other type of captive insurance company and that are designated as special purpose captive insurance companies by the Commissioner of Insurance (Commissioner). Special purpose captive insurance companies:
 - May provide insurance or reinsurance for risks approved by the Commissioner.
 - Must possess and maintain capital and surplus of at least \$250,000.
 - Must file annual reports.
 - Are not subject to restrictions on allowable investments in the same manner as certain other types of captive insurance companies.
 - May be exempted by the Commissioner from statutes and rules that the Commissioner determines are inappropriate given the nature of the risks being insured.
- *Risk Retention Groups.* – The act amends the laws governing risk retention groups such that risk retention groups:
 - Are subject to the statutes governing reinsurance intermediaries, miscellaneous insurer financial provisions, and risk-based capital requirements.
 - Are not subject to the annual audit requirement that applies to captive insurance companies but are subject to the statutes governing property and casualty actuarial opinions and annual financial reporting.
 - Are not subject to the financial condition inspection provisions that apply to captive insurance companies and are instead subject to the Examination Law.
 - Are treated as insurers and not captive insurers under the statute governing business transacted with producer-controlled property or casualty insurers.
 - Are treated as a domestic insurer for the purposes of the risk-based capital requirements if they are organized in the State.
 - May be limited in the net amount of risk retained by the Commissioner.
- *Other Provisions.* – The act makes changes to the statutes governing captive insurance companies to clarify terminology; amend capital, surplus, deposit, and investment requirements; amend the powers of the Commissioner; remove the

prohibition on certain captive insurance companies transacting business in foreign states; and amend reporting requirements.
This act became effective July 1, 2014. (PL)

Building Reutilization for Economic Development Act

S.L. 2014-90, Secs. 1 and 7 ([HB 201](#), Secs. 1 and 7) create an exclusion from the requirements of the North Carolina Energy Code for existing commercial buildings. The exclusion allows commercial buildings that received a certificate of occupancy prior to January 1, 2012, to be subject to the rules pertaining to energy efficiency and energy conservation that were in effect on December 31, 2011, so long as any addition does not increase the building area to more than 150% of the building area as it was in existence on December 31, 2011. The sections direct the Building Code Council to amend the Building Code accordingly.

These sections became effective July 30, 2014. (PL)

Insurance Regulatory Charge

S.L. 2014-100, Sec. 20.2 ([SB 744](#), Sec. 20.2) provides that the percentage rate for the insurance regulatory charge is 6.5% and amends the insurance regulatory charge statute to provide that money appropriated to the Insurance Regulatory Fund must be used to reimburse the General Fund for money used to support the North Carolina Industrial Commission (Commission) for the Commission's duties excepted from its statutory fee.

The percentage rate change to the insurance regulatory charge became effective August 7, 2014. The remainder of this section becomes effective January 1, 2015. (TH)

Alternative Health Benefit Coverage for Nonpermanent Full-Time State Employees

S.L. 2014-100, Sec. 35.16 ([SB 744](#), Sec. 35.16). See **State Government**.

North Carolina Farm Act of 2014

Permit Security Grilles at All Exits of a Building Subject to Certain Conditions

S.L. 2014-103, Sec. 14 ([HB 366](#), Sec. 14) requires the Building Code Council (Council) to amend the North Carolina State Building Code (Code) such that security grilles are permitted at all exits if the grilles may be opened from the inside during periods when the building is occupied by authorized persons and remain open when the building is occupied by the general public. Under current law, the Code requires that no more than one-half of the doors of certain buildings be equipped with security grilles when two or more means of egress are required.

This section became effective August 6, 2014, and expires on the date the Council adopts the rule to amend the Code required by this section. (TH)

Technical and Other Corrections

Repeal Requirement to Adjust Losses for Another Insurer's Windstorm Policies

S.L. 2014-115, Sec. 39.2 ([HB 1133](#), Sec. 39.2) repeals the statute that requires an insurer that issues property insurance to adjust losses for separate windstorm policies issued by another insurer.

This section became effective August 11, 2014. (TH)

Regulatory Reform Act of 2014

Bail Bond Shield Amendment

S.L. 2014-120, Sec. 12 ([SB 734](#), Sec. 12) amends the bail bondsmen official shield law to allow variation of the shield to accommodate the license number. This section also allows a surety to utilize the services and assistance of any surety bondsman, professional bondsman, or runner to effect the arrest or surrender of a defendant before or after there has been a breach of the conditions of a bail bond.

This section became effective September 18, 2014. (TH)

Americans with Disabilities Act Requirements for Private Pools

S.L. 2014-120, Sec. 13 ([SB 734](#), Sec. 13) would require the Building Code Council (Council) to amend the North Carolina State Building Code such that swimming pools must be accessible only to the extent required by the Americans with Disabilities Act.

This section became effective September 18, 2014, and expires on the date the Building Code Council adopts the rule required under this section. (TH)

Enforce Municipal Floodplain Ordinance in Extraterritorial Jurisdiction

S.L. 2014-120, Sec. 15 ([SB 734](#), Sec. 15). See **Local Government**.

Pharmacy Benefits Management

S.L. 2014-120, Sec. 20 ([SB 734](#), Sec. 20) regulates the setting of a maximum allowable cost (MAC) price by a pharmacy benefits manager. The "MAC price" is defined as the price per unit that a pharmacy benefits manager reimburses a pharmacy for a prescription drug, excluding dispensing fees, copayments, coinsurance, and other cost-sharing charges, if any. This section requires specified regular updates to the MAC price by the pharmacy benefits manager and outlines requirements for appeals of the set MAC price.

This section also directs the Department of Insurance, in collaboration with the Department of Commerce and the North Carolina Board of Pharmacy, to study the issue of pharmacy benefits regulation and report to the 2015 General Assembly on or before January 20, 2015.

The provisions of this section pertaining to setting the MAC price becomes effective January 1, 2015, and apply to contracts entered into, renewed, or amended on or after that date. The remainder of this section became effective September 18, 2014. (AJJ)

Amend Hotel Carbon Monoxide Alarm Requirement

S.L. 2014-120, Sec. 22 ([SB 734](#), Sec. 22) amends the requirements for carbon monoxide alarms that apply to lodging establishments, including hotels and motels. The amendments make technical revisions to comply with industry terminology and direct the Building Code Council (Council) to amend the North Carolina State Building Code (Code) to require carbon monoxide alarms in both new and existing lodging establishments. The amendments require that for all violations that pose an imminent hazard discovered during a fire inspection, the inspector must immediately notify the local health director who must investigate and take appropriate action regarding the permit for the lodging establishment. For all violations that do not pose an imminent hazard, the owner of the lodging establishment has three working days to correct the violation, after which the inspector may re-inspect the lodging establishment and, if the violation has not been corrected, submit the violation to the local health director, who must investigate and may take appropriate action regarding the permit for the lodging establishment.

This section became effective September 18, 2014, and directs the Council to adopt a rule to amend the Code in accordance with this section by March 1, 2015, and the rule must take effect by June 1, 2015. (PL)

Chapter 13

Labor and Employment

Karen Cochrane-Brown (KCB), Brad Krehely (BK),
Theresa Matula (TM), Bill Patterson (BP)

Enacted Legislation

Background Checks for Firefighters and Emergency Medical Service Personnel

S.L. 2014-27, Secs. 1 and 2 ([HB 698](#), Secs. 1 and 2) authorize criminal history checks for individuals that serve in a paid or volunteer position with a fire department or an emergency medical service. Additionally, the Joint Legislative Oversight Committee on Justice and Public Safety (Committee) is directed to study the feasibility of having the Department of Insurance, under the direction of the North Carolina Fire and Rescue Commission, request the criminal checks and supply any required identifying information to the Department of Justice. The Committee must report findings resulting from the study to the 2015 General Assembly upon its convening.

The criminal history check requirement becomes effective January 1, 2015, and the study requirement became effective June 25, 2014. (TM)

Prevent Hazardous Drug Exposure

S.L. 2014-76 ([HB 644](#)) directs the Commissioner of Labor (Commissioner) to develop rules establishing requirements for the handling of antineoplastic agents in health care facilities. An "antineoplastic agent" is a chemotherapy drug or cytotoxic drug used to treat cancer patients and some non-cancer patients. The Commissioner must establish an advisory workgroup to assist in the development of rules, and the rules must be adopted by January 1, 2016. The Commissioner must enforce the rules and investigate complaints in accordance with the federal Occupational Safety and Health Act.

This act became effective July 22, 2014. (BK)

Disapprove Industrial Commission Rules

S.L. 2014-77 ([SB 794](#)) disapproves various workers' compensation rules adopted by the Industrial Commission (Commission) and provides specific directions to the Commission concerning replacement of the disapproved rules. The act also rewrites procedures for motions regarding requests for medical compensation or disputes involving medical issues, including provisions for expedited hearings and motions requesting emergency medical relief. The Commission must include in its annual report the number of requests for, and disputes involving, medical compensation in which final disposition was not made within 75 days (currently 45 days). Additionally, the act provides for the prescribing of uniform statewide presumptive guidelines for the computation of retroactive child support obligations.

This act became effective July 22, 2014. (KCB)

Injury Prevention and Return to Work Programs

S.L. 2014-100, Sec. 8.26 ([SB 744](#), Sec. 8.26). See **Education**.

Efficiencies Reporting by Natural and Economic Resources Agencies

S.L. 2014-100, Sec. 14.2A ([SB 744](#), Sec. 14.2A). See **State Government**.

Appointment of Deputy Commissioners for Industrial Commission

S.L. 2014-100, Sec. 15.16 ([SB 744](#), Sec. 15.16) amends the Workers' Compensation Law to change the appointment of deputy commissioners to the Industrial Commission (Commission). Deputy commissioners were appointed by the full Commission and were subject to the State Human Resources System, which means that they could only be dismissed for just cause. This section authorizes the Chair of the Commission to appoint deputy commissioners for a term of six years, for a maximum of two terms. The State human resources law is also amended to reflect that deputy commissioners are exempt from all of the protections of the law except for the equal employment opportunity and privacy of personnel records protections. Beginning August 1, 2014, the terms of all current deputy commissioners are terminated over an 18-month period based on the length of service. The terms of the seven deputy commissioners with the least service will expire on February 1, 2015, the terms of the next seven will expire on August 1, 2015, and the terms of the remaining deputy commissioners will expire on February 1, 2016.

This section also repeals a provision of the Regulatory Reform Act of 2013, which would have made deputy commissioners exempt from the State Human Resources System, effective July 1, 2015.

This section became effective August 7, 2014. (KCB)

Workers' Compensation/Reimbursement for Prescription Drugs and Professional Pharmaceutical Services

S.L. 2014-100, Sec. 15.16A ([SB 744](#), Sec. 15.16A) limits reimbursement for prescription drugs and professional pharmaceutical services under the Workers' Compensation Act to 95% of the average wholesale price of the product as of the date of the dispensing. This section also requires health care providers seeking reimbursement for drugs dispensed by a physician to provide the original manufacturer's National Drug Code number on all required bills and reports, and for Schedule II or Schedule III controlled substances, this section limits reimbursement of outpatient providers that are not licensed pharmacies to an initial five-day supply commencing upon the employee's initial treatment following injury.

This section became effective August 7, 2014. (BP)

Industrial Commission Fees

S.L. 2014-100, Sec. 15.16B ([SB 744](#), Sec. 15.16B) amends the Workers' Compensation Act to prohibit the Industrial Commission (Commission) from charging fees for a hearing before either a Deputy Commissioner or the full Commission, and for processing an agreement for compensation of disability, an employer's admission of employee's right to permanent partial disability, or a supplemental agreement as to payment of compensation.

This section becomes effective July 1, 2015. (KCB)

Salary Continuation for Certain State Law-Enforcement Officers

S.L. 2014-100, Sec. 35.12 ([SB 744](#), Sec. 35.12) amends the law to provide that only law-enforcement officers injured and incapacitated as the result of the heightened risk and special hazards directly related to the violent nature of their official duties will receive a higher compensation rate for the two-year period before reverting to the rates provided under the workers' compensation laws.

This section became effective October 1, 2014, and applies to injuries occurring on or after that date. (TM)

Confidentiality of Unemployment Compensation Information

S.L. 2014-117 ([SB 42](#)) provides that unemployment compensation (UC) claim information is confidential unless disclosure is permitted by federal regulation, and exempts UC information from statutory public records disclosure requirements.

This act became effective August 25, 2014. (BP)

Clarify to Which Local Government Contracts E-Verify Applies

S.L. 2014-119, Sec. 13 ([HB 369](#), Sec. 13). See **Local Government**.

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Chapter 14

Local Government

Erika Churchill (EC), Brad Krehely (BK), Giles Perry (GP),
Kelly Quick Tornow (KQT), Chris Saunders (CS)

Enacted Legislation

Omnibus Tax Law Changes

S.L. 2014-3 ([HB 1050](#)). See **Finance**.

Energy Modernization Act

S.L. 2014-4 ([SB 786](#)), as amended by S.L. 2014-115, Sec. 67 ([HB 1133](#), Sec. 67). See **Environment and Natural Resources and Energy**.

Stormwater Management Fee Uses

S.L. 2014-14 ([HB 573](#)) authorizes any county with a population in excess of 910,000 to engage in the following activities as part of its stormwater management program:

- Purchase property for the purpose of demolishing flood-prone buildings.
- Implement flood damage reduction techniques that result in improvements to private property, including:
 - Elevating structures or their associated components.
 - Demolishing flood-prone structures.
 - Retrofitting flood-prone structures.

Prior to implementing flood damage reduction techniques on private property, the board of county commissioners must adopt a policy that establishes the conditions under which the improvements must be made, and that policy must address certain items. Additionally, the stormwater advisory committee established by the board of commissioners must review and approve projects that implement flood damage reduction techniques. That committee must submit an annual report to the board of county commissioners for its review.

This act became effective June 19, 2014. (EC)

Jail Dormitory Minimum Standards

S.L. 2014-22 ([SB 463](#)) authorizes all counties, regardless of population, to house 64 inmates per jail dormitory in county detention facilities so long as certain minimum standards are met. Previously, the law applied only to those counties with a population of more than 300,000.

This act became effective June 24, 2014. (KQT)

Governing Bodies/Collect Unpaid Judgments

S.L. 2014-40 ([HB 346](#)) authorizes the finance officer of any county or city with a final judgment awarding monetary damages against an elected official of that county or city to use the collection remedies against personal property authorized for tax collectors to fulfill that final judgment, including garnishment of wages.

This act became effective October 1, 2014, and applies to final judgments awarding money damages that are unsatisfied or entered on or after that date. (BK)

Raleigh/Durham/Deannexation/Annexation

S.L. 2014-47, Sec. 2 ([SB 871](#), Sec. 2) amends the definition of "municipal services" in the statute requiring municipalities to provide municipal services to any property if that property owner submitted a petition for voluntary annexation and the municipal governing board voted on an annexation ordinance for that property but the annexation ordinance failed of adoption. Prior to or after the effective date of annexation into a municipality, for any property subject to a declaration of covenants, conditions, and restrictions of a subdivision that permits an association to enter into agreement with utility providers prior to July 1, 2014, the definition of "municipal services" now includes water service but not sewer service.

This section became effective June 30, 2014. (KQT)

Add Towns to State Health Plan

S.L. 2014-75 ([SB 105](#)). See **State Government**.

Military Lands Protection Act

S.L. 2014-79 ([SB 614](#)). See **Military, Veterans', and Indian Affairs**.

Special Assessment/Dam Repair

S.L. 2014-89 ([HB 1033](#)) authorizes counties to make special assessments against property that is contiguous to a lake and benefits from access to the lake, for the purpose of repairing the dam of that lake. This authority applies only to a privately-owned dam formerly used for textile mill purposes, forming a lake between 225 and 325 acres in area. The authority expires July 1, 2019.

This act became effective July 30, 2014. (CS)

Zoning/Health Care Structure

S.L. 2014-94 ([HB 625](#)) exempts "temporary family health care structures" from the zoning authority of cities and counties when those structures are within an area zoned single-family residential. A temporary family health care structure is a transportable residential structure, providing an environment facilitating a caregiver's provision of care that:

- Is primarily assembled at a location other than the site of installation.
- Is limited to one occupant who is mentally or physically impaired (i.e., an individual who requires assistance with two or more personal functions essential for health and well-being).
- Is no more than 300 gross square feet in size.
- Complies with the State Building Code and minimum standards for modular homes.

Only one temporary family health care structure may be placed on a property and no signage, advertising or otherwise, promoting the existence of the structure is permitted. Additionally, all of the following requirements apply:

- A person must obtain a permit in order to install a structure on the person's property. A city or county may charge up to \$100 for the initial permit, and up to \$50 for an annual renewal.
- A county or city may require that the structure be connected to water, sewer, or electric utilities serving the property.
- The structure must comply with building inspections and State Building Code.

- The structure must be removed within 60 days of it no longer being needed and may be returned to the property for re-installation within 60 days of removal if the structure is needed for a subsequent mentally or physically impaired person.

This act became effective October 1, 2014, and applies to temporary family health care structures existing on or after that date. (EC)

Schematic Designs/Emergency Access to Schools

S.L. 2014-100, Sec. 8.20 ([SB 744](#), Sec. 8.20). See **Education**.

Water Infrastructure Grant Priority

S.L. 2014-100, Sec. 14.16 ([SB 744](#), Sec. 14.16). See **Environment and Natural Resources and Energy**.

Water Infrastructure

S.L. 2014-100, Sec. 14.17 ([SB 744](#), Sec. 14.17). See **Environment and Natural Resources and Energy**.

Eliminate Authority for State Contribution to County Veterans Service Programs

S.L. 2014-100, Sec. 30.1 ([SB 744](#), Sec. 30.1). See **State Government**.

State Aid to Municipalities Appropriation Baseline

S.L. 2014-100, Sec. 34.1 ([SB 744](#), Sec. 34.1). See **Transportation**.

Clarify Department of Transportation Private Developer Reporting

S.L. 2014-100, Sec. 34.2 ([SB 744](#), Sec. 34.2). See **Transportation**.

Regulation of Unmanned Aircraft Systems

S.L. 2014-100, Sec. 34.30 ([SB 744](#), Sec. 34.30). See **Criminal Law and Procedure**.

Modify County Hold Harmless for Repealed Local Taxes

S.L. 2014-100, Sec. 37.2 ([SB 744](#), Sec. 37.2). See **Finance**.

Montgomery County Employees in State Health Plan

S.L. 2014-105 ([SB 376](#)). See **State Government**.

Department of Transportation/Division of Motor Vehicles Changes #2

S.L. 2014-108, Secs. 1 through 8 ([HB 272](#), Secs. 1 through 8). See **Transportation**.
S.L. 2014-108, Sec. 9 ([HB 272](#), Sec. 9). See **Finance**.

Omnibus Election Clarifications

S.L. 2014-111 ([SB 403](#)). See **State Government**.

Clarify to Which Local Government Contracts E-Verify Applies

S.L. 2014-119, Sec. 13 ([HB 369](#), Sec. 13) clarifies that the prohibition against a city or county contracting with a private entity that has not verified its employees' authorization to work under the federal E-Verify program applies only when the public contract involved is subject to State competitive bidding requirements.

This section became effective October 1, 2014, and applies to contracts entered into on or after that date. (BP)

North Carolina Farm Act of 2014

Clarify Authority of Local Governments to Adopt Ordinances Related to Fertilizer

S.L. 2014-103, Sec. 2 ([HB 366](#), Sec. 2) prohibits cities and counties from adopting ordinances regulating the use, sale, distribution, storage, transportation, disposal, formulation, labeling, registration, manufacture, or application of fertilizer. This section does not limit the authority of the Department of Environment and Natural Resources (DENR) or the Environmental Management Commission (EMC) to enforce water quality standards. Cities and counties may adopt ordinances to regulate fertilizers to protect water quality, provided that the ordinances have been approved by the EMC or DENR as part of a local plan or National Pollutant Discharge Elimination System permit application and do not exceed the State's minimum requirements to protect water quality. This section would not prohibit a city or county from regulating explosive or inflammable substances by ordinance.

This section became effective August 6, 2014. (BK)

Allow Drainage Districts to Maintain Ditches in Buffer Zones

S.L. 2014-103, Sec. 12 ([HB 366](#), Sec. 12) provides that no State statute or rule or local government ordinance concerning riparian buffers for the protection of water quality applies to canals or other improvements under the control and supervision of a board of drainage commissioners.

This section became effective August 6, 2014. (GSP)

Clarify Periodic Inspections Authority of Housing Finance Agency

S.L. 2014-103, Sec. 13 ([HB 366](#), Sec. 13) exempts any residential building subject to periodic inspections by the North Carolina Housing Finance Agency from a county or city's

authority to conduct periodic inspections as part of a targeted effort within a geographic area, if the residential building is in compliance with federal standards, and if the owner of the residential building supplies the North Carolina Housing Financing Agency compliance letter to the local inspections department.

This section became effective August 6, 2014. (GSP)

Technical and Other Corrections

Use of Solid Waste Fees

S.L. 2014-115, Sec. 60 ([HB 1133](#), Sec. 60) amends the statute regulating county collection and disposal facilities to clarify that boards of county commissioners may use solid waste collection, disposal, and availability fees to cover the cost of waste management programs, including the collection of waste and the collection of litter along public roadways.

This section became effective August 11, 2014. (KQT)

Regulatory Reform Act of 2014

Enforce Municipal Floodplain Ordinance in Extraterritorial Jurisdiction

S.L. 2014-120, Sec. 15 ([SB 734](#), Sec. 15) allows a county to enforce its floodplain ordinance on a bona fide farm exempt from municipal regulation as part of the extraterritorial jurisdiction of the city.

This section became effective September 18, 2014. (BK)

Permit Choice

S.L. 2014-120, Sec. 16 ([SB 734](#), Sec. 16). See **State Government**.

Open Burning

S.L. 2014-120, Sec. 24 ([SB 734](#), Sec. 24). See **Environment and Natural Resources and Energy**.

Scope of Local Authority for Ordinances

S.L. 2014-120, Sec. 32 ([SB 734](#), Sec. 32) repeals a moratorium on local governments from adopting ordinances regulating a field that is also regulated by a State or federal statute or rule enforced by an environmental agency, unless the ordinance is adopted unanimously. This section also requires the Department of Agriculture and Consumer Services and the Department of Environment and Natural Resources to report to the Environmental Review Commission on any local ordinances that impinge on or interfere with any area subject to regulation by those Departments. Both Departments must solicit public input in developing these reports.

This section became effective September 18, 2014. (CS)

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Chapter 15

Military, Veterans, and Indian Affairs

Jennifer Mundt (JM), Bill Patterson (BP), Ben Stanley (BS)

Enacted Legislation

Military Student Identifier

S.L. 2014-15 ([HB 1060](#)). See **Education**.

Credit for Military Training

S.L. 2014-67 ([SB 761](#)). See **Occupational Boards and Licensing**.

Military Lands Protection Act

S.L. 2014-79 ([SB 614](#)) establishes a new requirement that the State Construction Office (SCO) in the Department of Administration maintain and make available accurate maps of areas surrounding major military installations pursuant to the Military Lands Protection Act of 2013 (Act). This act amends the Act to provide that the SCO, rather than the Building Code Council, is the entity responsible for reviewing and endorsing requests for the construction of tall buildings or structures under the Act.

With respect to public records laws, the act provides that the Military Affairs Commission (Commission), in the Department of Commerce (Department), may withhold documents and discussions related to base realignment and closure for so long as the public inspection would frustrate the purpose of confidentiality. The act also permits the Commission and the Department to share with other public bodies or with third parties confidential documents and discussions protected from disclosure, but any information shared with other public bodies must continue to be exempt from the public records laws, and any third party with whom such information is shared must agree to keep the information confidential. The act also amends the open meetings laws and public records laws to provide that public bodies are not required to disclose information that reveals documents related to the federal government's process to determine closure or realignment of military installations until a final decision has been made by the federal government in that process.

This act became effective July 22, 2014, and the act's changes to the open meetings laws apply to meetings held on or after that date. (JM)

Clarify Military Service Credit for Newly Hired Educators

S.L. 2014-100, Sec. 8.12 ([SB 744](#), Sec. 8.12). See **Education**.

Tuition Assistance to Veterans Who Participate in the Yellow Ribbon Program and Their Spouses and Dependent Relatives

S.L. 2014-100, Sec. 11.12 ([SB 744](#), Sec. 11.12). See **Education**.

Eastern Band of Cherokee Indians/Assumption by Tribe of Various Human Services

S.L. 2014-100, Sec. 12C.3 ([SB 744](#), Sec. 12C.3). See **Health and Human Services**.

Commerce Funds Used for Base Realignment and Closure Activities

S.L. 2014-100, Sec. 15.4 ([SB 744](#), Sec. 15.4). See **State Government**.

Eliminate Authority for State Contribution to County Veterans Service Programs

S.L. 2014-100, Sec. 30.1 ([SB 744](#), Sec. 30.1). See **State Government**.

Enhance Benefits Payable Through the National Guard Pension Fund

S.L. 2014-100, Sec. 35.15C ([SB 744](#), Sec. 35.15C). See **Retirement**.

Increase National Guard Flexibility with Respect to Certain Capital Projects

S.L. 2014-100, Sec. 36.8 ([SB 744](#), Sec. 36.8) exempts the North Carolina National Guard (National Guard) from the statutory prohibition on commencing capital projects applicable to most State agencies for projects that (i) will be funded entirely with federal funds and (ii) for which any operating costs associated with the project will be paid entirely with federal funds.

This section also amends the General Statutes governing Public Contracts to grant the National Guard an exemption from formal bidding requirements with respect to a capital project, construction, or repair work that (i) is for training purposes and for a single exercise or undertaking at a National Guard facility; (ii) has a total cost that does not exceed applicable federal limits; and (iii) will be funded entirely with federal funds.

This section became effective July 1, 2014. (BS)

Adjutant General Selection Criteria/North Carolina National Guard Amendments

S.L. 2014-106 ([HB 1048](#)) amends the criteria for the appointment of the Adjutant General of the North Carolina National Guard (National Guard), authorizes the Adjutant General to appoint a second Assistant Adjutant General for the Army National Guard, and authorizes the National Guard to use Family Assistance Center Funds for expenses related to the support of surviving family members of deceased members of the National Guard.

This act became effective August 6, 2014. The revised Adjutant General selection criteria apply to appointments made on or after that date. (BP)

Chapter 16

Occupational Boards and Licensing

Karen Cochrane-Brown (KCB), Amy Jo Johnson (AJJ),
Wendy Graf Ray (WGR), Barbara Riley (BR), Chris Saunders (CS)

Enacted Legislation

Amend Continuing Education Requirements for Certified Well Contractors

S.L. 2014-2 ([HB 688](#)) amends the continuing education requirements for certified well contractors. Prior law authorized the Well Contractors Certification Commission (Commission) to establish the number of required hours by rule. This act specifies that well contractors must complete two hours of continuing education per year for the first three years of certification. The act prohibits the Commission from requiring continuing education for renewal of certification after the initial three-year period, unless disciplinary action is taken against the contractor. In those cases, the contractor must complete the number of hours required by the Commission for remedial purposes in order to continue to be certified.

This act became effective May 29, 2014. (WGR)

Energy Modernization Act

S.L. 2014-4 ([SB 786](#)), as amended by S.L. 2014-115, Sec. 67 ([HB 1133](#), Sec. 67). See **Environment and Natural Resources and Energy**.

Amend Veterinary Practice Act/Fees

S.L. 2014-63 ([HB 379](#)) allows the North Carolina Veterinary Medical Board to increase its fees, provided that no fee is increased more than 15% in a calendar year and the cumulative total increases of any fee do not exceed 100% of the fee amounts set out in statute. The act also creates a new process for the reinstatement of a license or registration under the North Carolina Veterinary Practice Act, and amends laws pertaining to license and registration reinstatement.

This act became effective October 1, 2014. (CS)

Credit for Military Training

S.L. 2014-67 ([SB 761](#)) requires, effective January 1, 2015, occupational licensing boards to notify applicants within 30 days of receipt of an application if the applicant's military training or experience does not satisfy licensure, certification, or registration requirements, and to identify the basis for this determination. Occupational licensing boards must publish on their Web sites, and on the North Carolina Division of Veterans Affairs Web site, specific requirements for licensure, certification, and registrations, how those requirements can be met with military training or experience, and necessary documentation for meeting the requirements.

The act requires occupational licensing boards to contact military installation training offices and other relevant federal offices to gain additional knowledge to assist with military training and job experience equivalency determinations. All occupational licensing boards must report by September 1, 2014, to the co-chairs of the Legislative Research Commission on Civilian Credit for Military Training and State Adjutant General Selection Criteria on the results of those

consultations and on the publication of information on how military experience can be used to meet licensure requirements.

The act directs the Board of Governors of The University of North Carolina and the State Board of Community Colleges (Boards) to jointly develop a plan for implementing a uniform system of granting course credits based on military training or experience. The Boards must consider a process for recognizing Associate of Arts or Associate of Sciences degrees from institutions participating in the Servicemembers Opportunity Colleges Consortium or the Community College of the Air Force and report by September 1, 2014, on their progress in developing this plan to the Joint Legislative Education Oversight Committee (Committee) and the General Assembly.

The act directs the Boards to consult with the North Carolina National Guard Education and Employment Center, Department of Commerce, Department of Labor, and other relevant State or federal agencies to:

The act directs the Boards to consult with the North Carolina National Guard Education and Employment Center, Department of Commerce, Department of Labor, and other relevant State or federal agencies to:

- Study "Knowledge Gap Fulfillment" to provide maximum credit for military training or experience.
- Identify job development programs that require "Military Occupational Skills" or share occupational skills to complete the program.
- Identify Veterans Administration (VA) approved non-degree programs conducted in other states that have a high employment demand in this State and determine the capacity to offer these programs in North Carolina.
- Identify and develop short-term programs that meet the needs of North Carolina-specific, high employment technical career fields.

The Boards must consider VA approval for educational benefits with the North Carolina State Approval Agency in studying these programs. The Boards must report to the Committee and the General Assembly with recommendations and proposed legislation by December 15, 2014.

Except as otherwise provided, this act became effective July 10, 2014. (KM)

Transfer Private Protective Services Board and Alarm Systems Licensing Board to the Department of Public Safety

S.L. 2014-100, Sec. 17.5 ([SB 744](#), Sec. 17.5) transfers the Private Protective Services Board and the Alarm Systems Licensing Board from the Department of Justice to the Department of Public Safety as a Type II transfer and makes conforming changes.

This section became effective July 1, 2014. (CS)

North Carolina Farm Act of 2014

Rewrite the Landscape Contractor Licensing Statutes

S.L. 2014-103, Sec. 3 ([HB 366](#), Sec. 3) creates the North Carolina Landscape Contractors' Licensing Board (Licensing Board) and rewrites the statutes regulating landscape contractors to require that any person engaged in the business of landscape contracting must obtain a license. This section makes the following changes:

- Provides several exemptions from licensure, including work where the price of all items for a given job site during any consecutive 12-month period is less than \$30,000.

- Establishes requirements for landscape contractor licensure including application requirements, qualifications, examination, and continuing education.
- Establishes standards for issuing licenses to corporations, partnerships, and persons doing business under a trade name.
- Authorizes the Licensing Board to impose certain fees.
- Provides that members currently serving on the North Carolina Landscape Contractors' Registration Board will continue to serve until the new Licensing Board is appointed and the act establishes a procedure for future appointments.
- Exempts certain registered or licensed individuals from the examination requirement to obtain a license.

This section becomes effective August 1, 2015. (CS)

Technical and Other Corrections

Amend Board of Barber Examiners Inspections

S.L. 2014-115, Sec. 39.7 ([HB 1133](#), Sec. 39.7) amends the statutes providing for inspections by the Board of Barber Examiners (Board) of barbershops, barber schools and colleges, and any other place where barber service is rendered. This section provides that initial inspections conducted by the Board must not be delayed if the sole reason for the delay is the lack of a certificate of occupancy by a unit of local government.

This section became effective August 11, 2014. (BR)

Hearing Loss Association of America Name Change and Interpreter and Transliterators Amendments

S.L. 2014-115, Sec. 42 ([HB 1133](#), Sec. 42) corrects the name in the statute of an advocacy group for individuals who are deaf or hearing impaired, inserting the current name, the Hearing Loss Association of America–North Carolina State Association (HLAA-NC). Requirements for Interpreters and Transliterators for individuals who are deaf or hearing impaired are also updated to comply with national standards. This section also updates the qualifications for provisional licensure.

This section became effective August 11, 2014. (AJJ)

Scope of Practice for Hearing Aid Specialists

S.L. 2014-115, Sec. 42.3 ([HB 1133](#), Sec. 42.3) makes changes to the scope of practice for hearing aid specialists. This section clarifies that hearing aid specialists may make ear impressions and provide supervision and in-service training for apprentices in fitting and selling hearing aids. This section also eliminates providing hearing health education and community services for individuals with hearing loss and the deaf from the scope of practice.

This section became effective August 11, 2014. (AJJ)

Grandfathering for Natural Hair Care Specialists

S.L. 2014-115, Sec. 61.7 ([HB 1133](#), Sec. 61.7) amends the grandfathering provision for natural hair care specialists. This section provides that those who otherwise qualify for grandfathering by providing proof that they were actively engaged in the practice of a natural hair care specialist when licensing requirements went into effect will not be required to pass an examination for licensure.

This section became effective August 11, 2014. (WGR)

Regulatory Reform Act of 2014

Authorize Licensing Boards to Adopt Rules for Professional Corporations

S.L. 2014-120, Sec. 3 ([SB 734](#), Sec. 3) authorizes licensing boards subject to the Professional Corporations Act to adopt rules to implement the provisions of the Act. Professional corporations are corporations that provide professional services that require the obtaining of a license from a State licensing board, such as architects, doctors, or engineers. The Professional Corporations Act sets the requirements for creating a professional corporation, including the requirement that the corporation be registered with the appropriate licensing board. Licensing boards are authorized by the Act to charge a fee for registration, not to exceed \$50 and a fee for renewal not to exceed \$25; however, there is no statute that specifically authorizes each licensing board to adopt rules to set the specific amount of the fee. This section grants the needed rulemaking authority.

This section became effective September 18, 2014. (KCB)

Occupational Licensing Board Reporting Amendments

S.L. 2014-120, Sec. 4 ([SB 734](#), Sec. 4) amends the reporting requirements for occupational licensing boards to include the total number of licensees supervised by the board and the number of applicants who fail the examination each year, requires the report to be filed electronically, and directs the Joint Legislative Administrative Procedure Oversight Committee to notify any board that fails to file the reports.

This section became effective September 18, 2014. (AJJ)

Merchant Exemption from Locksmith Licensing

S.L. 2014-120, Sec. 9 ([SB 734](#), Sec. 9) rewrites the merchant exemption from licensure as a locksmith. The exemption applies if the merchant meets all of the following criteria:

- Lawfully duplicates keys or installs, services, repairs, rebuilds, reprograms, rekeys or maintains locks in the normal course of its business.
 - Maintains a physical location in the State.
 - Maintains a sales and use tax permit.
 - Does not represent itself as a locksmith.

This section became effective September 18, 2014. (BR)

Clarify Professional Engineer Exemption

S.L. 2014-120, Sec. 11 ([SB 734](#), Sec. 11) clarifies certain activities that are exempt from the licensing requirement of the Engineering and Land Surveying Act by removing or modifying imprecise and inconsistent language. This section rewrites the so-called "industrial exemption" to clarify to whom the exemption applies, to what activities, and where the exemption could be used. The section also removes a reference to activities performed by employees of the State or a political subdivision because the same language is contained in another section of the law. The section also clarifies that where the safety of the public is directly involved, engineering and surveying activities must be conducted under the responsible charge of a licensed engineer or surveyor.

This section became effective September 18, 2014. (KCB)

Well Contractor Licensing Changes

S.L. 2014-120, Sec. 42 ([SB 734](#), Sec. 42) exempts certified well contractors from the requirements of the electrical contractor statutes, including the licensure requirements, for the purposes of installing and maintaining electrical wiring, devices, appliances, or equipment when running electrical wires from a well pump to a pressure switch. This section also directs the Well Contractors Certification Commission to establish minimum education, experience, and knowledge requirements for each type of certification for well contractors for the installation and maintenance of electrical wiring devices, appliances, and equipment related to the construction, operation, and repair of wells. These requirements apply only to the initial certification and are not required as part of continuing education or as a condition of certification renewal.

This section became effective September 18, 2014, and the provisions related to certification requirements apply to applicants applying for certification on or after that date. (WGR)

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Chapter 17

Property, Trusts, and Estates

Karen Cochrane-Brown (KCB), Brad Krehely (BK), Bill Patterson (BP), Barbara Riley (BR)

Enacted Legislation

Planned Community Act/Declarant Rights

S.L. 2014-57 ([HB 330](#)) amends the North Carolina Planned Community Act regarding the transfer of special declarant rights. The act specifies that the statute addressing transfer of special declarant rights applies to all planned communities created in North Carolina before January 1, 1999, unless the articles of incorporation or the declaration provide otherwise. The act adds definitions for "affiliate of declarant" and "development rights" and provides that upon transfer of any special declarant right, the liability of the transferor declarant is as follows:

- A transferor is not relieved of any obligation or liability arising before the transfer and remains liable for warranty obligations imposed upon the transferor.
- If a successor to any special declarant right is an affiliate of a declarant, the transferor is jointly and severally liable with the successor for any obligations or liabilities of the successor.
- If a transferor retains any special declarant rights, but transfers other special declarant rights to a successor who is not an affiliate of the declarant, the transferor is liable for any obligations or liabilities imposed on a declarant.
- A transferor has no liability for any act or omission or any breach of a contract arising from the exercise of a special declarant right by a successor declarant who is not an affiliate.

The act also provides for the liabilities and obligations of a person who succeeds to special declarant rights.

This act became effective July 7, 2014. (BK)

Exempt Time Shares/Rule Against Perpetuities

S.L. 2014-99 ([SB 877](#)) provides that the rule against perpetuities must not defeat any provision of time share declarations or bylaws adopted and duly recorded prior to July 1, 1984, and authorizes the board of directors of a time share project to amend, by a two-thirds vote, any provision in a time share declaration adopted at the same time as the original recorded declaration and that converts ownership of time share units to tenancy in common.

This act became effective August 5, 2014. (BP)

Implement Recommendations of General Statutes Commission and North Carolina Bar Association

S.L. 2014-107, Parts I, II, IV, and V ([SB 773](#), Parts I, II, IV, and V) enacted the following provisions:

Modification of Slayer Statute. – Part I of the act amends the slayer statute to account for changes in the law that no longer require shares in a joint tenancy to be equal, in order to preserve the statutory goal of preventing a slayer (a person who has willfully and unlawfully killed another person) from profiting by his or her own wrong. This part became

effective October 1, 2014, and applies to property subject to the slayer statute as to decedents dying on or after that date.

Filing Certified Copies of Probated Wills. – Part II of the act clarifies the procedure for filing certified copies of probated wills in a county where devised real property is located when the will is probated in a different county. This Part became effective October 1, 2014, and applies to estates of decedents dying before, on, or after that date.

Clarify Time Frame for Substitution of Personal Representative. – Part IV of the act clarifies that a litigant whose claim is pending against a person at the time of the person's death will satisfy the requirement of presenting a claim against the decedent's estate by moving to substitute the personal representative in the pending action within the claims bar period. This part also clarifies that the motion to substitute the personal representative does not extend the time for filing additional claims against the estate. This Part became effective August 6, 2014.

Rule Against Accumulations Not Applicable to Trusts. – Part V of the act exempts trusts created or administered in North Carolina from the common law Rule Against Accumulations, which prohibits accumulation of income in a trust beyond the time period that would violate the Uniform Statutory Rule Against Perpetuities. This Part became effective August 6, 2014. (BP)

Technical and Other Corrections

Tenancies by Entireties Trusts in Real Property

S.L. 2014-115, Sec. 33 ([HB 1133](#), Sec. 33) adds a new section to the General Statutes governing conveyances by husband and wife to provide that real property held by husband and wife as a tenancy by the entireties and conveyed to a joint or separate revocable or irrevocable trust has the same immunity from claims of the spouses' separate creditors as would be if the spouses had continued to hold the property as a tenancy by the entireties, so long as the spouses remain married and the real property continues to be held in the trust and the spouses remain the beneficial owners of the real property.

This section becomes effective January 1, 2015, and applies to real property transferred to a trust on or after that date. (BR)

Amend Notice to Lien Agent Form

S.L. 2014-115, Sec. 35 ([HB 1133](#), Sec. 35) makes technical changes to statutory requirements for the notice to lien agent form. The law requires a property owner to designate a lien agent for improvements to real property costing \$30,000 or more, and potential lien claimants must give notice to the designated lien agent to preserve their lien rights. This section provides that the designation of a lien agent does not make the lien agent an agent of the owner for purposes of receiving a Notice of Subcontract. It also provides that the service of the Notice of Lien Agent does not satisfy the service or filing requirements applicable to a Notice of Subcontract. A Notice of Lien Agent must not be combined with or make reference to a Notice of Subcontract or Notice of Claim of Lien on Funds.

This section became effective August 11, 2014. (BK)

Amend Duties of Settlement Agent in Real Estate Transaction

S.L. 2014-115, Sec. 36 ([HB 1133](#), Sec. 36) amends the duties of the settlement agent in a real estate transaction. As rewritten, the statute provides that the settlement agent must not disburse any of the closing funds prior to verification that the closing funds are deposited in the settlement agent's trust or escrow account. The settlement agent may disburse funds as

necessary to record any deeds, deeds of trust, and other documents required to be filed in connection with the closing, but may not disburse any other funds from the account until the deeds, deeds of trust, and other required documents have been recorded in the office of the register of deeds.

This section became effective August 11, 2014. (BR)

Regulatory Reform Act of 2014

Changes to the Residential Property Disclosure Act

S.L. 2014-120, Sec. 49 ([SB 734](#), Sec. 49) amends the disclosure required under the Residential Property Disclosure Act to provide that the owner of real property must furnish to a purchaser a mineral and oil and gas rights mandatory disclosure statement. This section directs the Real Estate Commission to develop and require the use of a mineral and oil and gas rights mandatory disclosure statement which would provide the owner with the option to indicate whether the owner has actual knowledge of the specified characteristics or conditions. The owner may make no representations only as to a previous severance of mineral rights and previous severance of oil and gas rights.

This section becomes effective January 1, 2015, and applies to contacts executed on or after that date. (KCB)

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Joint Resolutions

Honor NASCAR Hall of Fame Inductees

Res. 2014-1 ([HJR 1030](#))

Military Appreciation Day

Res. 2014-2 ([SJR 796](#))

Honor Leo Mercer, Former Member

Res. 2014-3 ([HJR 1121](#))

Honor Zeb Alley

Res. 2014-4 ([SJR 879](#))

Honor Senator Martin Nesbitt

Res. 2014-5 ([SJR 882](#))

Confirm Linda Combs as State Controller

Res. 2014-6 ([HJR 1074](#))

Confirm Charlton L. Allen to Industrial Commission

Res. 2014-7 ([HJR 1112](#))

Adjournment

Res. 2014-8 ([HJR 1276](#))

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Chapter 19

Retirement

Sean Dail (SD), Brad Krehely (BK), Sara Kamprath (SK), Theresa Matula (TM)

Enacted Legislation

Volunteer Fire and Rescue Finances (Program Evaluation Division)

S.L. 2014-64 ([HB 1034](#)) amends various fire and rescue Funds, as recommended by the Program Evaluation Division, as follows:

Local Firefighters' Relief Fund. –

- Amends the definition of "fire district," to include a political subdivision of the State, with a response area that has been approved by the local municipal government or the Board of County Commissioners if there is no local municipal government.
- Increases from 1% to 2% the amount of funds the Commissioner of Insurance (Commissioner) must deduct from tax proceeds for administering the disbursement of funds by the board of trustees.
- Requires local boards of trustees to manage local relief funds as prudent trustees of the funds.
- Changes, from January 1 to February 1, the month in which a county must provide the Commissioner with the tax value of property located in each fire district.
- Further defines a destitute member firefighter for whom assistance can be provided and adjusts the list of allowable expenditures for local firefighter relief funds.
- Adds more information that the State Firemen's Association must annually certify to the Department of Insurance (Department) for each local unit.
- Requires the Commissioner to maintain a database of reports and to issue each fire department a fire department identification number.
- Specifies that a database of required reports be developed and operational by December 1, 2015, in order to receive information from the State Firemen's Association by January 1, 2016.
- Provides line of duty death benefits to firefighters whose departments are not members of the State Firemen's Association.
- Amends the law pertaining to the disbursement of funds by the Commissioner effective July 1, 2015, to require the Commissioner to distribute tax proceed allocations to fire districts by electronic funds transfer, unless this is not feasible, in which case a paper check will be issued.
- Creates laws pertaining to maximum fund balances for the local fire department's Firefighter's Relief Fund that will become effective July 1, 2015, and prohibits a local fire department's relief fund from exceeding the product of the number of members multiplied by \$2,500.

Statewide Firefighters' Relief Fund. –

- Removes the prohibition on a firefighter or county fire marshal from receiving benefits under the fund until the firefighters' relief fund of his city or town has been exhausted.
- Requires the treasurer of the State Fireman's Association, in addition to submitting the report to the State Treasurer, to submit the report to the Commissioner.
- Requires the State Firemen's Association to manage the Fund as a prudent trustee of the funds and subject to current law.

Requires the North Carolina Association of Rescue and Emergency Medical Services, Inc. to manage the **Rescue Squad Workers' Relief Fund** as a prudent trustee of funds.

Requires the Department, beginning April 1, 2016, to provide an annual report on each local firefighters' relief fund board, the North Carolina State Firemen's Association, and the North Carolina Association of Rescue and Emergency Medical Services, Inc.

Repeals the **Mebane Firemen's Supplemental Retirement Fund** and transfers any permanent funds to the **Mebane Local Firefighter's Relief Fund**.

Workers' Compensation Fund (Fund) for certain safety workers.

- Removes the requirement that an "eligible unit" be a volunteer unit and includes a list of entities that support eligible units.
- Effective April 1, 2016, the Department must annually conduct an actuarial study that: i) projects the amount required to meet the needs of the Fund for five years; ii) reports on the nature of claims paid, including trends; iii) calculates how much revenue from the State and member premiums would be required to meet the needs of the Fund under various scenarios; and iv) publishes results no later than February 1 of each year. Beginning in 2016, and every five years, the study must also include a comparison of Fund premium levels to the premium levels of employees of municipal fire and rescue departments, a calculation of the amount of revenue generated by experience-rating premium surcharges, and recommend changes. The Department may contract with a third party to conduct the study but, there are certain limitations if the actuary is the same as the one for the Volunteer Safety Worker's Compensation Board.
- Effective July 7, 2014, provides direction to the State Fire and Rescue Commission (Commission) when renewing its existing contract with its third-party administrator when the contract expires on June 30, 2014, by specifying 13 specific tasks that must be set out in the contract with the workers' compensation third-party administrator. By January 1, 2015, the Commission must report to the General Assembly on the status of the Commission's data collection and analysis.

North Carolina Firefighters' and Rescue Squad Workers' Pension Fund. –

- Effective October 1, 2014, supplemental pension payments are authorized to all participants aged 55 and over who have paid \$10 per month for the required 20 years regardless of whether they have actually retired from firefighting or rescue squad work.
- Requires the Department of State Treasurer to report on March 1, 2015, and for two years thereafter, to the House Committee on State Personnel and the Senate Committee on Pensions and Retirement, on the progress toward building appropriate lapse assumptions into the State's required contribution to the pension fund and collecting timely member contributions.

Volunteer Fire Department Fund (which provides matching grants to volunteer fire departments to purchase equipment and make capital improvements) and the **Volunteer Rescue/EMS Fund** (which provides grants to volunteer rescue units providing rescue and emergency medical services):

- Effective January 1, 2015, and applicable to the 2015 grant process, the Commissioner is required to award grants to eligible fire departments on May 15 (or on the first business day after May 15).
- Specifies the content that must be contained in the reports from the Volunteer Fire Department Fund and the Volunteer Rescue/EMS Fund.
- Clarifies the grant process.
- Effective July 1, 2015, amends the law on the oversight and accountability of grant awards, as it pertains to reimbursement of funds and the transfer of purchased equipment and requires the Department to take action to facilitate the implementation and enforcement of the law.

- No later than January 1, 2015, the Department must report to the Joint Program Evaluation Oversight Committee on efforts to update and correct the computer code that assigns points to grant applicants for funds awarded.

Except as otherwise provided, this act became effective July 1, 2014. (TM)

Fiscal Integrity/Pension-Spiking Prevention

S.L. 2014-88 ([HB 1195](#)) makes the following changes to various retirement systems:

- Effective January 1, 2015, adds an Anti-Pension-Spiking Contribution-Based Benefit Cap and a Contribution-Based Benefit Cap Purchase Provision to the Teachers' and State Employees' Retirement System (TSERS) and the Local Governmental Employees' Retirement System (LGERS).
- This act requires each Board of Trustees to adopt a contribution-based benefit cap factor recommended by the actuary, based upon experience, and impacting no more than 0.75% of the retirement allowances of members. Every five years, each Board of Trustees is required to review and modify the factor if necessary.
- The act requires each retirement system to notify a member, and the member's employer, if the member's retirement allowance has been capped, and requires each system to compute the amount of contribution necessary for the member not to be subject to the benefit cap.
- Effective January 1, 2015, allows members of the TSERS, LGERS, the Legislative Retirement System, and the Consolidated Judicial Retirement System (CJRS) who leave employment within five years to receive their contributions and accumulated interest.
- Returns to a five-year vesting period for members of TSERS and CJRS.

Except as otherwise provided, this act became effective July 30, 2014. (TM)

Retirement Technical Corrections Act of 2014

S.L. 2014-97 ([HB 1193](#)) makes statutory changes to the NC Firefighters' and Rescue Squad Workers' Pension Fund, Teachers' and State Employees' Retirement System (TSERS), Local Governmental Employees' Retirement System (LGERS), Consolidated Judicial Retirement System (CJRS), State Health Plan for Teachers and State Employees, a closed Legislative Retirement Fund, and Separate Insurance Benefits Plan for law enforcement officers. The act:

- Amends the definition of "inactive member" in the North Carolina Firefighters' and Rescue Squad Workers' Pension Fund to clarify that an inactive member is a member who has not made timely payments for two consecutive years.
- Amends the LGERS to make a change, parallel to the TSERS law, which allows a member who became a member of the Supplemental Retirement Income Plan prior to retirement, and who remains a member, to make a one-time election to transfer eligible balances. Additionally, consistent with the TSERS law, an eligible plan is prohibited from assessing a fee specifically related to the transfer of accumulated contributions, but other fees assessable under the plan are not prohibited.
- Amends the law pertaining to TSERS, LGERS, and the CJRS to add a definition for "Consumer Price Index" (CPI) and to clarify the use of the CPI when making adjustments to benefits.
- Amends the definition of "retirement" in the CJRS by narrowing the scope to specify that a member must perform no work in a position covered by the CJRS statutes.
- Allows the General Assembly to make annual, rather than quarterly, transfers of funds to the Department of State Treasurer for six surviving members of a closed Legislative Retirement Fund.

The provisions of this act pertaining to the CPI become effective January 1, 2015. The remainder of this act became effective July 1, 2014. (SK)

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. 2014-100, Sec. 35.14 (S744, Sec. 35.14) provides a 1% cost-of-living increase for retirees of the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, and the Legislative Retirement System.

This section became effective July 1, 2014. (SD)

Use of Funds Appropriated for State Retirement System Contribution Increases

S.L. 2014-100, Sec. 35.15 (S744, Sec. 35.15) requires the Office of State Budget and Management (OSBM) to ensure that the appropriations for State Retirement System (SRS) contribution increases are used only for that purpose. If the Director of the Budget determines that funds appropriated to a State agency for increases exceed the amount required for that purpose, the Director may reallocate the funds to other State agencies that receive insufficient funds for SRS contribution increases.

Additionally, this section directs OSBM to report on the expenditure of funds for SRS contribution increases for each State agency to the Joint Legislative Commission on Governmental Operations no later than October 1, 2014.

This section became effective July 1, 2014. (TM)

Enhance Benefits Payable Through the National Guard Pension

S.L. 2014-100, Sec. 35.15C (S744, Sec. 35.15C) increases the pension for members and former members of the North Carolina National Guard from \$95 to \$99 per month for 20 years' creditable military service and increases from \$9.50 to \$9.90 the amount per month for each additional year of service. The maximum pension threshold also increases from \$190 to \$198 per month.

This section became effective July 1, 2014. (TM)

Clarify that Re-Hired State Retirees Shall Be Offered Coverage in State Health Plan as Active Employees Rather than as Retirees

S.L. 2014-100, Sec. 35.16A (S744, Sec. 35.16A). See **State Government**.

Retirement Administrative Changes Act of 2014

S.L. 2014-112 ([HB 1194](#)) makes the following changes to retirement systems in North Carolina. The act:

- Amends the Teachers' and State Employees' Retirement System (TSERS) and the Local Government Employees' Retirement System (LGERS) statutes to permit each Board of Trustees to assess the employer with a penalty in lieu of interest when payment is not received. The act permits each Board to waive one penalty per employer every five years if the Board finds that the employer has consistently demonstrated good-faith efforts to comply with the deadline. These changes became effective October 1, 2014.
 - Effective January 1, 2015, specifies that on or after that date, a death benefit will be paid to the person or persons designated by the member and prescribes who will receive the death benefit if the member has not designated a beneficiary. These provisions apply to the TSERS, the Legislative Retirement System, the Consolidated Judicial Retirement System, and the LGERS.
 - Effective October 1, 2014, requires the Board of Trustees of the TSERS and the Board of Trustees of the LGERS to publish annual reports on supplemental insurance offerings and the extent to which retirees participate in those offerings.
 - Effective October 1, 2014, amends the TSERS and LGERS laws as they relate to domestic relations orders dividing a person's interest under either retirement system. The act provides that for orders entered on or after January 1, 2015, payment to a member's former spouse pursuant to a domestic relations order is limited to the lifetime of the former spouse and upon the death of the former spouse, the former spouse's share will revert to the member.
 - Provides that, effective October 1, 2014, a person serving on the TSERS or the LGERS Board of Trustees is immune from civil liability for monetary damages, except to the extent covered by insurance, for any act or failure to act arising out of this service, except where certain conditions apply.
 - Permits rescue squad workers to have the same retirement option as firefighters by attaining the age of 55 years and having at least 5 years of creditable service.
- Except as otherwise provided, this act became effective September 1, 2014. (BK)

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Chapter 20

State Government

Denise Huntley Adams (DHA), Jeff Cherry (JFC), Karen Cochrane-Brown (KCB), Erika Churchill (EC), Dan Etefagh (DE), Trina Griffin (TG), Jennifer Hillman (JLH), Amy Jo Johnson (AJJ), Brad Krehely (BK), Peter Ledford (PL), Theresa Matula (TM), Kara McCraw (KM), Matthew C. Meinig (MCM), Bill Patterson (BP), Giles S. Perry (GSP), Phyllis B. Pickett (PBP), Barbara Riley (BR), Greg Roney (GR), Chris Saunders (CS), Susan L. Sitze (SLS), Ben Stanley (BS), Myra Torain (MT)

Enacted Legislation

Energy Modernization Act

S.L. 2014-4 ([SB 786](#)). See **Environment and Natural Resources and Energy**.

North Carolina Economic Development Partnership Modifications

S.L. 2014-18 ([HB 1031](#)), as amended by S.L. 2014-109 ([SB 193](#)) and S.L. 2014-115, Secs. 56.1 and 57 ([HB 1133](#), Secs. 56.1 and 57), facilitates economic development in the State as follows:

- Permits the Department of Commerce (DOC) to contract with a North Carolina nonprofit corporation for the performance of certain economic development functions currently performed by DOC, provided that the contract contains enumerated and mandatory terms, that certain oversight requirements and fund-raising and Board-composition prerequisites are satisfied, and that DOC and the nonprofit corporation adhere to mandatory reporting requirements, ethics laws, open meetings laws, and public records laws.
- Eliminates the Economic Development Board, reassigns the Board's duties to the Secretary of Commerce, and authorizes the Secretary to delegate those duties to the nonprofit corporation.
- Renames the North Carolina Board of Science and Technology as the North Carolina Board of Science, Technology, and Innovation, adds to the Board the duty to advise and make recommendations to the nonprofit corporation on the role of science, technology, and innovation, and increases and modifies the composition of the Board from 17 to 23 members.
- Establishes eight geographic Collaboration for Prosperity Zones in the State, conforms the educational districts in the State to those zones, requires that each of the Departments of Commerce, Environment and Natural Resources, and Transportation co-locate one employee to the regional office in each zone, and requires the Community Colleges System Office and State Board of Education to designate one representative to serve as a liaison in each zone.

This act became effective June 24, 2014. For a summary of the provision of this act amending the State's educational districts in S.L. 2014-18, Sec. 3.4 ([HB 1031](#), Sec. 3.4), See **Education**. (DE)

Establish Urban Search and Rescue Program

S.L. 2014-27, Secs. 3 through 5 ([HB 698](#), Secs. 3 through 5) directs the Secretary of the Department of Public Safety (Secretary) to adopt rules to establish an Urban Search and Rescue Program (Program) to be administered by the Division of Emergency Management of the Department of Public Safety (DPS). The Program will rely on contracts with urban search and rescue teams, specialty rescue teams, or incident support teams (as those teams are defined in the act). The act also creates an Urban Search and Rescue Team Advisory Committee to advise the Secretary on the establishment of the Program and evaluate and advise the Secretary on the need for additional contract response teams. Lastly, the act directs DPS to study the costs of the Program prior to its implementation and to report the results of the study to the Joint Legislative Justice and Public Safety Oversight Committee and the Fiscal Research Division on or before January 15, 2015.

The section of the act establishing an urban search and rescue program became effective July 1, 2014. The remainder of these sections became effective June 25, 2014. (BR)

Prequalification Update

S.L. 2014-42 ([HB 1043](#)) authorizes the State, any county, municipality, or other public body to prequalify bidders for a particular construction or repair project when the public body is using separate-prime bidding, single-prime bidding, or dual bidding construction methods and the public body adopts an objective prequalification policy applicable to all construction or repair work.

The act allows the prequalification process for construction management at risk services, but only after the public body has determined that the construction management at risk method is in the best interest of the project and the public body has compared the advantages and disadvantages of using the construction management at risk method in lieu of separate-prime bidding, single-prime bidding, or dual bidding methods.

Prequalification cannot be used for the selection of any qualification-based services under the statutes governing public procurement of architectural, engineering, and surveying services; design-build contracts; design-build bridging contracts; or public-private partnership construction contracts. The act prohibits the public bodies from soliciting or considering any work product or design, or soliciting or considering any costs or fees, other than price information, in the selection of qualification-based services.

The act also establishes the 20-member Blue Ribbon Commission to Study the Building and Infrastructure Needs of the State directed to study matters related to building and infrastructure needs, including new repairs, renovations, expansion, and new construction. The Blue Ribbon Commission may make an interim report to the 2015 General Assembly and must make a final report to the 2016 Regular Session of the 2015 General Assembly.

The provisions of this act pertaining to the Blue Ribbon Commission became effective June 30, 2014. The remainder of this act became effective October 1, 2014 and applies to contracts awarded on or after that date. (PL)

Department of Transportation/Division of Motor Vehicle Changes

S.L. 2014-58 ([HB 1025](#)). See **Transportation**.

State Nature and Historic Preserve Additions and Deletions

S.L. 2014-62 ([HB 1139](#)). See **Environment and Natural Resources and Energy**.

911 Board/Back-up Public Safety Answering Points

S.L. 2014-66 ([SB 797](#)) requires each public safety answering point (PSAP) to plan for a back-up PSAP to take calls to 911 in the event the primary PSAP cannot process calls. PSAPs may use distributions from the 911 Fund to pay for dispatch equipment at a back-up PSAP. A PSAP will not be eligible for distributions from the 911 Fund after July 1, 2016, if the PSAP does not have a back-up PSAP.

The act also clarifies the authority of the Department of Revenue (DOR) to collect the 911 fee on prepaid wireless service. DOR is authorized by statute to retain the costs of collecting the fee on prepaid wireless, not to exceed \$500,000 a year. DOR was authorized to retain an additional \$200,000 to pay for start-up costs, for a total of \$700,000 in the 2013-2014 fiscal year, but DOR retained only \$60,000. This act authorizes DOR to retain the additional \$140,000 in start-up costs for the 2014-2015 fiscal year, allowing DOR to retain a total of \$640,000 in the 2014-2015 fiscal year.

The portions of this act relating to PSAPs became effective on July 9, 2014. The portions of this act relating to DOR and the 911 fee became effective July 1, 2014. (PL)

Add Towns to State Health Plan

S.L. 2014-75 ([SB 105](#)) amends the list of local government units eligible to participate in the State Health Plan to add the Towns of Elizabethtown and Matthews.

This act became effective July 22, 2014. (JLH)

Military Lands Protection Act

S.L. 2014-79 ([SB 614](#)). See **Military, Veterans', and Indian Affairs**.

Allow Economically Disadvantaged and Rural Areas to Access Rural Economic Development Division Building Reuse Funds

S.L. 2014-90, Part IV ([HB 201](#), Part IV) amends the statute governing programs administered by the Rural Economic Development Division of the Department of Commerce to provide matching grants or loans to local government units located in either a development tier one or tier two area or a rural census tract in a development tier three area. In addition to being used for productively reusing buildings or constructing and expanding rural healthcare facilities, funds may now be used to demolish buildings and properties.

This Part became effective July 30, 2014. (PL)

Escheat Savings Bond Trust Fund/Scholarships

S.L. 2014-93 ([HB 27](#)) provides that unclaimed United States savings bonds will escheat to the State, authorizes the Treasurer to commence a judicial proceeding to claim title and ownership of those bonds so that the Treasurer may redeem the bonds and credit the funds received into the Escheat Fund, and requires that the interest and investment earnings from the bonds be used to fund scholarships to North Carolina students enrolled in public institutions of higher education in this State.

This act became effective August 1, 2014. (TG)

Joint Legislative Oversight Committee on the North Carolina State Lottery

S.L. 2014-100, Sec. 5.2 ([SB 744](#), Sec. 5.2) repeals the Lottery Oversight Committee comprised of public members appointed by the Governor and the Legislature and creates a new 14-member legislative oversight body for the North Carolina Lottery, the Joint Legislative Oversight Committee on the North Carolina State Lottery.

This section became effective July 1, 2014. (EC)

Make the Base Budget the Starting Point for State Agency Budgeting

S.L. 2014-100, Sec. 6.4 ([SB 744](#), Sec. 6.4) repeals the statute that makes the continuation budget the starting point for State agencies' recommended budgets and instead provides that the newly defined base budget will serve as the starting point. Whereas the continuation budget for a particular agency is the amount necessary to continue the same level of services in the next biennium as is provided in the current fiscal year, the base budget for a particular agency is that agency's authorized budget for the current fiscal year with certain statutorily enumerated adjustments.

This section became effective July 1, 2014, and applies beginning with the recommended State budget of the 2015-2017 fiscal biennium. (BS)

Statutory Changes Relating to the Handling of Grants to Non-State Entities

S.L. 2014-100, Sec. 6.5 ([SB 744](#), Sec. 6.5) amends the law governing the handling of State grant funds to provide required grant terms, the return of unspent grant funds, and the use of returned grant funds and interest earned on grant funds.

This section became effective July 1, 2014, and applies to grants appropriated on or after that date. (BS)

Statutory Changes Related to the Disposition of Settlement Funds

S.L. 2014-100, Sec. 6.6 ([SB 744](#), Sec. 6.6) requires that funds received by the State or a State agency from a settlement or other final judgment of a court remain unspent until appropriated by the General Assembly except where the funds are transferred to a party to the action, a consumer entitled to a refund or the recovery of damages, or to an attorney who was awarded attorneys' fees. This section also prohibits the Attorney General from agreeing to spend, transfer, or award funds to any person or entity other than a party to an action, a consumer entitled to a refund or recovery of damages, or an attorney awarded attorneys' fees. These limitations do not apply to the recovery of previously-expended Medicaid funds. This section further requires that the Attorney General submit copies to the Legislative Library of settlements in which the State or a State agency is awarded more than \$75,000.

This section becomes effective December 1, 2014, and applies to settlements entered into on or after that date and other final orders or judgments of the court entered on or after that date. (TG)

Order of Appropriations Bills

S.L. 2014-100, Sec. 6.8 ([SB 744](#), Sec. 6.8) amends the statutes prescribing the order in which appropriations bills are considered by the General Assembly. This section adds an exemption to the statute applicable in even-numbered years for appropriations bills that contain a statement that the General Assembly does not intend to enact a Current Operations Appropriations Act that year.

This section became effective July 1, 2014. (BR)

Reporting on Agency Reorganizations and Movements of Positions

S.L. 2014-100, Sec. 6.10 ([SB 744](#), Sec. 6.10) directs the Office of State Budget and Management to submit a quarterly report to the Joint Legislative Commission on Governmental Operations on reorganizations of State agencies and movements of State agency positions.

This section became effective July 1, 2014. (BS)

Department of Administration/Eugenics Program Amendments

S.L. 2014-100, Sec. 6.13 ([SB 744](#), Sec. 6.13) amends the timeframe for payment of compensation to claimants of the Eugenics Asexualization and Sterilization Compensation Program (Program). This section sets a deadline of September 23, 2014, for filing a claim and provides for an initial payment on October 31, 2014, to all claimants who have been determined to be qualified recipients as of that date. A second and final payment will be made after the exhaustion of all appeals arising from the denial of eligibility for compensation under the Program. The section further prohibits attorneys from collecting a fee from the compensation funds.

This section became effective July 1, 2014. (JLH)

Use of Cash Balances to Meet Temporary Cash Needs

S.L. 2014-100, Sec. 6.14 ([SB 744](#), Sec. 6.14) amends the statutes that govern State cash management to authorize cash in the Savings Reserve Account and other funds that are not immediately needed to be used to meet other appropriations on a temporary basis. All funds temporarily transferred pursuant to this authority must be restored by the end of the fiscal year in which they were transferred.

This section became effective July 1, 2014. (BS)

Funds for Statewide Health Information Exchange

S.L. 2014-100, Sec. 12A.2 ([SB 744](#), Sec. 12A.2). See **Health and Human Services**.

Efficiencies Reporting by Natural Economic Resources Agencies

S.L. 2014-100, Sec. 14.2A ([SB 744](#), Sec. 14.2A) directs the Wildlife Resources Commission and the Departments of Environment and Natural Resources, Labor, Commerce, and Agriculture and Consumer Services to report to the General Assembly no later than December 1,

2014, on cost savings and efficiencies achieved by recent departmental reorganizations or transfers of functions.

This section became effective July 1, 2014. (DHA)

Oregon Inlet

S.L. 2014-100, Secs. 14.7(a) through (h) and (m) ([SB 744](#), Secs. 14.7(a) through (h) and (m)) provide instructions to various State agencies and officials related to the acquisition of certain federally-owned land surrounding Oregon Inlet as follows:

- Directs the Department of Administration to negotiate an acquisition agreement for certain federal property within latitude and longitude points defined in the section, and directs the Attorney General and all other State agencies to cooperate in all respects necessary to effectuate the acquisition.
- Authorizes the Department of Environment and Natural Resources to combine any federal land acquired with State-owned property within the defined area to create Oregon Inlet State Park.
- If no agreement is reached, directs the Department of Administration to commence condemnation proceedings on the defined federal property on July 1, 2015, and to report the commencement of condemnation proceedings to the General Assembly.
- Directs the Department of Transportation to identify and report to the General Assembly and the Secretary of Administration, no later than November 30, 2014, the federally-owned property necessary to construct or manage existing and future transportation corridors on the Outer Banks.
- Provides that any acquisition or condemnation of property is not subject to approval by the Governor or the Council of State.

This section became effective July 1, 2014. (JFC)

Emergency Power of Governor to Exempt Outer Banks Transportation Projects from Certain Environmental Requirements

S.L. 2014-100, Secs. 14.7(i) through (l) ([SB 744](#), Secs. 14.7(i) through (l)) authorize the Governor to exempt the repair, protection, safety enhancement, or replacement of highways providing the sole road access to inhabited portions of the Outer Banks from the requirements of the State Environmental Policy Act, the Sedimentation Pollution Control Act, and the Coastal Area Management Act. In order to exercise this authority, the following conditions must be met:

- There must be a gubernatorially or legislatively declared state of emergency.
- The Governor must issue an executive order specifying the duration of the waiver and the activities to which the waiver applies.

This section became effective July 1, 2014. (JFC)

Current Funds Used for Base Realignment and Closure Activities

S.L. 2014-100, Sec. 15.4 ([SB 744](#), Sec. 15.4) provides that funds appropriated to the Department of Commerce for the 2013-2014 fiscal year that are unexpended and unencumbered as of June 30, 2014, do not revert to the General Fund but will remain available to the Department until expended for use in the State's preparation for United States Department of Defense Base Realignment and Closure activities.

This section became effective June 30, 2014. (BR)

Rural Economic Development Division/Loans and Grants to Local Governments to Reuse or Demolish Buildings and Properties

S.L. 2014-100, Sec. 15.10 ([SB 744](#), Sec. 15.10) amends how funds available for grants or loans from the Rural Infrastructure Authority may be used to provide matching grants or loans to local government units in economically distressed counties to authorize the demolition of buildings and properties in addition to reuse of these buildings or properties.

This section became effective July 1, 2014. (EC)

LiDAR Reserve/Topographical Mapping of the State

S.L. 2014-100, Sec. 15.12 ([SB 744](#), Sec. 15.12) establishes the LiDAR Reserve in the Department of Public Safety, to be used for LiDAR topographical mapping of the State.

This section became effective July 1, 2014. (BR)

Film and Entertainment Grant Fund

S.L. 2014-100, Sec. 15.14B ([SB 744](#), Sec. 15.14B) creates the Film and Entertainment Grant Fund in the Department of Commerce to provide grants for video productions in the State. Important restrictions include: (i) funds cannot be used for productions unless they meet minimum qualifying expenses of \$5 million for films, \$250,000 per episode for TV/video series, and \$250,000 for commercials; (ii) grants cannot exceed 25% of qualifying expenses and are capped at \$5 million for a film or TV/video series and at \$250,000 for a commercial; and (iii) funds cannot go to a production that is obscene, harmful to minors, political advertising, fundraising, marketing other than by commercial, news programming, live sporting events, radio productions, or talk, game, awards, or gala shows. Priority for funds is based on reasonable expectations of benefit to the State, and qualifying expenses must undergo a substantiation process. \$10 million is appropriated to the fund for grants.

This section becomes effective January 1, 2015, and expires July 1, 2020. (DE)

Study Future Use of Broughton Hospital Facilities

S.L. 2014-100, Sec. 15.20 ([SB 744](#), Sec. 15.20) directs the Department of Commerce (DOC), in conjunction with the Department of Health and Human Services, Department of Administration, and the City of Morganton, and the County of Burke, to study potential uses for vacated Broughton Hospital facilities. The section directs DOC to submit an interim report to the General Assembly by December 31, 2014, and a final report by June 30, 2015.

This section became effective July 1, 2014. (GSP)

Governor's Crime Commission

S.L. 2014-100, Sec. 16A.2 ([SB 744](#), Sec. 16A.2) specifies the reporting of recommendations of the Governor's Crime Commission regarding the establishment of priorities and needed improvements with respect to gang prevention to require the reports to be specifically sent to the Chairs of both the House and Senate Appropriations Committees on Justice and Public Safety and to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety.

This section became effective July 1, 2014. (SLS)

Establish Hazardous Materials Facility Fee/New HAZMAT Response Team

S.L. 2014-100, Sec. 16B.3 ([SB 744](#), Sec. 16B.3) creates a new fee, collected by the Department of Public Safety, for housing or storing for hazardous materials. The fee is \$50 for each hazardous chemical and \$90 for each extremely hazardous substance, as defined by the federal Emergency Planning and Community Right-to-Know Act (EPCRA); and is capped at \$5,000 annually. Family farms, most gas stations, and car dealers are exempted from the fee. Proceeds from the fee will be used for: (i) maintenance of a hazardous materials database; (ii) to support the regional response program for hazardous materials emergencies and terrorist incidents; and (iii) providing grants to counties for hazardous materials emergency response planning, training, and related exercises.

This section became effective July 1, 2014, and applies to fees assessed on or after that date. (BS)

Transfer the State Bureau of Investigation and the Alcohol Law Enforcement Section

S.L. 2014-100, Sec. 17.1 ([SB 744](#), Sec. 17.1) transfers the State Bureau of Investigation (SBI) from the Department of Justice (DOJ) to the Law Enforcement Division of the Department of Public Safety (DPS), as a Type II transfer. The SBI will be administered under the direction and supervision of DPS, including with respect to the functions of planning, organizing, directing, coordinating, reporting, and budgeting, but the SBI will exercise all its prescribed statutory powers independently of the head of DPS. The Director of the SBI is solely responsible for hiring, firing, and transferring personnel within the Bureau.

This section also provides that the Director of the SBI will be appointed for a term of eight years by the Governor, subject to confirmation by the General Assembly by joint resolution.

Lastly, this section makes the Alcohol Law Enforcement (ALE) Section a separate and discrete branch of the SBI, requires consolidation of ALE and SBI regions and regional offices, transfers the Division of Criminal Information of the DOJ to DPS, and establishes various reporting requirements.

This section became effective July 1, 2014. (BS)

Study Merger of State Crime Lab and Office of State Medical Examiner

S.L. 2014-100, Sec. 17.3 ([SB 744](#), Sec. 17.3) directs the Joint Legislative Oversight Committees on Justice and Public Safety and Health and Human Services to study merging the North Carolina State Crime Laboratory and the Office of the State Medical Examiner into a single independent State agency. The Committees must report their findings to the 2015 General Assembly.

This section became effective July 1, 2014. (SLS)

Ensure Proper Role for Attorney General

S.L. 2014-100, Sec. 17.3A ([SB 744](#), Sec. 17.3A) makes the following changes regarding the role of the Attorney General:

- Provides that whenever the validity of an act of the General Assembly or a provision of the North Carolina Constitution is considered in court and the General Assembly

hires outside counsel, then the General Assembly must also be deemed a client of the Attorney General.

- Provides that if the General Assembly employs counsel other than the Attorney General, the Speaker of the House of Representatives and the President Pro Tempore of the Senate may jointly designate the counsel employed by the General Assembly as the lead counsel, and that lead counsel has final decision-making authority with respect to representation of the General Assembly.
- Amends the duties of the Attorney General to provide that where the Attorney General represents a State department, agency, institution, or commission which receives support from the State, the Attorney General must comply with Rule 1.2 of the Rules of Professional Conduct of the North Carolina State Bar, dealing with scope of representation and authority between client and lawyer.
- Provides that where a dispute names as a party a State department, agency, institution, or officer, a consent judgment must be approved by the head of the department, agency, institution, or by the State officer (not the Attorney General).
- Provides that where a dispute names as a party a State department, agency, institution, or officer, a proposed settlement agreement or other agreement that would dispose of the dispute must be approved by the head of the department, agency, institution, or by the State officer, before the agreement may be entered.

This section became effective August 7, 2014. (BK)

Three-Judge Panel to Rule on Claims That an Act of the General Assembly is Facially Invalid On the Basis that the Act Violates the North Carolina Constitution or Federal Law

S.L. 2014-100, Sec. 18B.16 ([SB 744](#), Sec. 18B.16). See **Civil Law and Procedure**.

Queen Anne's Revenge Project Special Fund

S.L. 2014-100, Sec. 19.4 ([SB 744](#), Sec. 19.4) creates the Queen Anne's Revenge Project Special Fund in the Office of Archives and History of the Department of Cultural Resources (DCR), to be used for specified costs related to the Queen Anne's Revenge Project. All receipts derived from private donations, grant funds, and earned revenue must be credited to the Fund. DCR staff will determine how the monies in the Fund will be used and is directed to submit an annual report to the General Assembly on the source and amount of all funds credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year.

This section became effective July 1, 2014. (MT)

Exempt Department of Cultural Resources from Operating Rules Requirements Related to Historic Sites and Museums

S.L. 2014-100, Sec. 19.5 ([SB 744](#), Sec. 19.5) allows the Department of Cultural Resources, the Tryon Palace Commission, and the U.S.S. North Carolina Battleship Commission, to adopt, amend, or repeal rules pertaining to operating hours and fees by exempting them from the requirements contained in the Administrative Procedure Act and from the requirement that only the General Assembly may authorize a fee or charge by an agency.

This section became effective July 1, 2014. (TM)

Modify Roles of Roanoke Island Commission and Department of Cultural Resources in Managing Roanoke Island Festival Park

S.L. 2014-100, Sec. 19.8 ([SB 744](#), Sec. 19.8) changes the management of the Roanoke Island Festival Park by modifying the roles of the Roanoke Island Commission and the Department of Cultural Resources.

This section became effective August 7, 2014. (MT)

Department of Cultural Resources Umstead Exemption for Certain Events, Activities, and Programming

S.L. 2014-100, Sec. 19.9 ([SB 744](#), Sec. 19.9) expands the Department of Cultural Resources (DCR) exemption from the Umstead Act to include revenues from public and private special events, activities, and programming at historic sites and museums administered by DCR. DCR's exemption from the Umstead Act is conditioned on the resulting profits being used to support the operation of historic sites or museums.

This section became effective July 1, 2014. (BR)

Create Joint Legislative Committee on General Government

S.L. 2014-100, Sec. 22.1 ([SB 744](#), Sec. 22.1) establishes the Joint Legislative Oversight Committee on General Government (Committee) to consist of 12 legislators.

The Committee is directed to study the programs, organizations, operations, and monitor expenditures of the following State departments and agencies: the Departments of Administration, State Auditor, Cultural Resources, Insurance, and Revenue, the Secretary of State, the State Treasurer, the Governor's Office, the Housing Finance Agency, the Lieutenant Governor's Office, the Office of Administrative Hearings, the Office of State Human Resources, the State Board of Elections, the Office of State Budget and Management, the Office of State Controller, the State Ethics Commission, the General Assembly, and any other agency under the jurisdiction of legislative appropriations subcommittees on general government.

The section provides that whenever one of these departments or agencies is required by law to submit a report to the General Assembly, or one of its permanent committees or subcommittees on matters affecting the services the department or agency provides, the department or agency must also transmit a copy of the report to the cochairs of the Committee. The Committee may make reports, including recommended legislation, to the General Assembly.

This section became effective July 1, 2014. (DHA)

Discontinue Use of Automatic Scoring and Screening of Applications for State Government Employment

S.L. 2014-100, Sec. 22A.1 ([SB 744](#), Sec. 22A.1) requires the Office of State Human Resources to discontinue use of its online job application and career portal providing automatic scoring and screening of applications and prohibits the State Chief Information Officer from allocating funds to continue or renew licenses for the online job application and career portal currently utilized. Nothing in this section is intended, or should be construed, to impair any valid contract relating to the online job applicants and career portal.

This section became effective July 1, 2014. (TM)

Office of State Human Resources/Joint Legislative Oversight Committee on General Government Review of Temporary Solutions

S.L. 2014-100, Sec. 22A.2 ([SB 744](#), Sec. 22A.2) directs the Joint Legislative Oversight Committee on General Government (Committee) to review the effectiveness and efficiency of the Temporary Solutions staffing service of the Office of State Human Resources (OSHR). The Committee is directed to report recommendations and any legislative proposals to the 2015 General Assembly by January 30, 2015.

This section became effective July 1, 2014. (DHA)

Extend Reorganization Through Reduction Program

S.L. 2014-100, Sec. 22A.3 ([SB 744](#), Sec. 22A.3) amends S.L. 2013-382 to provide that severance and other payments made pursuant to the implementation of the Reorganization Through Reduction (RTR) program must be made from the severance reserve. The section also extends an expiration date and amends reporting dates for the RTR program.

This section became effective July 1, 2014. (TM)

Education and Workforce Innovation Program

S.L. 2014-100, Sec. 23.1 ([SB 744](#), Sec. 23.1) authorizes a portion of the funds appropriated to the Education and Workforce Innovation Program and the North Carolina Education and Workforce Innovation Commission (Commission) to be used by the Governor's Office for technical assistance to the Commission, and for the New Schools Project for peer learning. The section also changes the reporting date for Commission grant recipients; provides that Program funds do not revert; requires a 50% match by all grant recipients; expands the Commission membership; and adjusts the terms for Commission members.

This section became effective July 1, 2014. (GSP)

Private Audit of Pension Fund

S.L. 2014-100, Sec. 25.1 ([SB 744](#), Sec. 25.1) requires the State Treasurer to prepare and issue, for the 2014-2015 fiscal year, a set of financial statements regarding the investment programs for the Retirement Systems. The financial statements must be audited by a commercial independent third-party audit firm selected by the State Auditor. The financial statements must include a discussion of the Retirement Systems' risks and returns, total management fees and incentives paid, and comparisons to peer cost benchmarks. The audit firm's report and the financial statements must be provided to the State Controller and the General Assembly no later than January 1, 2016.

This section also requires the State Treasurer to engage a commercial independent expert firm to evaluate the governance, operations, and investment practices of the State Treasurer. The report must be provided to the General Assembly when complete.

This section became effective July 1, 2014. (BK)

Expand State Auditor's Authority to Publish Reports and Provide Discretion When Charging and Collecting Costs of Certain Audits

S.L. 2014-100, Sec. 25.2 ([SB 744](#), Sec. 25.2) authorizes the State Auditor (Auditor) to publish on the Auditor's Web site reports of audits of State agencies not conducted directly by the Auditor. This section also gives the Auditor discretion in charging expenses for certain audits.

This section became effective July 1, 2014. (SLS)

State Auditor/Report Evidence of Criminal Misconduct

S.L. 2014-100, Sec. 25.3 ([SB 744](#), Sec. 25.3) requires the State Auditor (Auditor) to report any information the Auditor believes might be evidence of criminal misconduct to the State Bureau of Investigation or the District Attorney in the county in which the misconduct occurred.

This section became effective July 1, 2014. (SLS)

Modernized E-Filing System for Corporate Taxes

S.L. 2014-100, Sec. 26.4 ([SB 744](#), Sec. 26.4) directs the Department of Revenue to report to the Joint Legislative Oversight Committee on General Government by November 1, 2014, regarding the amount of funds used and the progress achieved in the project to modernize the e-filing system for corporate taxes.

This section became effective July 1, 2014. (TG)

Eliminate Authority for State Contribution to County Veterans Service Programs

S.L. 2014-100, Sec. 30.1 ([SB 744](#), Sec. 30.1) eliminates the discretionary power of the Department of Agriculture and Consumer Services to contribute to each county an amount not to exceed \$2,000 on a matching basis, for any fiscal year, for the maintenance and operation of a county veterans service program.

This section became effective July 1, 2014. (EC)

Discontinue Students Against Destructive Decisions Program

S.L. 2014-100, Sec. 30.3 ([SB 744](#), Sec. 30.3) eliminates use of the North Carolina Youth Advocacy and Involvement Fund for planning and execution of the North Carolina Students Against Destructive Decisions program.

This section became effective July 1, 2014. (KM)

Investment Division Compensation

S.L. 2014-100, Sec. 33.2 ([SB 744](#), Sec. 33.2) authorizes the Office of State Treasurer (OST) to establish compensation standards for certain personnel administering investment programs within OST, including performance-based bonuses, in order to make employment with the State Treasurer more competitive with the private sector. This section provides that recipient personnel are exempt from many of the rules and protections offered by the State Human Resources Act. The funds utilized for the market-based compensation are to be expended from a special reserve to be funded by the investment plans administered by the State Treasurer.

This section became effective July 1, 2014. (MCM)

State Parks and Trails Signage

S.L. 2014-100, Sec. 34.15 ([SB 744](#), Sec. 34.15). See **Transportation**.

Report on Use of Economic Development Program Funds

S.L. 2014-100, Sec. 34.29 ([SB 744](#), Sec. 34.29) directs the Departments of Commerce and Transportation to develop guidelines and procedures related to the administration of the Economic Development funds that include a process for submitting, evaluating, and prioritizing projects on a monthly basis. Both departments must develop the guidelines and procedures by October 1, 2014, and publish the guidelines and procedures on their respective Web sites.

Beginning October 1, 2014, the departments must meet quarterly to select projects for funding based on the prioritization assigned by each department and report quarterly to the Joint Legislative Transportation Oversight Committee and the Joint Legislative Commission on Governmental Operations on the funds no later than one month after the end of the fiscal quarter.

This section became effective July 1, 2014. (JM)

State Employees Reassignment/No 35-Mile Radius Requirement

S.L. 2014-100, Sec. 35.11 ([SB 744](#), Sec. 35.11) amends the State Human Resources Act to remove the requirement that qualifying exempt employees be reassigned to a subject position within a 35 mile radius of the exempt position.

This section became effective August 7, 2014, and applies to State employees hired before June 30, 2013. (TM)

Alternative Health Benefit Coverage for Nonpermanent Full-Time State Employees

S.L. 2014-100, Sec. 35.16 ([SB 744](#), Sec. 35.16) creates a new type of coverage, and corresponding category of eligibility, under the North Carolina State Health Plan for Teachers and State Employees (State Health Plan). Eligibility for this "Other Contributory Coverage" extends to employees of employing units eligible for contributory coverage under the State Health Plan. The employees must be full-time employees as defined by the employing unit in accordance with the Internal Revenue Code (IRC) and its applicable regulations, but ineligible for Partially Contributory Coverage under the State Health Plan for one of seven enumerated reasons. The effective date of coverage for the Other Contributory Coverage plan will be determined by the employing unit in a manner consistent with the IRC and its applicable regulations.

The act specifies that the Other Contributory Coverage must meet the requirements of minimum essential coverage under the federal Patient Protection and Affordable Care Act and provide no greater than bronze-level plan benefits as defined by that Act. Additionally, the Other Contributory Coverage must be designed so as to minimize the required employer contribution. The act gives the Board of Trustees of the State Health Plan (Board) the power to approve the health benefit program, premium rates, co-pays, deductibles, and coinsurance percentages and maximums for the Other Contributory Coverage.

The provisions creating other contributing coverage and relating to Board powers and duties become effective January 1, 2015. Effective August 7, 2014, the act also repeals language in S.L. 2013-324 affecting eligibility for Partially Contributory Coverage that had not yet taken effect. (AJJ)

Clarify That Re-Hired State Retirees Shall Be Offered Coverage in State Health Plan as Active Employees Rather than as Retirees

S.L. 2014-100, Sec. 35.16A ([SB 744](#), Sec. 35.16A) clarifies that if a State retiree has been re-hired and is eligible under specified conditions for Partially Contributory Coverage or Other Contributory Coverage under the State Health Plan for Teachers and State Employees (State Health Plan), then that retiree is not eligible for retirement coverage under the State Health Plan during his or her course of qualifying employment.

This section became effective July 1, 2014. (AJJ)

Transfer Unspent Capital Funds to Project Reserve Account

S.L. 2014-100, Sec. 36.14 ([SB 744](#), Sec. 36.14) requires any balance of State funds appropriated for a capital project that remain unspent and unencumbered two years after project completion to be disposed of in accordance with the provisions of any applicable laws. To the extent that no applicable laws govern the funds, the funds must be transferred to the Reserve for Repairs and Renovations if that is where the funds were initially allocated from, and otherwise are to be transferred to the Project Reserve Account.

This section became effective July 1, 2014. (BS)

Business Court Modernization/Subcommittee Created

S.L. 2014-102, Sec. 8 ([SB 853](#), Sec. 8) creates a Subcommittee on Business Court Modernization (Subcommittee) within the Joint Legislative Economic Development and Global Engagement Oversight Committee (Committee). The Subcommittee is authorized to study the implementation of the remainder of this act and its efforts to modernize complex business cases, as well as legislative improvements to the operations and management of the General Court of Justice. A final report of the Subcommittee's findings and recommendations must be submitted to the full Committee prior to the convening of the 2015 General Assembly, and the final report of the Committee's findings and recommendations must be submitted to the 2015 General Assembly.

This section became effective August 6, 2014. (BP)

For summaries of additional provisions of S.L. 2014-102, see **Civil Law and Procedure**; **Commercial Law and Consumer Protection**; and **Courts, Justice, and Corrections** Chapters.

Montgomery County Employees in State Health Plan

S.L. 2014-105 ([SB 376](#)) amends the list of local government units eligible to participate in the State Health Plan to add Montgomery County.

This act became effective August 6, 2014. (JLH)

Modify Public-Private Partnerships Ethics Reporting Requirements

S.L. 2014-109 ([SB 193](#)). A summary of the provisions of this act are incorporated in the summary of S.L. 2014-18 ([HB 1031](#)), **North Carolina Economic Development Partnership Modifications**, in this Chapter. (EC)

Create Transparency in Contracts Between the Attorney General and Private Parties

S.L. 2014-110, Part I ([SB 648](#), Part I) creates procedures governing contingency fee contracts between the State and private attorneys. Before granting a State agency permission to retain private counsel using a contingency fee contract, this Part requires the Attorney General to issue a written determination that the representation is both cost-effective and in the public interest. This Part also exempts requests for proposals for contingent fee representation from State purchasing and contracting requirements and all proposals received would be deemed not to be public records until the conclusion of the proceeding.

This Part caps State agency contingency fee contracts, exclusive of reasonable costs and expenses, at:

- 25% of any damages up to \$10 million.
- 20% of any damages between \$10 million and \$15 million.
- 15% of any damages between \$15 million and \$20 million.
- 10% of any damages between \$20 million and \$25 million.
- 5% of any damages exceeding \$25 million.

Part I of the act requires the Attorney General to report to the President Pro Tempore of the Senate and Speaker of the House of Representatives describing the use of contingency fee contracts with private attorneys in years when such contracts have been issued. Certain records must also be maintained and made available to the State Auditor for oversight purposes upon request.

This Part became effective August 6, 2014, and applies to any contract to retain private counsel authorized by the Attorney General entered into on or after that date. (PL)

JMAC Modifications

S.L. 2014-118 ([SB 3](#)) expands eligibility for a Job Maintenance and Capital Development Fund (JMAC) grant for large manufacturing employers by:

- Allowing eligibility for a large manufacturing employer if it is investing in its manufacturing process by enhancing pollution controls or transitioning from use of coal to natural gas for efficiency or emissions purposes.
- Lowering the investment threshold from \$65 million to \$50 million.
- Increasing the time for the investment from three to five years.
- Allowing the large manufacturing employer to be in an area that is tier two, instead of a tier one, if the area has a population of less than 60,000 as of July 1, 2013, and the employer employs at least 800 full time employees at the project, and maintains that level of employment throughout the term of the grant.

The act also increases the total aggregate cost limitation of all agreements for grants from the Fund from \$69 million to \$79 million.

This act became effective July 1, 2014. (DE)

Human Trafficking Commission/Study Erin's Law

S.L. 2014-119, Sec. 4 ([HB 369](#), Sec. 4) directs the Human Trafficking Commission to study the prevention of sexual abuse of children and to report its findings and recommendations to the 2015 General Assembly.

This section became effective September 18, 2014. (SLS)

For summaries of additional provisions of S.L. 2014-119 ([HB 369](#)), see **Courts, Justice, and Corrections** and **Criminal Law and Procedure**.

North Carolina and South Carolina Rail Compact

S.L. 2014-121 ([HB 1086](#)) establishes the South Carolina and North Carolina Interstate Freight Rail Compact Commission to study and plan rail service in southeast North Carolina and northeast South Carolina.

This act became effective September 20, 2014. (GSP)

Coal Ash Management Act of 2014

S.L. 2014-122 ([SB 729](#)). See **Environment and Natural Resources and Energy**.

Elections

Omnibus Election Clarifications

S.L. 2014-111 ([SB 403](#)) makes various technical and clarifying changes to the elections law. The act:

- Clarifies that an individual may not file as a candidate in a party primary unless the individual has been affiliated with that party for at least 90 days as of the time of filing the notice, effective January 1, 2015.
- Requires that the same random selection process for order of candidates on official ballots be used for all partisan primaries and nonpartisan primaries and general elections in a calendar year.
- Corrects an apparent contradiction in the statute by clarifying that this exception applies only to tribal enrollment cards issued by a federal tribe. This statute further states that the other forms of identifications cited in the exception, United States military identification cards and Veterans Identification Cards issued by the Department of Veterans Affairs, are not required to have a printed issuance or expiration date.
- Clarifies that failure of a witness to list a zip code when indicating his or her address does not invalidate the absentee application and certificate.
- Requires candidates and nominees to file the required Statements of Economic Interest with the State Ethics Commission, rather than the appropriate board of elections, effective January 1, 2015.
- Authorizes the State Board of Elections to perform list maintenance with the same authority as a county board.
- Permits a registered voter who moves to another county between a first and second primary and has registered and is qualified to vote in the new county at the time of the second primary to vote a provisional ballot in the second primary in the new precinct, and for the ballot to be counted in any race in which the individual was qualified to vote in the first primary.
- Expands the requirement for electronic filing of campaign finance reports to include all other political committees, if the contributions, expenditures, or loans show a cumulative total for the election cycle in excess of \$10,000, beginning January 1, 2017.
- Requires special elections to be held at the same time as: (i) State or county primaries or general elections; (ii) any other election requiring all precincts in the county to be open; or (iii) a municipal general election, if the special election is within the jurisdiction of the municipality only, effective January 1, 2015.

Except as otherwise provided, this act became effective August 6, 2014. (EC)

Information Technology

Information Technology Operations

S.L. 2014-100, Sec. 7.4 ([SB 744](#), Sec. 7.4) requires new information technology equipment purchased by State agencies either to (i) replace equipment currently housed in State agency data centers or (ii) provide new data center capabilities for State agencies must be installed in Office of Information Technology Services (ITS) data centers, unless a written exception is granted by the State Chief Information Officer (CIO). Further, before any purchase of new information technology equipment, State agencies must coordinate with the State CIO and ITS to ensure that ITS has the capability to support a planned acquisition before the purchase of any new equipment.

The section also directs the State CIO to update the plan for restructuring the State's information technology operations to maximize effectiveness and efficiency and make a report on the updated plan to the Joint Legislative Oversight Committee on Information Technology by December 1, 2014, along with any recommended legislative proposals to the 2015 General Assembly.

This section became effective July 1, 2014. (PBP)

Government Data Analytics Center/Business Intelligence

S.L. 2014-100, Sec. 7.6 ([SB 744](#), Sec. 7.6) amends the statute that outlines the Government Data Analytics Center and State data sharing requirements, to include a comprehensive definition of the term "business intelligence," which specifically includes broad master data management and self-serve query and reporting capabilities.

This section became effective July 1, 2014. (PBP)

Information Technology Contracts

S.L. 2014-100, Sec. 7.7 ([SB 744](#), Sec. 7.7) directs the State Chief Information Officer jointly with the Office of State Human Resources, North Carolina State University, and the University of North Carolina at Chapel Hill, to submit a plan for a career path for information technology contracting professionals to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division of the General Assembly by December 1, 2014.

This section became effective July 1, 2014. (GR)

Use of Mobile Communications Devices

S.L. 2014-100, Sec. 7.12 ([SB 744](#), Sec. 7.12) expands the oversight authority of the State Chief Information Officer to include all mobile electronic communications devices for State agencies. This section also consolidates the reporting requirements for State agencies from legislative committees to the State Chief Information Officer for the total number and cost of mobile electronic communications devices, the total number and cost of newly-issued devices, and the contracts used to obtain the devices.

This section became effective July 1, 2014. (GR)

State Portal

S.L. 2014-100, Sec. 7.13 ([SB 744](#), Sec. 7.13) clarifies the authority of the State Chief Information Officer to develop a plan to implement an electronic portal for public interaction with

State agencies. The plan must include costs to State agencies for the portal and costs to the public for access.

This section became effective July 1, 2014. (GR)

Department of Transportation Information Technology Modernization

S.L. 2014-100, Sec. 7.14 ([SB 744](#), Sec. 7.14) allocates funds to the Department of Transportation (DOT) and Division of Motor Vehicles for information technology modernization projects; specifies procedures for how the projects are to be completed; and directs DOT to report on the progress of the projects quarterly, beginning October 1, 2014, to the Joint Legislative Oversight Committee on Information Technology and the Joint Legislative Transportation Oversight Committee.

This section became effective July 1, 2014. (GSP)

Geographic Information System Data/ Consolidation/ Feasibility of Selling Data

S.L. 2014-100, Sec. 7.16 ([SB 744](#), Sec. 7.16) directs the State Chief Information Officer (CIO) to document by December 1, 2014, the State's current Geographic Information System (GIS) capabilities across State agencies. This includes, but is not limited to, GIS capabilities in the Office of the State CIO, and the Departments of Public Safety, Transportation, and Agriculture and Consumer Services. The State CIO is directed to conduct the effort in consultation with the Center for Geographic Information and Analysis and submit the written analysis to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division (FRD) of the General Assembly. In addition, the State CIO must develop recommendations for consolidating GIS functions within State government, and report to the Joint Legislative Oversight Committee on Information Technology and FRD by December 1, 2014.

The section also directs the State CIO to determine whether there are potential markets for the sale of State GIS data and report by December 1, 2014, to the Joint Legislative Oversight Committee on Information Technology and to the FRD on any plan developed for the sale of GIS data, or if the State CIO finds that the sale of GIS data is not feasible, the basis of that determination.

This section became effective July 1, 2014. (PBP)

Information Technology Services/Employees Exempted from Certain Provisions of State Human Resources Act

S.L. 2014-100, Sec. 7.17 ([SB 744](#), Sec. 7.17) amends State law on employee coverage and exemptions under the State Human Resources Act, by adding a new exemption category for employees in the Office of the State Chief Information Officer and Information Technology Services, or in any other agency or institution with similar job classifications.

The new exemption category allows an employee to voluntarily relinquish annual longevity payments, relinquish any claim to longevity pay, and voluntarily relinquish any claim to career status or eligibility for career status as approved by the State Chief Information Officer and the Director of the Office of State Human Resources. Thus, upon such a voluntary waiver, the employee is exempt from: (i) classification and compensation rules established by the State Human Resources Commission; (ii) State law regarding hours and days of work, vacation, and sick leave; (iii) State law pertaining to promotion and transfer; (iv) State law concerning prohibition of the establishment of incentive programs; and (v) specified State law on salaries, promotions, and leave.

This section became effective August 7, 2014. (PBP)

Development of Plan to Implement Single Information Technology System for Medicaid Claim Adjudication by Local Management Entities/Managed Care Organizations

S.L. 2014-100, Sec. 12A.4 ([SB 744](#), Sec. 12A.4). See **Health and Human Services**.

Common Follow-Up Costs Shared by State Agencies and Labor and Economic Analysis Division Develop Plan to Transfer Common Follow-Up Data and Capabilities to Government Data Analysis Center

S.L. 2014-100, Sec. 15.6 ([SB 744](#), Sec. 15.6) directs the following agencies to share the nonrecurring \$500,000 costs to fund the Common Follow-Up System according to a method to be developed by the Commission on Workforce Development:

- Division of Adult Correction of the Department of Public Safety.
- Department of Public Instruction.
- Division of Workforce Solutions of the Department of Commerce.
- Division of Services for the Blind, Division of Social Services, and the Division of Vocational Rehabilitation Services of the Department of Health and Human Services.
- North Carolina Community College System.
- The University of North Carolina.

These agencies must transfer their share of the funds for the Common Follow-Up System to the Department of Commerce, Labor and Economic Analysis Division (LEAD) no later than December 31, 2014 and LEAD will develop a plan to transfer the information in and required capabilities to the Government Data Analytics Center. LEAD must submit the plan to the Office of the State Chief Information Officer, the Joint Legislative Oversight Committee on Information Technology, and the Fiscal Research Division of the General Assembly by February 1, 2015.

This section became effective July 1, 2014. (BR)

Merge Access NC and Demand Driven Data Delivery Systems/NC Broadband Reporting Requirement

S.L. 2014-100, Sec. 15.7 ([SB 744](#), Sec. 15.7) directs the Department of Commerce (DOC) to merge Access NC and Demand Driven Data Delivery to eliminate the duplication of effort in maintaining multiple economic and labor market data systems and report on the progress of the merger, including whether there are improved efficiencies and costs savings, to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division by February 1, 2015, and more frequently as requested.

The section also directs the Office of the State Chief Information Officer to report on NC Connect activities, including providing an update on how NC Broadband in DOC has been incorporated into NC Connect, to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division by February 1, 2015, and more frequently as requested.

This section became effective July 1, 2014. (PL)

North Carolina Farm Act of 2014

Exempt State Fair Admission Fees from Rule Making

S.L. 2014-103, Sec. 17 ([HB 366](#), Sec. 17) and S.L. 2014-180, Sec. 13.2 ([SB 744](#), Sec. 13.2) exempt the Board of Agriculture from rule making requirements with respect to annual admission fees for the State Fair. However, the Board must post the fee schedule on its Web site and provide notice to individuals on the mailing list for notice of agency rule making.

This section became effective August 6, 2014. (CS)

Regulatory Reform Act of 2014

Eliminate Various Inactive or Obsolete Boards and Commissions

S.L. 2014-120, Sec. 1 ([SB 734](#), Sec. 1) eliminates the following inactive or obsolete State government organizations:

- Small Business Contractor Authority
- Committee on Dropout Prevention of the Department of Public Instruction
- 1993 State Education Commission
- 1947 State Education Commission
- National Heritage Area Designation Commission
- Governor's Management Council
- North Carolina Center for Nursing Board of Directors
- Board of Correction

This section became effective September 18, 2014. (KCB)

Clarify Process for Readoption of Existing Rules

S.L. 2014-120, Sec. 2 ([SB 734](#), Sec. 2) clarifies the process for readoption of existing rules in accordance with the periodic review and expiration of existing rules provision of the Administrative Procedure Act. The Rules Review Commission (RRC) established the schedule for agencies to review their existing rules as directed by the Regulatory Reform Act of 2013, and the agencies have proceeded accordingly. The original statute did not set a deadline for agencies to readopt rules once the review process was completed. This provision directs RRC to set the date by which each agency must readopt its rules, after consulting with the agency. The agency may amend rules as part of the readoption process, but if the rule is readopted without change, the agency is not required to prepare a fiscal note.

This section became effective September 18, 2014. (KCB)

Office of Administrative Hearings Electronic Filing

S.L. 2014-120, Sec. 5 ([SB 734](#), Sec. 5) authorizes the Office of Administrative Hearings to allow documents to be filed and served electronically.

This section became effective September 18, 2014, and applies to contested cases filed on or after that date. (KCB)

Streamline Rule-Making Process

S.L. 2014-120, Sec. 6 ([SB 734](#), Sec. 6) streamlines the rule-making process by eliminating the requirement that an agency obtain a certification of adherence to rulemaking principles prior to submitting the proposed text of a rule for publication. This section amends the fiscal note section of the Administrative Procedure Act to provide that before an agency publishes, rather than adopts, the proposed text of a permanent rule change in the North Carolina Register that would (i) require the expenditure or distribution of State funds, (ii) affect expenditures or revenues of a unit of local government or, (iii) have a substantial economic impact and is not identical to a federal regulation, that the agency must conduct a regulatory impact analysis.

This section became effective September 18, 2014, and applies to proposed rules published on or after that date. (KCB)

Representation of Small Business Entities in Administrative Appeals

S.L. 2014-120, Sec. 7 ([SB 734](#), Sec. 7) amends the Administrative Procedure Act to allow a business entity to represent itself using a non-attorney representative in a contested case before the Office of Administrative Hearings (OAH). The business entity may designate certain persons set by the statute to represent it and must provide written prior authorization on a form provided by OAH. The section also amends the tax law to allow a business entity to represent itself using a non-attorney representative in a case before the Property Tax Commission (Commission). The business entity may designate certain persons set by the statute to represent it and must provide written prior authorization on a form provided by the Commission.

This section became effective September 18, 2014, and applies to contested cases and appeals commenced on or after that date. (KCB)

Permit Choice

S.L. 2014-120, Sec. 16 ([SB 734](#), Sec. 16) provides that if a permit applicant submits a permit for any type of development, and a rule or ordinance changes between the time the application was submitted and the time the decision on the application is made, the applicant may choose which version of the rule or ordinance will apply to the permit. This provision applies to all development permits issued by the State and by local governments, except zoning permits.

This section became effective September 18, 2014, and applies to permits for which a permit decision has not been made by that date. (EC)

Reform Agency Review of Engineering Work

S.L. 2014-120, Sec. 29 ([SB 734](#), Sec. 29) reforms the process by which regulatory authorities review submittals of applications for permits, licenses, and approvals by:

- Requiring regulatory authorities to standardize certain regulatory review procedures.
- Directing the creation of an informal review process.
- Creating a pilot study of two Department of Environment and Natural Resources permitting programs to inventory the work activities associated with those programs and identify those activities that constitute the practice of engineering.
- Reviewing working job titles of employees with job duties that include review of regulatory submittals.

This section became effective September 18, 2014. (EC)

Repeal Waste Management Board Rules

S.L. 2014-120, Sec. 41 ([SB 734](#), Sec. 41) directs the Secretary of Environment and Natural Resources to repeal the rules adopted by the Governor's Waste Board (Board) on or before December 1, 2014, and prohibit any political subdivision of the State from implementing or enforcing the rules.

The Board was authorized to preempt local ordinances that would have the effect of prohibiting the siting or operation of a low-level radioactive waste facility. The 1993 legislation repealing the Board transferred most of the Board's duties and responsibilities to the Secretary of Environment and Natural Resources.

This section became effective September 18, 2014. (EC)

Capstone Permitting

S.L. 2014-120, Sec. 48 ([SB 734](#), Sec. 48) amends the Administrative Procedure Act to create a new process for contested cases in which multiple licenses are required from an agency for a single activity. The Secretary or chief administrative officer of the agency is authorized to issue a written determination that the agency decision is only reviewable on the date the last license for the activity is issued, denied, or otherwise disposed of. The written determination is not subject to a contested case.

This section became effective September 18, 2014. (EC)

Hardison Amendment Clarification

S.L. 2014-120, Sec. 57 ([SB 734](#), Sec. 57) delays the effective date of all rules adopted by certain agencies that impose standards for the protection of the environment or natural resources if the rules are more restrictive than standards imposed by federal law or rule until the next legislative session at which time a legislator could introduce a bill to disapprove the rule.

This section became effective September 18, 2014. (EC)

Recourse When Agency Fails to Act

S.L. 2014-120, Sec. 59 ([SB 734](#), Sec. 59) clarifies that a person who is aggrieved by an agency's failure to act may commence a contested case, and if the Administrative Law Judge (ALJ) finds that the agency has failed to act as required by law, the ALJ may order the agency to act within a specified time. The section also clarifies that the right to judicial intervention applies when a final decision has been unreasonably delayed, either by an ALJ or by an agency.

This section became effective September 18, 2014. (EC)

Technical and Other Corrections

Concealed Handgun Permit Forms

S.L. 2014-115, Sec. 24 ([HB 1133](#), Sec. 24) moves the responsibility for developing and providing forms for concealed handgun permits from the Administrative Office of the Courts to the State Bureau of Investigation.

This section became effective August 11, 2014. (SLS)

Columbarium Authorization Extension

S.L. 2014-115, Sec. 39.3 ([HB 1133](#), Sec. 39.3) allows columbariums authorized by legislation enacted in 2013, and that sunsets January 23, 2015, to continue operating, and operate without regulation, provided they were built in compliance with the 2013 legislation and continue to exist on the grounds of a private, self-contained retirement community reserved exclusively for the residents of that community.

This section becomes effective January 23, 2015. (GSP)

North Carolina Center for Advancement of Teaching Umstead Act Exemption

S.L. 2014-115, Sec. 39.4 ([HB 1133](#), Sec. 39.4) creates an exception to the Umstead Act prohibition on sales of goods or services by governmental units for the North Carolina Center for Advancement of Teaching (NCCAT) to permit NCCAT to make agreements for the use of facilities, equipment, services, and staff for meetings and educational programs provided by State agencies, the constituent institutions of The University of North Carolina and the North Carolina Community College System, public schools, units of local government, and nonprofit corporations, and to provide housing and meals to participants in those meetings and programs.

This section became effective August 11, 2014. (KM)

Exclude Motor Vehicle Accident/Accidental Loss From Report to State Bureau of Investigation

S.L. 2014-115, Sec. 45 ([HB 1133](#), Sec. 45) amends the law requiring heads of State departments, agencies, and institutions to report possible criminal violations involving State property to the State Bureau of Investigation, to exclude reporting of damage or loss from motor vehicle accidents, or unintentional loss of property by an employee.

This section became effective June 30, 2014. (SLS)

Amend Forensic Sciences Advisory Board

S.L. 2014-115, Sec. 46 ([HB 1133](#), Sec. 46) makes changes to the membership qualifications of the Forensic Sciences Advisory Board (Board) and directs the Board to meet bi-annually instead of quarterly.

This section became effective August 11, 2014. (SLS)

Repeal Housing and Coordination Policy Council

S.L. 2014-115, Sec. 55 ([HB 1133](#), Sec. 55) repeals the Housing and Coordination Policy Council. The Housing and Coordination Policy Council was charged with advising the Governor on low- and moderate-income housing programs and the best use of housing resources in the State.

This section becomes effective January 1, 2015. (BK)

State Human Resources Act Changes

S.L. 2014-115, Sec. 55.3 ([HB 1133](#), Sec. 55.3) makes the following changes to the North Carolina State Human Resources Act:

- Specifies when an exempt employee has priority to a position that comes available or may be paid at the same grade and salary as the employee's most recent subject position.
- Provides that the grievance procedure is established by the State Human Resources Commission as it relates to remedies for objecting to material in an employee's file.
- Moves the authority of the State Human Resources Commission to the Office of the State Human Resources Director with regard to retroactive membership.
- Extends an expiration date and amends reporting dates for the Reorganization Through Reduction Program.

This section became effective August 11, 2014. (TM)

Guaranteed Energy Savings Contracts

S.L. 2014-115, Sec. 56.7 ([HB 1133](#), Sec. 56.7) amends State law governing guaranteed energy savings contracts to (i) permit contracts where the energy conservation measure is for a utility consuming device or equipment and the utility cost is paid by the governmental unit, and (ii) revise the definition of the "total cost" of an energy savings contract to exclude utility company, State, or federal incentives, grants, or rebates.

This section became effective August 11, 2014. (PL)

North Carolina Capital Planning Commission Powers

S.L. 2014-115, Sec. 56.7A ([HB 1133](#), Sec. 56.7A) amends the powers and duties of the North Carolina Capital Planning Commission.

This section became effective August 11, 2014. (GSP)

State Chief Information Officer Correction

S.L. 2014-115, Sec. 56.8 ([HB 1133](#), Sec. 56.8) replaces "State Controller" with "State Chief Information Officer" in statutory provisions related to the Government Data Analytics Center and State data-sharing requirements.

This section became effective August 11, 2014. (GSP)

Turnpike Authority Collections by Attorney General

S.L. 2014-115, Sec. 58 ([HB 1133](#), Sec. 58) authorizes the Turnpike Authority (Authority) to turn over unpaid billings to the Attorney General for collection. The Authority is currently required to do so, and this section will give the Authority flexibility.

This section became effective August 11, 2014. (GSP)

Chapter 21

Transportation

Brenda J. Carter (BJC), Luke Gillenwater (LG), Giles Perry (GSP),
Wendy Graf Ray (WGR), Kelly Quick Tornow (KQT)

Enacted Legislation

Allow Use of Department of Transportation Stormwater Best Management Practices

S.L. 2014-1 ([SB 294](#)). See **Environment and Natural Resources and Energy**.

Omnibus Tax Law Changes: License Plate Agent Compensation

S.L. 2014-3, Part XIII ([HB 1050](#), Part XIII). See **Finance**.

Energy Modernization Act: Department of Transportation Study Energy-Related Traffic

S.L. 2014-4, Sec. 23 ([SB 786](#), Sec. 23) directs the Department of Transportation to study the effects of energy-related traffic generated by hydraulic fracturing operations, and report to the Joint Legislative Energy Policy Commission and the Joint Legislative Transportation Oversight Committee on or before January 1, 2015.

This section became effective June 4, 2014. (GSP)

Department of Transportation/Division of Motor Vehicles Changes

S.L. 2014-58 ([HB 1025](#)), as amended by 2014-115, Sec. 56.6A, ([HB 1133](#), Sec. 56.6A), makes the following changes to the law governing the Department of Transportation (DOT) and the Division of Motor Vehicles (DMV):

- Authorizes DMV to grant a continuance for a motor vehicle safety and emissions inspection station related license violation hearing, effective October 1, 2014.
- Applies DOT tourist and logo sign rules to the placement of agritourism signs, allowing placement up to five miles from agritourism sites.
- Changes the due date for the North Carolina Turnpike Authority Annual Audit Report.
- Repeals a requirement that DOT annually report to the Joint Legislative Transportation Oversight Committee on right turn on red light crashes.
- Changes the material technical standards for State drivers licenses.
- Amends the Strategic Transportation Investments Act of 2013 to provide that two types of funds obligated in support of emergency repair work are subject to alternate prioritization criteria under that Act.
- Reenacts a 2009 law that authorized DOT to participate, in limited circumstances, in private developer contracts for State highway system engineering, design, or construction of improvements. The authorization provided by this section expires December 31, 2016.

- Amends the Strategic Transportation Investment Act of 2013 to exclude Federal Lands Access Program funds from the Act's Transportation Investment Strategy Formula.
 - Rewrites State law authorizing DOT to oversee the safety of fixed guideway public transit systems to comply with revised federal law.
 - Authorizes DOT to install and operate ramp meters, and provides that a violation of the ramp meter is an infraction. This change becomes effective December 1, 2014, and applies to offenses committed on or after that date.
 - Amends DOT authority to generate receipts from specified commercial activities on State ferries to specify that DOT's authority includes sponsorships and advertising in ferry facilities; and clarifies that DOT is exempt from the Umstead Act for its authorized receipt-generating activities.
 - Amends ethics provisions applicable to voting members of metropolitan planning organizations (MPOs) and rural transportation planning organizations (RPOs) to specify the penalty for failure to file the required statements of economic interest and disclosure of real estate. This section provides that the penalty for failure to file within 30 days of receipt of notice is \$250, and failure within 60 days is a Class 1 misdemeanor. This section also directs the State Ethics Commission to forward any written allegations of violations of the ethics provisions applicable to MPOs and RPOs to the Director of the State Bureau of Investigation for investigation and referral to the District Attorney for possible prosecution. This change became effective October 1, 2014, and applies to obligations to file additional disclosures arising on or after that date.
 - Authorizes DOT to contract for sponsorship arrangements for DOT operations, and use any funds generated or savings realized for maintenance activities.
- Except as otherwise provided, this act became effective July 7, 2014. (GSP)

Special License Plate Development Process

S.L. 2014-96, Secs. 1 through 6 ([HB 101](#), Secs. 1 through 6) reenact until October 1, 2014, the 116 special registration plates that expired on July 1, 2013; authorize 4 existing or reauthorized plates to be on a full-color background, if the organization obtains the minimum number of required paid applications before their authorization expires and, effective October 1, 2014, create a new process for establishing or reenacting special registration plates that requires an organization to obtain the minimum number of paid applications and submit the total payment to the Division of Motor Vehicles prior to seeking legislation authorizing the plate.

Except as otherwise provided, these sections became effective August 1, 2014. (GSP)

Unmanned Aircraft: Government Use/Regulation of Unmanned Aircraft Systems

S.L. 2014-100, Secs. 7.11 and 34.30 ([SB 744](#), Sec. 7.11 and 34.30). See **Criminal Law and Procedure**.

Department of Transportation Information Technology Modernization

S.L. 2014-100, Sec. 7.14 ([SB 744](#), Sec. 7.14). See **State Government**.

North Carolina Education Endowment Fund

S.L. 2014-100, Sec. 8.11 ([SB 744](#), Sec. 8.11). See **Education**.

Driver Education Funding

S.L. 2014-100, Sec. 8.15 ([SB 744](#), Sec. 8.15). See **Education**.

Oregon Inlet

S.L. 2014-100, Sec. 14.7 ([SB 744](#), Sec. 14.7). See **State Government**.

State Aid to Municipalities Funds Baseline

S.L. 2014-100, Sec. 34.1 ([SB 744](#), Sec. 34.1) provides that the Powell Bill appropriation from the Highway Fund must be based on revenue collected during the preceding fiscal year.

This section became effective July 1, 2014. (GSP)

Clarify Department of Transportation Private Developer Reporting

S.L. 2014-100, Sec. 34.2 ([SB 744](#), Sec. 34.2) clarifies a requirement that the Department of Transportation (DOT) report on its participation in private engineering and construction contracts for State transportation systems. The Secretary of Transportation (Secretary) is required to report quarterly to the Joint Legislative Commission on Governmental Operations on all agreements entered into by DOT with private developers. This section clarifies that the Secretary must also report on agreements by counties and municipalities to participate in private engineering and construction contracts and pass-through funding from private developers to counties or municipalities for State transportation projects.

This section became effective July 1, 2014. (WGR)

Conversion of Paper Titles

S.L. 2014-100, Sec. 34.7 ([SB 744](#), Sec. 34.7) authorizes the voluntary conversion of paper titles to electronic titles by the Division of Motor Vehicles (DMV). In conjunction with the recently authorized electronic lien system, this section allows DMV to convert paper titles to electronic liens, at the request of the primary lienholder, for a fee not to exceed \$3 for each conversion.

This section becomes effective January 1, 2015. (WGR)

Remote Drivers License Renewal

S.L. 2014-100, Sec. 34.8 ([SB 744](#), Sec. 34.8) authorizes the Division of Motor Vehicles (DMV) to offer remote renewal of drivers licenses by mail, telephone, electronic device, or other secure means. This section requires DMV to adopt rules prior to implementing remote renewal.

This section became effective July 1, 2014, and applies to drivers licenses renewed on or after DMV adopts rules. (GSP)

Division of Motor Vehicles Hearing Fees

S.L. 2014-100, Sec. 34.9 ([SB 744](#), Sec. 34.9) directs the Division of Motor Vehicles (DMV) to develop a proposed fee schedule for performance of administrative hearings, and report its proposal to the Joint Legislative Transportation Oversight Committee by December 1, 2014. This section directs DMV to implement the hearing fees schedule by January 1, 2016.

This section became effective July 1, 2014. (GSP)

Department of Transportation Aircraft Fleet

S.L. 2014-100, Sec. 34.10 ([SB 744](#), Sec. 34.10) directs the Division of Aviation (Division) of the Department of Transportation to sell two aircraft from its fleet. The Division must also develop a plan to further reduce operating requirements and optimize its fleet to fulfill its regional passenger and photogrammetry missions and report on the plan to the Joint Legislative Transportation Oversight Committee no later than October 1, 2014. This section also directs the Division not to acquire or dispose of additional aviation assets prior to making the required report.

This section became effective July 1, 2014. (WGR)

Highway Maintenance Improvement Program and Pavement Preservation Program

S.L. 2014-100, Sec. 34.11 ([SB 744](#), Sec. 34.11) requires the Department of Transportation (DOT) to do all of the following:

- Establish the Highway Maintenance Improvement Program, which creates a three-year schedule for rehabilitation, resurfacing, and pavement preservation treatment activities.
 - Report on the funds needed, number of affected lane miles, and percentage of roads rated to need a resurfacing or pavement preservation treatment within the three-year schedule, but not programmed due to funding constraints (Highway Maintenance Improvement Program Needs Assessment).
- Establish the Pavement Preservation Program to (i) fund certain pavement preservation activities and treatments and (ii) delineate activities or treatments that are eligible or ineligible for funding under the Program.
 - Establish a new account within DOT's maintenance account to receive funds allocated for pavement preservation.
- Beginning in the 2014-2015 fiscal year, annually increase the percentage of contracts DOT lets for the Contract Maintenance Resurfacing Program.
- Beginning in the 2014-2015 fiscal year, increase the percentage of pavement preservation activity project funding outsourced to private contractors.
- Include additional information and analysis in the biennial report on the condition of the State highway system and maintenance funding needs.
- Conduct workshops, trainings, or other meetings to encourage greater privatization of pavement preservation activities with the intent of reducing the amount of pavement preservation activities conducted by DOT. (Expires June 30, 2017.)
- Treat a minimum of 4,300 lane miles with eligible pavement preservation treatments and activities delineated by statute.
- Make the following reports:
 - To the General Assembly, on the Highway Maintenance Improvement Program and Highway Maintenance Improvement Program Needs Assessment by April 1 of each year.

- To the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division on DOT's plan for increasing the use of outsourcing of pavement preservation activities to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division by September 1, 2014.
- To the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division on DOT's progress towards increasing the percentage of outsourcing pavement preservation activities as directed by this section by December 1, 2014, and annually thereafter. (Expires December 31, 2018.)

This section became effective July 1, 2014. (LG)

Outsourcing of Preconstruction Activity

S.L. 2014-100, Sec. 34.13 ([SB 744](#), Sec. 34.13) directs the Department of Transportation to increase the use of contracts to privatize preconstruction work, to increase contracts for construction of transportation projects on a design-build basis, and to report on or before October 1, 2014, and quarterly thereafter, to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division of the General Assembly concerning implementation of this section.

This section became effective July 1, 2014. (GSP)

Department of Transportation Signage

S.L. 2014-100, Sec. 34.14 ([SB 744](#), Sec. 34.14) requires the Board of Transportation (Board) to establish logo sign fees that cover the initial costs of signs, sign installation and maintenance, and the costs of administering the logo sign program. This section also shifts the rulemaking authority for the Tourist Oriented Directional Signing Program from the Department of Transportation to the Board.

This section became effective July 1, 2014. (GSP)

State Parks and Trails Signage

S.L. 2014-100, Sec. 34.15 ([SB 744](#), Sec. 34.15) directs the Department of Transportation (DOT), in conjunction with the State Parks and Recreation Division of the Department of Environment and Natural Resources, the Department of Commerce, and Friends of the Mountains-to-Sea Trail, Inc., a nonprofit corporation, to study the use of highway signage as a means of improving North Carolina resident and tourist awareness of State parks, including historic and cultural sites as well as the Mountains-to-Sea Trail. DOT must report the results of the study to the chairs of the Joint Legislative Transportation Oversight Committee and to the Fiscal Research Division of the General Assembly no later than April 1, 2015.

This section became effective July 1, 2014. (WGR)

Department of Transportation Staffing

S.L. 2014-100, Sec. 34.16 ([SB 744](#), Sec. 34.16) directs the Department of Transportation (DOT) to review the organization and staffing of the Division of Highways and the Division of Preconstruction and identify areas of unnecessary duplication within management structures and variations in the number of employees reporting to persons identified as supervisors. Based on its review, DOT must create and implement a plan for staffing changes and staffing efficiencies. DOT must report its progress to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division of the General Assembly no later than December 1, 2014.

This section became effective July 1, 2014. (WGR)

Board of Transportation Study Fees, Sponsorship, and Privatization

S.L. 2014-100, Sec. 34.17 ([SB 744](#), Sec. 34.17) directs the Board of Transportation to study how fees, sponsorship, or privatization can be used to reduce the expenditure of public funds for services provided by the Department of Transportation and report to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division of the General Assembly by December 1, 2014.

This section became effective July 1, 2014. (GSP)

Rename and Redirect Tax Proceeds of System

S.L. 2014-100, Sec. 34.18 ([SB 744](#), Sec. 34.18) directs the Department of Transportation to rename the "system preservation program" as the "bridge program." A portion of the proceeds from the fuel inspection tax is allocated to the program and the funds will be used for improvements to structurally deficient and functionally obsolete bridges. All projects funded under this program must be outsourced to private contractors, with some exceptions.

This section became effective July 1, 2014. (BJC)

Highway Fund Credit Reserve

S.L. 2014-100, Sec. 34.19 ([SB 744](#), Sec. 34.19) defines the credit reserve for the Highway Fund. The reserve is used for access and public roads or for other urgent road construction or road maintenance needs. This section also provides for the transfer of \$12 million of certain unallotted and unexpended balances to the Highway Fund, as appropriated and allocated by the 2014 Appropriations Act.

This section became effective July 1, 2014. (BJC)

Department of Transportation Cash Management

S.L. 2014-100, Sec. 34.23 ([SB 744](#), Sec. 34.23) requires the Department of Transportation (DOT) to maintain an available cash balance at the end of each month equal to at least 7.5% of the total appropriations for the current fiscal year from the Highway Fund and the Highway Trust Fund. This section directs DOT to utilize cash flow financing to fund transportation projects, with the goal of reducing the combined average daily cash balance of the Highway Fund and the Highway Trust Fund to an amount equal to 15 to 20% of the total appropriations for the current fiscal year from those funds. Effective July 1, 2015, DOT must report its cash balance in any month in which its total cash balance on hand from the Highway Fund and the Highway Trust Fund exceeds \$1 billion. The Board of Transportation is directed to study DOT's cash management policies and identify ways to strengthen those policies in order to prevent excessive cash balances.

This section became effective July 1, 2014. (BJC)

Department of Transportation Legal Services

S.L. 2014-100, Sec. 34.24 ([SB 744](#), Sec. 34.24) authorizes the Department of Transportation (DOT) to employ private counsel to provide legal services related to transportation projects undertaken by DOT. DOT is directed to increase its utilization of external counsel to no less than 10% of new cases arising during the 2014-2015 fiscal year, and no less than 20% of new cases arising during the 2015-2016 fiscal year. The Secretary of Transportation, rather than the Attorney General, is authorized to employ outside counsel for the purpose of obtaining title

abstracts and title certificates for transportation system rights-of-way and for assistance in the trial of condemnation cases. This section specifies that legal positions assigned to DOT from the Department of Justice which become vacant during the 2014-2015 fiscal year will not be filled.

This section became effective July 1, 2014. (BJC)

Historic Bridge Preservation Program Clarification

S.L. 2014-100, Sec. 34.27 ([SB 744](#), Sec. 34.27) prohibits the Department of Transportation from transferring ownership of a State-owned concrete arch bridge to any public, private, or nonprofit entity as part of any bridge relocation or reuse program project unless the entity assumes all liability associated with the bridge and posts a bond to cover maintenance and certain costs associated with the transfer.

This section became effective July 1, 2014. (BJC)

"First in Freedom" Registration Plates

S.L. 2014-100, Sec. 34.28 ([SB 744](#), Sec. 34.28) provides for the issuance of a "First in Freedom" plate with a background that may include an image representative of the Mecklenburg Declaration of 1775 or the Halifax Resolves of 1776. The plate would be provided as an alternative to the "First in Flight" plate depicting the Wright Brothers biplane flying over Kitty Hawk Beach.

This section becomes effective July 1, 2015, and applies to registration plates issued on or after that date. (BJC)

Report on Use of Economic Development Program Funds

S.L. 2014-100, Sec. 34.29 ([SB 744](#), Sec. 34.29). See **State Government**.

Charter School Modifications

S.L. 2014-101 ([SB 793](#)). See **Education**.

Department of Transportation/Division of Motor Vehicles Changes #2

S.L. 2014-108, Secs. 1 through 8 ([HB 272](#), Secs. 1 through 8) make the following changes to the law governing the Department of Transportation (DOT) and the Division of Motor Vehicles (DMV):

- Amends the statute governing DMV hearings held as a result of an ignition interlock violation. This section specifies that in the case of a violation evidenced by an ignition interlock system report, the hearing may be conducted in the county where the person resides. This provision became effective October 1, 2014, and applies to hearings requested on or after that date.
- Effective January 1, 2015, requires DMV to issue a single annual validation sticker for a license plate.
- Authorizes DMV to issue permanent plates for any motor vehicle owned or operated by a sanitary district or owned by a federally recognized tribe.
- Effective October 1, 2014, clarifies that the requirements of State law concerning disclosure of dealer administrative fees do not apply to a dealer fee related to the online registration of a motor vehicle, when the dealer fee is separately stated on the buyer's order, purchase order, retail installment sales agreement, lease, or bill of

sale. This change also clarifies that the inclusion of dealer administrative fees in the highway use tax rate base, and does not include a dealer fee related to the online registration of a motor vehicle.

- Effective October 1, 2014, amends the Motor Vehicle Dealers and Manufacturers Licensing Law to authorize DMV to place a licensee under that law on probation.
- Allows DMV to provide the notice of suspension, probation, revocation, or nonrenewal of a motor vehicle dealer or manufacturer's license in any manner authorized by Rule 4 of the Rules of Civil Procedure. This change authorizes service directly upon the person, the person's agent, by certified mail, or through a delivery service. This provision became effective October 1, 2014, and applies to notices given on or after that date.
- Extends for one year, to August 31, 2015, DOT's disadvantaged minority-owned and women-owned business contract participation program.
- Requires units of local government that require or accept right-of-way dedications in exchange for transferred density credits to notify the applicant and the property owner when the local government begins review of or negotiations for a right-of-way dedication and associated density credit transfer. This provision became effective October 1, 2014, and applies to dedications occurring on or after that date.

Except as otherwise provided, this act became effective August 6, 2014. (WGR)

Registration for Mopeds

S.L. 2014-114 ([HB 1145](#)) requires mopeds to be registered with the Division of Motor Vehicles. The act also directs the Joint Legislative Transportation Oversight Committee to study mopeds, including whether insurance should be required for their operation on public roads, and report its findings and recommendations to the 2015 General Assembly upon its convening.

The moped registration requirements become effective July 1, 2015, and apply to offenses committed on or after that date. The study provision became effective August 6, 2014. (GSP)

North Carolina and South Carolina Rail Compact

S.L. 2014-121 ([HB 1086](#)). See **State Government**.

Coal Ash Management Act of 2014

S.L. 2014-122 ([SB 729](#)). See **Environment and Natural Resources and Energy**.

North Carolina Farm Act of 2014

Study State Participation in the Commercial Vehicle Safety Alliance North American Standard Inspection Program

S.L. 2014-103, Sec. 4 ([HB 366](#), Sec. 4) directs the Department of Public Safety (DPS) to study North Carolina's participation in the Commercial Vehicle Safety Alliance North American Standard Inspection Program. This program allows commercial vehicles that pass a roadside safety inspection to receive a decal indicating that another inspection is not needed for a certain period of time. DPS is required to report to the Agriculture and Forestry Awareness Study Commission by February 1, 2015.

This section became effective August 6, 2014. (WGR)

Clarify Definition of Planting and Harvesting Season for Regulating Transportation of Agricultural Products

S.L. 2014-103, Sec. 5 ([HB 366](#), Sec. 5) defines the "planting and harvesting season" and "planting and harvesting period" as January 1 through December 31 of each year, for purposes of the agricultural operations exemption to the federal motor carrier regulations on hours of service.

This section became effective August 6, 2014. (WGR)

Technical and Other Corrections

Commercial Drivers License/Unlawful Use of Mobile Phone is Serious Traffic Violation

S.L. 2014-115, Sec. 28.3 ([HB 1133](#), Sec. 28.3) amends the definition of "serious traffic violation" in the motor vehicle statutes to include unlawful use of a mobile phone while operating a commercial motor vehicle.

This section became effective August 11, 2014. (WGR)

Commercial Drivers License/Learners Permit/Medical Certification

S.L. 2014-115, Sec. 28.5 ([HB 1133](#), Sec. 28.5) requires a person to get a commercial learners permit prior to being issued a commercial drivers license or an upgrade that requires a skills test. The permit must be held for at least 14 days before a commercial drivers license may be issued. This section also requires the Division of Motor Vehicles to notify a driver who fails to meet federal medical certification requirements, give them 60 days to provide documentation, and then downgrade the driver's license if documentation is not provided.

This section became effective August 11, 2014. (WGR)

Delay Implementation of Electronic Lien System

S.L. 2014-115, Sec. 29 ([HB 1133](#), Sec. 29) delays the implementation date of the Division of Motor Vehicle's electronic lien system from July 1, 2014, to January 1, 2015, and delays mandatory participation in the system from July 1, 2015, to January 1, 2016.

This section became effective August 11, 2014. (WGR)

Public Entity/Construction of Bridge on State Right-of-Way

S.L. 2014-115, Sec. 56.2 ([HB 1133](#), Sec. 56.2) amends the Department of Transportation's (DOT) authority to permit use of the right-of-way on a State highway for construction and maintenance of pedestrian or vehicular bridges owned by a private entity. This section broadens its authority so DOT may permit use of the right-of-way for bridge construction by a public or private entity.

This section became effective August 11, 2014. (WGR)

Strategic Transportation Investments Formula Variance

S.L. 2014-115, Sec. 56.6 ([HB 1133](#), Sec. 56.6) amends the Strategic Transportation Investments Act of 2013 authorized formula variance for statewide, regional, and division project category fund obligations from 5% to 10% over any 5-year period.

This section became effective August 11, 2014. (GSP)

Turnpike Authority Collections by Attorney General

S.L. 2014-115, Sec. 58 ([HB 1133](#), Sec. 58). See **State Government**.

Habitual Driving While Impaired Restoration Petition after 10 Years

S.L. 2014-115, Sec. 61.5 ([HB 1133](#), Sec. 61.5) extends by 2 years, to December 1, 2016, the expiration date of legislation that allowed individuals convicted of habitual impaired driving to be eligible to petition for restoration of driving privileges after 10 years with no traffic or criminal convictions.

This section became effective August 11, 2014. (GSP)

Regulatory Reform Act of 2014

Speed Limit Waiver in State Parks and Forests

S.L. 2014-120, Sec. 31 ([SB 734](#), Sec. 31) authorizes the Department of Environment and Natural Resources and the Department of Agriculture and Consumer Services to issue a waiver authorizing a person to operate a vehicle in excess of 25 miles per hour on the State parks road system or the State forests road system, respectively, in connection with a special event. The Secretary of Environment and Natural Resources or the Commissioner of Agriculture may impose any conditions on the waiver necessary to protect public health and safety and the natural resources of the State park or State forest. Each waiver must also contain a requirement that the person obtaining the waiver execute an indemnification agreement with the relevant Department and obtain liability insurance in an amount not to exceed \$3 million covering damages that may result from driving above 25 miles per hour.

This section became effective September 18, 2014. (WGR)

Chapter 22

Utilities

Heather Fennell (HF) and Peter Ledford (PL)

Enacted Legislation

Cape Hatteras/Gas Cities/Infrastructure Land

S.L. 2014-39 ([SB 790](#)). See **Finance**.

Adjust the Utility Regulatory Fee

S.L. 2014-59 ([HB 1052](#)) amends the statute governing the regulatory fee paid by public utilities by dividing the revenues of public utilities into three categories:

- Non-competitive jurisdictional revenues.
- Subsection (h) competitive jurisdictional revenues.
- Subsection (m) competitive jurisdictional revenues.

Each category of revenue will be subject to its own regulatory fee, as established by the General Assembly. The act sets the regulatory fee for subsection (h) competitive jurisdictional revenues and (m) competitive jurisdictional revenues for the 2015 and 2016 fiscal years. The act directs the General Assembly to set the rate for the regulatory fee for non-competitive jurisdictional revenues to reflect the overall decrease in the total regulatory fee collected resulting from the lower fee for subsection (h) and subsection (m) competitive jurisdictional revenues. The General Assembly is directed to set the fee for non-competitive jurisdictional revenues at an amount that is at least sufficient to cover the operations of the Utilities Commission and the Public Staff.

This act becomes effective July 1, 2015. (HF)

911 Board/Back-up Public Safety Answering Points

S.L. 2014-66 ([SB 797](#)). See **State Government**.

Set Regulatory Fee for Utilities Commission

S.L. 2014-100, Sec. 15.2B ([SB 744](#), Sec. 15.2B) sets the regulatory fee paid by public utilities to pay for the costs of the Utilities Commission at 0.135% for the 2014 fiscal year.

This section became effective July 1, 2014. (HF)

Agricultural Gas Expansion Fund

S.L. 2014-100, Sec. 15.13 ([SB 744](#), Sec. 15.13). See **Agriculture and Wildlife**.

Coal Ash Management Act of 2014

S.L. 2014-122 ([SB 729](#)). See **Environment and Natural Resources and Energy**.

Regulatory Reform Act of 2014

Repeal Outdated Public Utilities Statutes or Reports

S.L. 2014-120, Sec. 10 ([SB 734](#), Sec. 10) repeals outdated public utilities statutes and reports.

The statutes repealed by this section directed local natural gas distribution companies to expand natural gas service to at least some portion of each county in their franchise territories by July 1, 1998 and directed the Utilities Commission to issue certificates of public convenience and necessity for natural gas service in all areas of the State not already within a franchise territory by January 1, 1997.

The reports repealed by this section are:

- A report from the Utilities Commission and the Public Staff to the Joint Legislative Commission on Governmental Operations (Gov Ops) on the operation of natural gas expansion funds.
- A report from the Utilities Commission and the Public Staff to Gov Ops on the use of funding provided by the General Assembly for natural gas expansion.
- A report from the Utilities Commission to Gov Ops on electricity fuel and fuel-related charge adjustment proceedings.
- A report from the Department of Environment and Natural Resources and the Utilities Commission to the Environmental Review Commission (ERC) and the Joint Legislative Utility Review Committee (Committee) on the implementation of the clean smokestacks law.
- A report from the Utilities Commission to the Governor, the ERC, and the Committee on cost recovery and customer charges related to the renewable energy portfolio standard.
- A report from the Utilities Commission and the Public Staff to the Committee on the alternative regulation of local telephone service.

This section became effective September 18, 2014. (PL)

INDEX

House Bills

HB 27	46, 137	HB 884	44
HB 101 , Secs. 1 through 6.....	160	HB 894	68, 85
HB 101 , Sec. 7.....	83	HB 1025	136, 159
HB 183	17	HB 1031	135, 148
HB 201 , Secs. 1 and 7.....	102	HB 1031 , Sec. 3.4.....	33, 135
HB 201 , Parts II, III, and V.....	62	HB 1033	110
HB 201 , Part IV.....	137	HB 1034	129
HB 230	31	HB 1043	136
HB 267	101	HB 1048	116
HB 272 , Secs. 1 through 8.....	112, 165	HB 1050	109
HB 272 , Sec. 9.....	83, 112	HB 1050 , Sec. 10.1(d).....	82
HB 330	123	HB 1050 , Part I.....	75
HB 346	109	HB 1050 , Part II.....	75
HB 366 , Sec. 1.....	3, 63	HB 1050 , Part III.....	1, 76
HB 366 , Sec. 2.....	3, 112	HB 1050 , Part IV.....	31, 46, 77
HB 366 , Sec. 3.....	118	HB 1050 , Part V.....	77
HB 366 , Sec. 4.....	3, 166	HB 1050 , Part VI.....	78
HB 366 , Sec. 5.....	4, 167	HB 1050 , Part VII.....	78
HB 366 , Sec. 6.....	4	HB 1050 , Part VIII.....	78
HB 366 , Sec. 7.....	4, 18	HB 1050 , Part IX.....	80
HB 366 , Sec. 8.....	4	HB 1050 , Part X.....	7, 80
HB 366 , Sec. 9.....	4	HB 1050 , Part XI.....	81
HB 366 , Sec. 10.....	4, 28	HB 1050 , Part XII.....	82
HB 366 , Sec. 11.....	28	HB 1050 , Part XIII.....	82, 159
HB 366 , Sec. 12.....	112	HB 1050 , Part XV.....	17, 80
HB 366 , Sec. 13.....	112	HB 1052	169
HB 366 , Sec. 14.....	102	HB 1060	33, 115
HB 366 , Sec. 15.....	5	HB 1086	150, 166
HB 366 , Sec. 16.....	1	HB 1103	9, 19
HB 366 , Sec. 17.....	5, 154	HB 1117	15
HB 369	149	HB 1133 , Sec. 18.....	12
HB 369 , Secs. 1, 2, 3, 5, 6, and 9 through 12.....	27	HB 1133 , Sec. 18.5.....	12
HB 369 , Sec. 4.....	149	HB 1133 , Sec. 19.....	21
HB 369 , Sec. 7.....	19	HB 1133 , Sec. 20.....	22
HB 369 , Sec. 8.....	22	HB 1133 , Sec. 21.....	9
HB 369 , Sec. 13.....	107, 112	HB 1133 , Sec. 23.....	18, 80
HB 379	117	HB 1133 , Sec. 23.5.....	24
HB 558	79	HB 1133 , Sec. 24.....	156
HB 573	68, 109	HB 1133 , Sec. 24.5.....	22
HB 625	85, 110	HB 1133 , Sec. 27.....	19
HB 644	105	HB 1133 , Sec. 28.....	47
HB 688	117	HB 1133 , Sec. 28.3.....	167
HB 698 , Secs. 1 and 2.....	25, 105	HB 1133 , Sec. 28.5.....	167
HB 698 , Secs. 3 through 5.....	136	HB 1133 , Sec. 29.....	167
HB 712	33	HB 1133 , Sec. 31.....	16
HB 777	25	HB 1133 , Sec. 33.....	124
		HB 1133 , Sec. 35.....	124

HB 1133 , Sec. 36	124
HB 1133 , Sec. 39	16
HB 1133 , Sec. 39.2	103
HB 1133 , Sec. 39.3	157
HB 1133 , Sec. 39.4	157
HB 1133 , Sec. 39.7	119
HB 1133 , Sec. 41	28
HB 1133 , Sec. 41.5	93
HB 1133 , Sec. 42	119
HB 1133 , Sec. 42.3	119
HB 1133 , Sec. 42.7	5
HB 1133 , Sec. 44	22
HB 1133 , Sec. 44.5	9
HB 1133 , Sec. 45	157
HB 1133 , Sec. 46	157
HB 1133 , Sec. 48	44
HB 1133 , Sec. 49.2	44
HB 1133 , Sec. 49.5	31
HB 1133 , Sec. 49.7 and Part III	44
HB 1133 , Sec. 51.5	48
HB 1133 , Sec. 52	51
HB 1133 , Sec. 55	157
HB 1133 , Sec. 55.3	157
HB 1133 , Sec. 55.5	68

HB 1133 , Secs. 56.1 and 57	135
HB 1133 , Sec. 56.2	167
HB 1133 , Sec. 56.6	168
HB 1133 , Sec. 56.6A	159
HB 1133 , Sec. 56.7	158
HB 1133 , Sec. 56.7A	158
HB 1133 , Sec. 56.8	158
HB 1133 , Sec. 58	158, 168
HB 1133 , Sec. 60	113
HB 1133 , Sec. 61	28
HB 1133 , Sec. 61.5	28, 168
HB 1133 , Sec. 61.7	119
HB 1133 , Sec. 62	45
HB 1133 , Sec. 64	45
HB 1133 , Sec. 66	93
HB 1133 , Sec. 67	57, 109, 117
HB 1139	64, 136
HB 1145	166
HB 1193	131
HB 1194	132
HB 1195	131
HB 1220	85

Senate Bills

SB 3	149
SB 42	107
SB 58	11, 69
SB 105	110, 137
SB 163	70
SB 193	135, 148
SB 294	68, 159
SB 370	32
SB 376	111, 148
SB 403	44, 112, 150
SB 463	17, 109
SB 477	101
SB 574	11, 68
SB 614	110, 115, 137
SB 648 , Part I	149
SB 648 , Parts II and III	15
SB 648 , Part IV	12
SB 719	46
SB 729	65, 150, 166, 169
SB 734 , Sec. 1	154
SB 734 , Sec. 2	154
SB 734 , Sec. 3	120
SB 734 , Sec. 4	120
SB 734 , Sec. 5	154

SB 734 , Sec. 6	155
SB 734 , Sec. 7	155
SB 734 , Sec. 9	120
SB 734 , Sec. 10	170
SB 734 , Sec. 11	120
SB 734 , Sec. 12	103
SB 734 , Sec. 13	103
SB 734 , Sec. 14	8, 46, 47
SB 734 , Sec. 15	103, 113
SB 734 , Sec. 16	113, 155
SB 734 , Sec. 17	8, 48
SB 734 , Sec. 18	13, 94
SB 734 , Sec. 20	103
SB 734 , Sec. 21	94
SB 734 , Sec. 22	94, 104
SB 734 , Sec. 23	56
SB 734 , Sec. 24	55, 113
SB 734 , Sec. 25	57
SB 734 , Sec. 26	62
SB 734 , Sec. 27	65
SB 734 , Sec. 28	70
SB 734 , Sec. 29	155
SB 734 , Sec. 31	5, 64, 168
SB 734 , Sec. 32	5, 63, 113

SB 734 , Sec. 33	62	SB 744 , Sec. 8.20	37, 111
SB 734 , Sec. 34	60	SB 744 , Sec. 8.21	38
SB 734 , Sec. 35	57	SB 744 , Sec. 8.22	51
SB 734 , Sec. 36	5	SB 744 , Sec. 8.23	38, 85
SB 734 , Sec. 37	70	SB 744 , Sec. 8.25	38
SB 734 , Sec. 38	55	SB 744 , Sec. 8.26	39, 105
SB 734 , Sec. 39	29, 63	SB 744 , Sec. 8.28	40
SB 734 , Sec. 40	71	SB 744 , Sec. 8.30	40
SB 734 , Sec. 41	156	SB 744 , Sec. 8.32	40
SB 734 , Sec. 42	121	SB 744 , Sec. 8.33	40
SB 734 , Sec. 43	71, 94	SB 744 , Sec. 8.34	40
SB 734 , Sec. 44	73	SB 744 , Sec. 8.35	41
SB 734 , Sec. 45	71	SB 744 , Sec. 8.36	41
SB 734 , Sec. 46	71	SB 744 , Sec. 8.38	42
SB 734 , Sec. 47	71	SB 744 , Sec. 8.39	42, 85
SB 734 , Sec. 48	156	SB 744 , Sec. 8.41	42
SB 734 , Sec. 49	64, 125	SB 744 , Sec. 10.3	47
SB 734 , Sec. 50	73	SB 744 , Sec. 10.4	52
SB 734 , Sec. 51	72	SB 744 , Sec. 10.7	53
SB 734 , Sec. 52	29	SB 744 , Sec. 11.4	48
SB 734 , Sec. 53	72	SB 744 , Sec. 11.5	48
SB 734 , Sec. 54	72	SB 744 , Sec. 11.7	48
SB 734 , Sec. 55	60	SB 744 , Sec. 11.8	53
SB 734 , Sec. 56	73	SB 744 , Sec. 11.9	49
SB 734 , Sec. 57	64, 156	SB 744 , Sec. 11.10.....	49
SB 734 , Sec. 58	2	SB 744 , Sec. 11.12.....	47, 115
SB 734 , Sec. 59	156	SB 744 , Sec. 11.15.....	52
SB 744 , Sec. 5.2	35, 138	SB 744 , Sec. 11.17.....	49
SB 744 , Sec. 6.4	138	SB 744 , Sec. 11.20.....	50, 85
SB 744 , Sec. 6.5	138	SB 744 , Sec. 11.21.....	53, 95
SB 744 , Sec. 6.6	19, 138	SB 744 , Sec. 11.24.....	52
SB 744 , Sec. 6.8	139	SB 744 , Sec. 12A.2	85, 139
SB 744 , Sec. 6.10	139	SB 744 , Sec. 12A.4	86, 153
SB 744 , Sec. 6.13	139	SB 744 , Sec. 12A.7	86
SB 744 , Sec. 6.14	139	SB 744 , Sec. 12B.1.....	86
SB 744 , Sec. 7.4	151	SB 744 , Sec. 12B.2.....	87
SB 744 , Sec. 7.6	151	SB 744 , Sec. 12B.3.....	96
SB 744 , Sec. 7.7	151	SB 744 , Sec. 12C.1	9, 96
SB 744 , Secs. 7.11 and 34.30	19, 25, 160	SB 744 , Sec. 12C.2	9, 87
SB 744 , Sec. 7.12	151	SB 744 , Sec. 12C.3	87, 116
SB 744 , Sec. 7.13	151	SB 744 , Sec. 12D.1	87
SB 744 , Sec. 7.14	152, 160	SB 744 , Sec. 12D.2	88
SB 744 , Sec. 7.16	152	SB 744 , Sec. 12D.3	97
SB 744 , Sec. 7.17	152	SB 744 , Sec. 12D.4	23, 88
SB 744 , Sec. 8.3	36, 51	SB 744 , Sec. 12D.5	88
SB 744 , Sec. 8.9	36	SB 744 , Sec. 12E.3.....	69, 88
SB 744 , Sec. 8.10	36	SB 744 , Sec. 12E.5.....	95
SB 744 , Sec. 8.11	36, 76, 161	SB 744 , Sec. 12E.6.....	89
SB 744 , Sec. 8.12	37, 115	SB 744 , Sec. 12E.9.....	42, 89
SB 744 , Sec. 8.13	53	SB 744 , Sec. 12F.3.....	97
SB 744 , Sec. 8.15	37, 161	SB 744 , Sec. 12F.4.....	98
SB 744 , Sec. 8.18	51	SB 744 , Sec. 12G.2	89
SB 744 , Sec. 8.19	37	SB 744 , Sec. 12G.3	98

SB 744 , Sec. 12G.4	90	SB 744 , Sec. 15.2B.....	169
SB 744 , Sec. 12G.5	90	SB 744 , Sec. 15.4	116, 140
SB 744 , Sec. 12H.1	90	SB 744 , Sec. 15.6	153
SB 744 , Sec. 12H.2	90	SB 744 , Sec. 15.7	153
SB 744 , Sec. 12H.5	98	SB 744 , Sec. 15.10.....	141
SB 744 , Sec. 12H.6	90	SB 744 , Sec. 15.12.....	141
SB 744 , Sec. 12H.10	95	SB 744 , Sec. 15.13.....	3, 60, 169
SB 744 , Sec. 12H.13	91	SB 744 , Sec. 15.14B.....	141
SB 744 , Sec. 12H.15	91	SB 744 , Sec. 15.16.....	106
SB 744 , Sec. 12H.21	91	SB 744 , Sec. 15.16A.....	106
SB 744 , Sec. 12H.22	91	SB 744 , Sec. 15.16B.....	106
SB 744 , Sec. 12H.27	91	SB 744 , Sec. 15.18.....	60
SB 744 , Sec. 12H.30	92	SB 744 , Sec. 15.20.....	99, 141
SB 744 , Sec. 12H.32	99	SB 744 , Sec. 16A.2	141
SB 744 , Sec. 12H.34	99	SB 744 , Sec. 16B.2.....	7
SB 744 , Sec. 12H.35	92	SB 744 , Sec. 16B.3.....	65, 142
SB 744 , Sec. 12I.1	92	SB 744 , Sec. 16C.1	17
SB 744 , Sec. 12I.2	95	SB 744 , Sec. 16C.2	17
SB 744 , Sec. 12I.3	96	SB 744 , Sec. 16C.4	18
SB 744 , Sec. 12I.4	79, 93	SB 744 , Sec. 16C.6	18, 93
SB 744 , Sec. 13.1	1	SB 744 , Sec. 16C.7	23
SB 744 , Sec. 13.2	5, 154	SB 744 , Sec. 16C.8	18
SB 744 , Sec. 13.3	1	SB 744 , Sec. 16C.13.....	23
SB 744 , Sec. 13.4	5	SB 744 , Sec. 17.1	142
SB 744 , Sec. 13.10.....	1	SB 744 , Sec. 17.3	142
SB 744 , Sec. 13.11.....	2	SB 744 , Sec. 17.3A	142
SB 744 , Sec. 13.13.....	2	SB 744 , Sec. 17.5	118
SB 744 , Sec. 13.15.....	2	SB 744 , Sec. 18A.2	23
SB 744 , Sec. 14.2A	2, 63, 106, 139	SB 744 , Sec. 18B.1.....	23
SB 744 , Sec. 14.7	63, 161	SB 744 , Sec. 18B.2.....	24
SB 744 , Secs. 14.7(i) through (l).....	140	SB 744 , Sec. 18B.3.....	19
SB 744 , Secs. 14.7(a) through (h) and (m)	140	SB 744 , Sec. 18B.4.....	24
SB 744 , Sec. 14.8	69	SB 744 , Sec. 18B.5.....	20, 50
SB 744 , Sec. 14.9	60	SB 744 , Sec. 18B.6.....	20
SB 744 , Sec. 14.10.....	61	SB 744 , Sec. 18B.7.....	20
SB 744 , Sec. 14.11.....	61	SB 744 , Sec. 18B.14.....	20
SB 744 , Sec. 14.12.....	72	SB 744 , Sec. 18B.16.....	11, 21, 143
SB 744 , Sec. 14.13.....	61	SB 744 , Sec. 19.4	143
SB 744 , Sec. 14.13A.....	64	SB 744 , Sec. 19.5	143
SB 744 , Sec. 14.16.....	70, 111	SB 744 , Sec. 19.8	144
SB 744 , Sec. 14.17.....	70, 111	SB 744 , Sec. 19.9	144
SB 744 , Sec. 14.18.....	56	SB 744 , Sec. 20.2	102
SB 744 , Sec. 14.19.....	56	SB 744 , Sec. 22.1	144
SB 744 , Sec. 14.21.....	62	SB 744 , Sec. 22A.1	144
SB 744 , Sec. 14.24.....	65, 81	SB 744 , Sec. 22A.2	145
SB 744 , Sec. 14.24A.....	65	SB 744 , Sec. 22A.3	145
SB 744 , Sec. 14.25.....	2, 63	SB 744 , Sec. 23.1	145
SB 744 , Sec. 14.26.....	3	SB 744 , Sec. 25.1	145
SB 744 , Sec. 14.27.....	60	SB 744 , Sec. 25.2	146
SB 744 , Sec. 15.1	7	SB 744 , Sec. 25.3	146
SB 744 , Sec. 15.2A	7	SB 744 , Sec. 26.1	82
SB 744 , Sec. 15.2A1.....	7	SB 744 , Sec. 26.4	146
		SB 744 , Sec. 30.1	111, 116, 146

SB 744 , Sec. 30.3	146
SB 744 , Sec. 33.2	146
SB 744 , Sec. 34.1	111, 161
SB 744 , Sec. 34.2	111, 161
SB 744 , Sec. 34.6	81
SB 744 , Sec. 34.7	161
SB 744 , Sec. 34.8	161
SB 744 , Sec. 34.9	162
SB 744 , Sec. 34.10.....	162
SB 744 , Sec. 34.11.....	162
SB 744 , Sec. 34.13.....	163
SB 744 , Sec. 34.14.....	163
SB 744 , Sec. 34.15.....	64, 147, 163
SB 744 , Sec. 34.16.....	163
SB 744 , Sec. 34.17.....	164
SB 744 , Sec. 34.18.....	164
SB 744 , Sec. 34.19.....	164
SB 744 , Sec. 34.23.....	164
SB 744 , Sec. 34.24.....	164
SB 744 , Sec. 34.27.....	165
SB 744 , Sec. 34.28.....	165
SB 744 , Sec. 34.29.....	147, 165
SB 744 , Sec. 34.30.....	111
SB 744 , Sec. 35.11.....	147
SB 744 , Sec. 35.12.....	107
SB 744 , Sec. 35.14.....	132
SB 744 , Sec. 35.15C.....	116, 132
SB 744 , Sec. 35.16.....	102, 147
SB 744 , Sec. 35.16A.....	132, 148
SB 744 , Sec. 36.5	50
SB 744 , Sec. 36.6	50
SB 744 , Sec. 36.7	50

SB 744 , Sec. 36.8	116
SB 744 , Sec. 36.14.....	148
SB 744 , Sec. 37.1	76
SB 744 , Sec. 37.2	83, 111
SB 744 , Sec. 37.3	79
SB 761	46, 115, 117
SB 773 , Parts I, II, IV, and V	123
SB 773 , Part III	12
SB 773 , Part VI	18, 93
SB 786	57, 109, 117
SB 786	135
SB 786 , Sec. 23	159
SB 786 , Sec. 24	52
SB 786 , Part VI	81
SB 790	169
SB 790 , Sec. 1	79
SB 790 , Sec. 2	82
SB 790 , Sec. 3	81
SB 793	43, 165
SB 794	105
SB 794 , Sec. 8	9
SB 797	83, 137, 169
SB 812	35
SB 815	34
SB 853 , Secs. 1 through 5	21
SB 853 , Sec. 6	15
SB 853 , Sec. 7	11
SB 853 , Sec. 8	148
SB 871 , Sec. 2	110
SB 877	123
SB 883	69

Session Laws

S.L. 2014-1.....	68, 159
S.L. 2014-2.....	117
S.L. 2014-3.....	109
S.L. 2014-3, Sec. 10.1(d).....	82
S.L. 2014-3, Part I	75
S.L. 2014-3, Part II	75
S.L. 2014-3, Part III	1, 76
S.L. 2014-3, Part IV	31, 46, 77
S.L. 2014-3, Part V.....	77
S.L. 2014-3, Part VI	78
S.L. 2014-3, Part VII	78
S.L. 2014-3, Part VIII.....	78
S.L. 2014-3, Part IX	80
S.L. 2014-3, Part X.....	7, 80
S.L. 2014-3, Part XI	81
S.L. 2014-3, Part XII	82

S.L. 2014-3, Part XIII.....	82, 159
S.L. 2014-3, Part XV.....	17, 80
S.L. 2014-4.....	57, 109, 117
S.L. 2014-4.....	135
S.L. 2014-4, Sec. 23.....	159
S.L. 2014-4, Sec. 24.....	52
S.L. 2014-4, Part VI	81
S.L. 2014-5.....	31
S.L. 2014-13.....	32
S.L. 2014-14.....	68, 109
S.L. 2014-15.....	33, 115
S.L. 2014-16.....	9, 19
S.L. 2014-17.....	11, 68
S.L. 2014-18.....	135, 148
S.L. 2014-18, Sec. 3.4.....	33, 135
S.L. 2014-19.....	17

S.L. 2014-20.....	79	S.L. 2014-100, Sec. 7.4.....	151
S.L. 2014-21.....	25	S.L. 2014-100, Sec. 7.6.....	151
S.L. 2014-22.....	17, 109	S.L. 2014-100, Sec. 7.7.....	151
S.L. 2014-27, Secs. 1 and 2.....	25, 105	S.L. 2014-100, Secs. 7.11 and 34.30.....	19, 25, 160
S.L. 2014-27, Secs. 3 through 5.....	136	S.L. 2014-100, Sec. 7.12.....	151
S.L. 2014-28.....	46	S.L. 2014-100, Sec. 7.13.....	151
S.L. 2014-39.....	169	S.L. 2014-100, Sec. 7.14.....	152, 160
S.L. 2014-39, Sec. 1.....	79	S.L. 2014-100, Sec. 7.16.....	152
S.L. 2014-39, Sec. 2.....	82	S.L. 2014-100, Sec. 7.17.....	152
S.L. 2014-39, Sec. 3.....	81	S.L. 2014-100, Sec. 8.3.....	36, 51
S.L. 2014-40.....	109	S.L. 2014-100, Sec. 8.9.....	36
S.L. 2014-41.....	68, 85	S.L. 2014-100, Sec. 8.10.....	36
S.L. 2014-42.....	136	S.L. 2014-100, Sec. 8.11.....	36, 76, 161
S.L. 2014-43.....	101	S.L. 2014-100, Sec. 8.12.....	37, 115
S.L. 2014-44.....	69	S.L. 2014-100, Sec. 8.13.....	53
S.L. 2014-47, Sec. 2.....	110	S.L. 2014-100, Sec. 8.15.....	37, 161
S.L. 2014-49.....	33	S.L. 2014-100, Sec. 8.18.....	51
S.L. 2014-50.....	34	S.L. 2014-100, Sec. 8.19.....	37
S.L. 2014-53.....	85	S.L. 2014-100, Sec. 8.20.....	37, 111
S.L. 2014-57.....	123	S.L. 2014-100, Sec. 8.21.....	38
S.L. 2014-58.....	136, 159	S.L. 2014-100, Sec. 8.22.....	51
S.L. 2014-59.....	169	S.L. 2014-100, Sec. 8.23.....	38, 85
S.L. 2014-61.....	15	S.L. 2014-100, Sec. 8.25.....	38
S.L. 2014-62.....	64, 136	S.L. 2014-100, Sec. 8.26.....	39, 105
S.L. 2014-63.....	117	S.L. 2014-100, Sec. 8.28.....	40
S.L. 2014-64.....	129	S.L. 2014-100, Sec. 8.30.....	40
S.L. 2014-65.....	101	S.L. 2014-100, Sec. 8.32.....	40
S.L. 2014-66.....	83, 137, 169	S.L. 2014-100, Sec. 8.33.....	40
S.L. 2014-67.....	46, 115, 117	S.L. 2014-100, Sec. 8.34.....	40
S.L. 2014-75.....	110, 137	S.L. 2014-100, Sec. 8.35.....	41
S.L. 2014-76.....	105	S.L. 2014-100, Sec. 8.36.....	41
S.L. 2014-77.....	105	S.L. 2014-100, Sec. 8.38.....	42
S.L. 2014-77, Sec. 8.....	9	S.L. 2014-100, Sec. 8.39.....	42, 85
S.L. 2014-78.....	35	S.L. 2014-100, Sec. 8.41.....	42
S.L. 2014-79.....	110, 115, 137	S.L. 2014-100, Sec. 10.3.....	47
S.L. 2014-89.....	110	S.L. 2014-100, Sec. 10.4.....	52
S.L. 2014-90, Secs. 1 and 7.....	102	S.L. 2014-100, Sec. 10.7.....	53
S.L. 2014-90, Parts II, III, and V.....	62	S.L. 2014-100, Sec. 11.4.....	48
S.L. 2014-90, Part IV.....	137	S.L. 2014-100, Sec. 11.5.....	48
S.L. 2014-93.....	46, 137	S.L. 2014-100, Sec. 11.7.....	48
S.L. 2014-94.....	85, 110	S.L. 2014-100, Sec. 11.8.....	53
S.L. 2014-95.....	69	S.L. 2014-100, Sec. 11.9.....	49
S.L. 2014-96, Secs. 1 through 6.....	160	S.L. 2014-100, Sec. 11.10.....	49
S.L. 2014-96, Sec. 7.....	83	S.L. 2014-100, Sec. 11.12.....	47, 115
S.L. 2014-99.....	123	S.L. 2014-100, Sec. 11.15.....	52
S.L. 2014-100, Sec. 5.2.....	35, 138	S.L. 2014-100, Sec. 11.17.....	49
S.L. 2014-100, Sec. 6.4.....	138	S.L. 2014-100, Sec. 11.20.....	50, 85
S.L. 2014-100, Sec. 6.5.....	138	S.L. 2014-100, Sec. 11.21.....	53, 95
S.L. 2014-100, Sec. 6.6.....	19, 138	S.L. 2014-100, Sec. 11.24.....	52
S.L. 2014-100, Sec. 6.8.....	139	S.L. 2014-100, Sec. 12A.2.....	85, 139
S.L. 2014-100, Sec. 6.10.....	139	S.L. 2014-100, Sec. 12A.4.....	86, 153
S.L. 2014-100, Sec. 6.13.....	139	S.L. 2014-100, Sec. 12A.7.....	86
S.L. 2014-100, Sec. 6.14.....	139		

S.L. 2014-100, Sec. 12B.1	86	S.L. 2014-100, Sec. 14.10	61
S.L. 2014-100, Sec. 12B.2	87	S.L. 2014-100, Sec. 14.11	61
S.L. 2014-100, Sec. 12B.3	96	S.L. 2014-100, Sec. 14.12	72
S.L. 2014-100, Sec. 12C.1	9, 96	S.L. 2014-100, Sec. 14.13	61
S.L. 2014-100, Sec. 12C.2	9, 87	S.L. 2014-100, Sec. 14.13A	64
S.L. 2014-100, Sec. 12C.3	87, 116	S.L. 2014-100, Sec. 14.16	70, 111
S.L. 2014-100, Sec. 12D.1	87	S.L. 2014-100, Sec. 14.17	70, 111
S.L. 2014-100, Sec. 12D.2	88	S.L. 2014-100, Sec. 14.18	56
S.L. 2014-100, Sec. 12D.3	97	S.L. 2014-100, Sec. 14.19	56
S.L. 2014-100, Sec. 12D.4	23, 88	S.L. 2014-100, Sec. 14.21	62
S.L. 2014-100, Sec. 12D.5	88	S.L. 2014-100, Sec. 14.24	65, 81
S.L. 2014-100, Sec. 12E.3	69, 88	S.L. 2014-100, Sec. 14.24A	65
S.L. 2014-100, Sec. 12E.6	89	S.L. 2014-100, Sec. 14.25	2, 63
S.L. 2014-100, Sec. 12E.9	42, 89	S.L. 2014-100, Sec. 14.26	3
S.L. 2014-100, Sec. 12F.3	97	S.L. 2014-100, Sec. 14.27	60
S.L. 2014-100, Sec. 12F.4	98	S.L. 2014-100, Sec. 15.1	7
S.L. 2014-100, Sec. 12G.2	89	S.L. 2014-100, Sec. 15.2A	7
S.L. 2014-100, Sec. 12G.3	98	S.L. 2014-100, Sec. 15.2A1	7
S.L. 2014-100, Sec. 12G.4	90	S.L. 2014-100, Sec. 15.2B	169
S.L. 2014-100, Sec. 12G.5	90	S.L. 2014-100, Sec. 15.4	116, 140
S.L. 2014-100, Sec. 12H.1	90	S.L. 2014-100, Sec. 15.6	153
S.L. 2014-100, Sec. 12H.2	90	S.L. 2014-100, Sec. 15.7	153
S.L. 2014-100, Sec. 12H.5	98	S.L. 2014-100, Sec. 15.10	141
S.L. 2014-100, Sec. 12H.6	90	S.L. 2014-100, Sec. 15.12	141
S.L. 2014-100, Sec. 12H.10	95	S.L. 2014-100, Sec. 15.13	3, 60, 169
S.L. 2014-100, Sec. 12H.13	91	S.L. 2014-100, Sec. 15.14B	141
S.L. 2014-100, Sec. 12H.15	91	S.L. 2014-100, Sec. 15.16	106
S.L. 2014-100, Sec. 12H.21	91	S.L. 2014-100, Sec. 15.16A	106
S.L. 2014-100, Sec. 12H.22	91	S.L. 2014-100, Sec. 15.16B	106
S.L. 2014-100, Sec. 12H.27	91	S.L. 2014-100, Sec. 15.18	60
S.L. 2014-100, Sec. 12H.30	92	S.L. 2014-100, Sec. 15.20	99, 141
S.L. 2014-100, Sec. 12H.32	99	S.L. 2014-100, Sec. 16A.2	141
S.L. 2014-100, Sec. 12H.34	99	S.L. 2014-100, Sec. 16B.2	7
S.L. 2014-100, Sec. 12H.35	92	S.L. 2014-100, Sec. 16B.3	65, 142
S.L. 2014-100, Sec. 12I.1	92	S.L. 2014-100, Sec. 16C.1	17
S.L. 2014-100, Sec. 12I.2	95	S.L. 2014-100, Sec. 16C.2	17
S.L. 2014-100, Sec. 12I.3	96	S.L. 2014-100, Sec. 16C.4	18
S.L. 2014-100, Sec. 12I.4	79, 93	S.L. 2014-100, Sec. 16C.6	18, 93
S.L. 2014-100, Sec. 13.1	1	S.L. 2014-100, Sec. 16C.7	23
S.L. 2014-100, Sec. 13.3	1	S.L. 2014-100, Sec. 16C.8	18
S.L. 2014-100, Sec. 13.2	5, 154	S.L. 2014-100, Sec. 16C.13	23
S.L. 2014-100, Sec. 13.4	5	S.L. 2014-100, Sec. 17.1	142
S.L. 2014-100, Sec. 13.10	1	S.L. 2014-100, Sec. 17.3	142
S.L. 2014-100, Sec. 13.11	2	S.L. 2014-100, Sec. 17.3A	142
S.L. 2014-100, Sec. 13.13,	2	S.L. 2014-100, Sec. 17.5	118
S.L. 2014-100, Sec. 13.15	2	S.L. 2014-100, Sec. 18A.2	23
S.L. 2014-100, Sec. 14.2A	2, 63, 106, 139	S.L. 2014-100, Sec. 18B.1	23
S.L. 2014-100, Sec. 14.7	63, 161	S.L. 2014-100, Sec. 18B.2	24
S.L. 2014-100, Secs. 14.7(a) through (h) and (m)	140	S.L. 2014-100, Sec. 18B.3	19
S.L. 2014-100, Secs. 14.7(i) through (l) ..	140	S.L. 2014-100, Sec. 18B.4	24
S.L. 2014-100, Sec. 14.8	69	S.L. 2014-100, Sec. 18B.5	20, 50
S.L. 2014-100, Sec. 14.9	60	S.L. 2014-100, Sec. 18B.6	20
		S.L. 2014-100, Sec. 18B.7	20

S.L. 2014-100, Sec. 18B.14	20	S.L. 2014-100, Sec. 37.1	76
S.L. 2014-100, Sec. 18B.16	11, 21, 143	S.L. 2014-100, Sec. 37.2	83, 111
S.L. 2014-100, Sec. 19.4	143	S.L. 2014-100, Sec. 37.3	79
S.L. 2014-100, Sec. 19.5	143	S.L. 2014-101	165
S.L. 2014-100, Sec. 19.8	144	S.L. 2014-102, Secs. 1 through 5	21
S.L. 2014-100, Sec. 19.9	144	S.L. 2014-102, Sec. 6	15
S.L. 2014-100, Sec. 20.2	102	S.L. 2014-102, Sec. 7	11
S.L. 2014-100, Sec. 22.1	144	S.L. 2014-102, Sec. 8	148
S.L. 2014-100, Sec. 22A.1	144	S.L. 2014-103, Sec. 1	3, 63
S.L. 2014-100, Sec. 22A.2	145	S.L. 2014-103, Sec. 2	3, 112
S.L. 2014-100, Sec. 22A.3	145	S.L. 2014-103, Sec. 3	118
S.L. 2014-100, Sec. 23.1	145	S.L. 2014-103, Sec. 4	3, 166
S.L. 2014-100, Sec. 25.1	145	S.L. 2014-103, Sec. 5	4, 167
S.L. 2014-100, Sec. 25.2	146	S.L. 2014-103, Sec. 6	4
S.L. 2014-100, Sec. 25.3	146	S.L. 2014-103, Sec. 7	4, 18
S.L. 2014-100, Sec. 26.1	82	S.L. 2014-103, Sec. 8	4
S.L. 2014-100, Sec. 26.4	146	S.L. 2014-103, Sec. 9	4
S.L. 2014-100, Sec. 30.1	111, 116, 146	S.L. 2014-103, Sec. 10	4, 28
S.L. 2014-100, Sec. 30.3	146	S.L. 2014-103, Sec. 11	28
S.L. 2014-100, Sec. 33.2	146	S.L. 2014-103, Sec. 12	112
S.L. 2014-100, Sec. 34.1	111, 161	S.L. 2014-103, Sec. 13	112
S.L. 2014-100, Sec. 34.2	111, 161	S.L. 2014-103, Sec. 14	102
S.L. 2014-100, Sec. 34.6	81	S.L. 2014-103, Sec. 15	5
S.L. 2014-100, Sec. 34.7	161	S.L. 2014-103, Sec. 16	1
S.L. 2014-100, Sec. 34.8	161	S.L. 2014-103, Sec. 17	154
S.L. 2014-100, Sec. 34.9	162	S.L. 2014-104	44
S.L. 2014-100, Sec. 34.10	162	S.L. 2014-105	111, 148
S.L. 2014-100, Sec. 34.11	162	S.L. 2014-106	116
S.L. 2014-100, Sec. 34.13	163	S.L. 2014-107, Parts I, II, IV, and V	123
S.L. 2014-100, Sec. 34.14	163	S.L. 2014-107, Part III	12
S.L. 2014-100, Sec. 34.15	64, 147, 163	S.L. 2014-107, Part VI	18, 93
S.L. 2014-100, Sec. 34.16	163	S.L. 2014-108, Secs. 1 through 8 ...	112, 165
S.L. 2014-100, Sec. 34.17	164	S.L. 2014-108, Sec. 9	83, 112
S.L. 2014-100, Sec. 34.18	164	S.L. 2014-109	135, 148
S.L. 2014-100, Sec. 34.19	164	S.L. 2014-110, Part I	149
S.L. 2014-100, Sec. 34.23	164	S.L. 2014-110, Parts II and III	15
S.L. 2014-100, Sec. 34.24	164	S.L. 2014-110, Part IV	12
S.L. 2014-100, Sec. 34.27	165	S.L. 2014-111	44, 112, 150
S.L. 2014-100, Sec. 34.28	165	S.L. 2014-112	132
S.L. 2014-100, Sec. 34.29	147, 165	S.L. 2014-113	70
S.L. 2014-100, Sec. 34.30	111	S.L. 2014-114	166
S.L. 2014-100, Sec. 35.11	147	S.L. 2014-115, Sec. 18	12
S.L. 2014-100, Sec. 35.12	107	S.L. 2014-115, Sec. 18.5	12
S.L. 2014-100, Sec. 35.14	132	S.L. 2014-115, Sec. 19	21
S.L. 2014-100, Sec. 35.15	132	S.L. 2014-115, Sec. 20	22
S.L. 2014-100, Sec. 35.15C	116, 132	S.L. 2014-115, Sec. 21	9
S.L. 2014-100, Sec. 35.16	102, 147	S.L. 2014-115, Sec. 23	18
S.L. 2014-100, Sec. 35.16A	132, 148	S.L. 2014-115, Sec. 23.5	24
S.L. 2014-100, Sec. 36.5	50	S.L. 2014-115, Sec. 24	156
S.L. 2014-100, Sec. 36.6	50	S.L. 2014-115, Sec. 24.5	22
S.L. 2014-100, Sec. 36.7	50	S.L. 2014-115, Sec. 27	19
S.L. 2014-100, Sec. 36.8	116	S.L. 2014-115, Sec. 28	47
S.L. 2014-100, Sec. 36.14	148	S.L. 2014-115, Sec. 28.3	167

S.L. 2014-115, Sec. 28.5	167	S.L. 2014-120, Sec. 1	154
S.L. 2014-115, Sec. 29	167	S.L. 2014-120, Sec. 2	154
S.L. 2014-115, Sec. 31	16	S.L. 2014-120, Sec. 3	120
S.L. 2014-115, Sec. 33	124	S.L. 2014-120, Sec. 4	120
S.L. 2014-115, Sec. 35	124	S.L. 2014-120, Sec. 5	154
S.L. 2014-115, Sec. 36	124	S.L. 2014-120, Sec. 6	155
S.L. 2014-115, Sec. 39	16	S.L. 2014-120, Sec. 7	155
S.L. 2014-115, Sec. 39.2	103	S.L. 2014-120, Sec. 9	120
S.L. 2014-115, Sec. 39.3	157	S.L. 2014-120, Sec. 10	170
S.L. 2014-115, Sec. 39.4	157	S.L. 2014-120, Sec. 11	120
S.L. 2014-115, Sec. 39.7	119	S.L. 2014-120, Sec. 13	103
S.L. 2014-115, Sec. 41	28	S.L. 2014-120, Sec. 12	103
S.L. 2014-115, Sec. 41.5	93	S.L. 2014-120, Sec. 14	8, 46, 47
S.L. 2014-115, Sec. 42	119	S.L. 2014-120, Sec. 15	103, 113
S.L. 2014-115, Sec. 42.3	119	S.L. 2014-120, Sec. 16	113, 155
S.L. 2014-115, Sec. 42.7	5	S.L. 2014-120, Sec. 17	8, 48
S.L. 2014-115, Sec. 44	22	S.L. 2014-120, Sec. 18	13, 94
S.L. 2014-115, Sec. 44.5	9	S.L. 2014-120, Sec. 20	103
S.L. 2014-115, Sec. 45	157	S.L. 2014-120, Sec. 21	94
S.L. 2014-115, Sec. 46	157	S.L. 2014-120, Sec. 22	94, 104
S.L. 2014-115, Sec. 48	44	S.L. 2014-120, Sec. 23	56
S.L. 2014-115, Sec. 49.2	44	S.L. 2014-120, Sec. 24	55, 113
S.L. 2014-115, Sec. 49.5	31	S.L. 2014-120, Sec. 25	57
S.L. 2014-115, Sec. 49.7 and Part III	44	S.L. 2014-120, Sec. 26	62
S.L. 2014-115, Sec. 51.5	48	S.L. 2014-120, Sec. 27	65
S.L. 2014-115, Sec. 52	51	S.L. 2014-120, Sec. 28	70
S.L. 2014-115, Sec. 55	157	S.L. 2014-120, Sec. 29	155
S.L. 2014-115, Sec. 55.3	157	S.L. 2014-120, Sec. 31	5, 64, 168
S.L. 2014-115, Sec. 55.5	68	S.L. 2014-120, Sec. 32	5, 63, 113
S.L. 2014-115, Secs. 56.1 and 57	135	S.L. 2014-120, Sec. 33	62
S.L. 2014-115, Sec. 56.2	167	S.L. 2014-120, Sec. 34	60
S.L. 2014-115, Sec. 56.6	168	S.L. 2014-120, Sec. 35	57
S.L. 2014-115, Sec. 56.6A	159	S.L. 2014-120, Sec. 36	5
S.L. 2014-115, Sec. 56.7	158	S.L. 2014-120, Sec. 37	70
S.L. 2014-115, Sec. 56.7A	158	S.L. 2014-120, Sec. 38	55
S.L. 2014-115, Sec. 56.8	158	S.L. 2014-120, Sec. 39	29, 63
S.L. 2014-115, Sec. 58	158, 168	S.L. 2014-120, Sec. 40	71
S.L. 2014-115, Sec. 60	113	S.L. 2014-120, Sec. 41	156
S.L. 2014-115, Sec. 61	28	S.L. 2014-120, Sec. 42	121
S.L. 2014-115, Sec. 61.5	28, 168	S.L. 2014-120, Sec. 43	71, 94
S.L. 2014-115, Sec. 61.7	119	S.L. 2014-120, Sec. 44	73
S.L. 2014-115, Sec. 62	45	S.L. 2014-120, Sec. 45	71
S.L. 2014-115, Sec. 64	45	S.L. 2014-120, Sec. 46	71
S.L. 2014-115, Sec. 66	93	S.L. 2014-120, Sec. 47	71
S.L. 2014-115, Sec. 67	57, 109, 117	S.L. 2014-120, Sec. 48	156
S.L. 2014-117	107	S.L. 2014-120, Sec. 49	64, 125
S.L. 2014-118	149	S.L. 2014-120, Sec. 50	73
S.L. 2014-119, Secs. 1, 2, 3, 5, 6, and 9 through 12	27	S.L. 2014-120, Sec. 51	72
S.L. 2014-119, Sec. 4	149	S.L. 2014-120, Sec. 52	29
S.L. 2014-119, Sec. 7	19	S.L. 2014-120, Sec. 53	72
S.L. 2014-119, Sec. 8	22	S.L. 2014-120, Sec. 54	72
S.L. 2014-119, Sec. 13	107, 112	S.L. 2014-120, Sec. 55	60
		S.L. 2014-120, Sec. 56	73

S.L. 2014-120, Sec. 57	64, 156	S.L. 2014-121	150, 166
S.L. 2014-120, Sec. 58	2	S.L. 2014-122	65, 150, 166, 169
S.L. 2014-120, Sec. 59	156		